THE NEVADA SUPPORTED DECISION-MAKING EXPERIENCE

Judge Frances M. Doherty

Second Judicial District Court

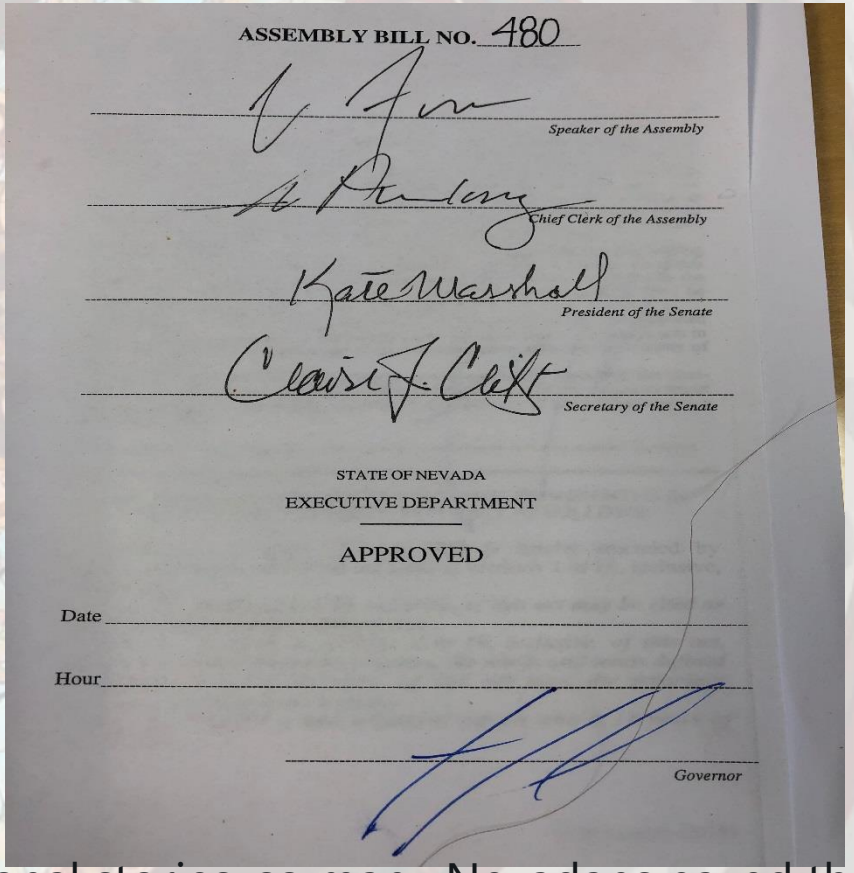
State of Nevada, Washoe County

June 10, 2019

Chapter I: How We Started

- Fall of 2012 Adult Guardianship Docket Transferred – 1300 + cases
  - Poor tracking; Lost protected persons; No accountings
- Revelation of Adult Guardianship abuses in Clark County, May 2015 *Review-Journal* ran an investigation, titled "Clark County's Private Guardians May Protect—Or Just Steal and Abuse,"
- July 2015 Nevada Supreme Court formation of The Commission to Study the Administration of Guardianships in Nevada's Courts.
- September 2016 - seven major reforms to Nevada's guardianship statutes resulting in five bills approved in the Legislature and signed by Governor Brian Sandoval. **NO on motion for SDM in NV**. Exploration approved.
- September 2017 Creation of a State Guardianship Compliance Office in the Administrative Office of the Courts (AOC) with investigators and accountants to review the administration of guardianship cases, a Guardianship Bill of Rights, and mandatory appointment of legal counsel enacted by legislation

Chapter II: Where We Ended



ASSEMBLY BILL NO. 480

Speaker of the Assembly

Chief Clerk of the Assembly

Kate Marshall

President of the Senate

Secretary of the Senate

STATE OF NEVADA

EXECUTIVE DEPARTMENT

APPROVED

Date

Hour

Governor

"This morning I was proud to sign #AB480. By sharing their personal stories, so many Nevadans paved the way for self-directed decision-making, not just for themselves, but for others. This bill belongs to them and will truly make a difference." Governor Steve Sisolak, May 16, 2019.

