

## **ABA Urges Supported Decision-Making as Less Restrictive Alternative to Guardianship**

On August 14, 2017, the American Bar Association's (ABA) House of Delegates adopted [Resolution 113](#), urging state, territorial, and tribal legislatures to (1) amend their guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative before guardianship is imposed and (2) require that decision-making supports that would meet the individual's needs be identified and fully considered in proceedings for termination of guardianship and restoration of rights. The Resolution further urges courts to consider (1) supported decision-making as a less restrictive alternative to guardianship and (2) decision-making supports that would meet the individual's needs as grounds for termination of a guardianship and restoration of rights.

An individual's right to make decisions about his or her life is a fundamental value in American law. Sponsored by the ABA Commission on Disability Rights, the Commission on Law and Aging, and the Sections of Civil Rights and Social Justice (Disability Rights Committee), and Real Property, Trust and Estate Law, this Resolution continues and furthers the ABA's long-standing interest in, and commitment to, ensuring that guardianship is a "last resort," after other, less restrictive options have been considered. The Resolution recognizes the newly denominated modality of supported decision-making—in which people with disabilities make their own decisions with supports, rather than rely on a surrogate—and urges that it be explicitly included in guardianship statutes requiring consideration of less restrictive alternatives.

Supported decision-making is a process by which individuals with disabilities choose a trusted person or persons to support them in making their own decisions and exercising their legal capacity. Supporters can be friends, family, professionals, advocates, peers, community members, or any other trusted person. They may gather and present relevant information; help the person to understand and communicate the decision to third parties such as health care professionals and financial institutions; and/or assist in implementing the decision.

Notably, the Uniform Law Commission recently revised the uniform law relating to guardianship, the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA), and, in doing so, recognized supported decision-making as a less restrictive alternative to guardianship.