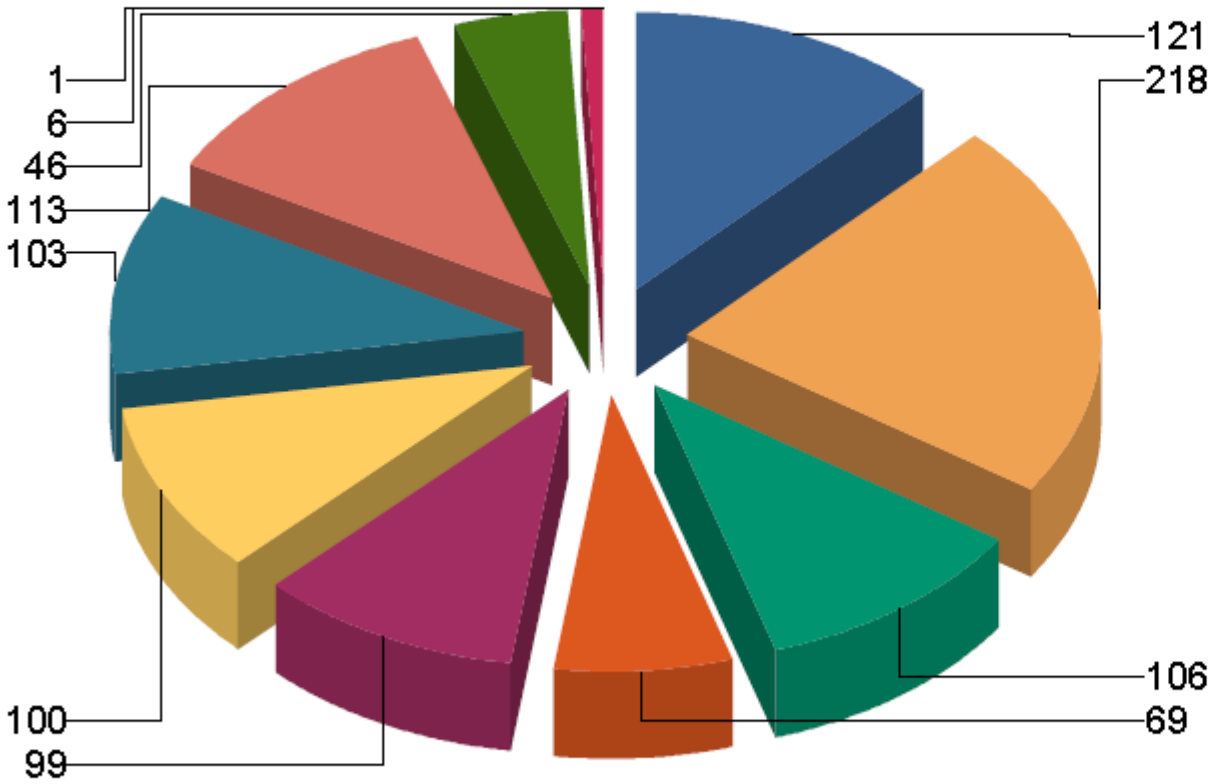
Chapter III: Everything in Between

Fall 2012 Assumed Adult Guardianship Caseload w/focus on best practices

- Formed internal task force to develop demographic data, wanted to know: who are we serving and how are we meeting their needs?
- Tracked time to disposition, # of ex parte applications, types of guardianships entered, age of protected persons, type of guardians and placement location
- Outcomes of case management data improved our efficiencies; outcomes of demographic data forced reconsideration of practices
- Same percentage of young people between ages of 18 – 29 were entering our system as older adults between ages of 60 – 100
- Majority of young adults had guardians who were parents or relatives
- Families were entering into guardianships to continue to help young relatives in same manner as when they were minors

Age Breakdown

For Persons Subject to a Guardianship

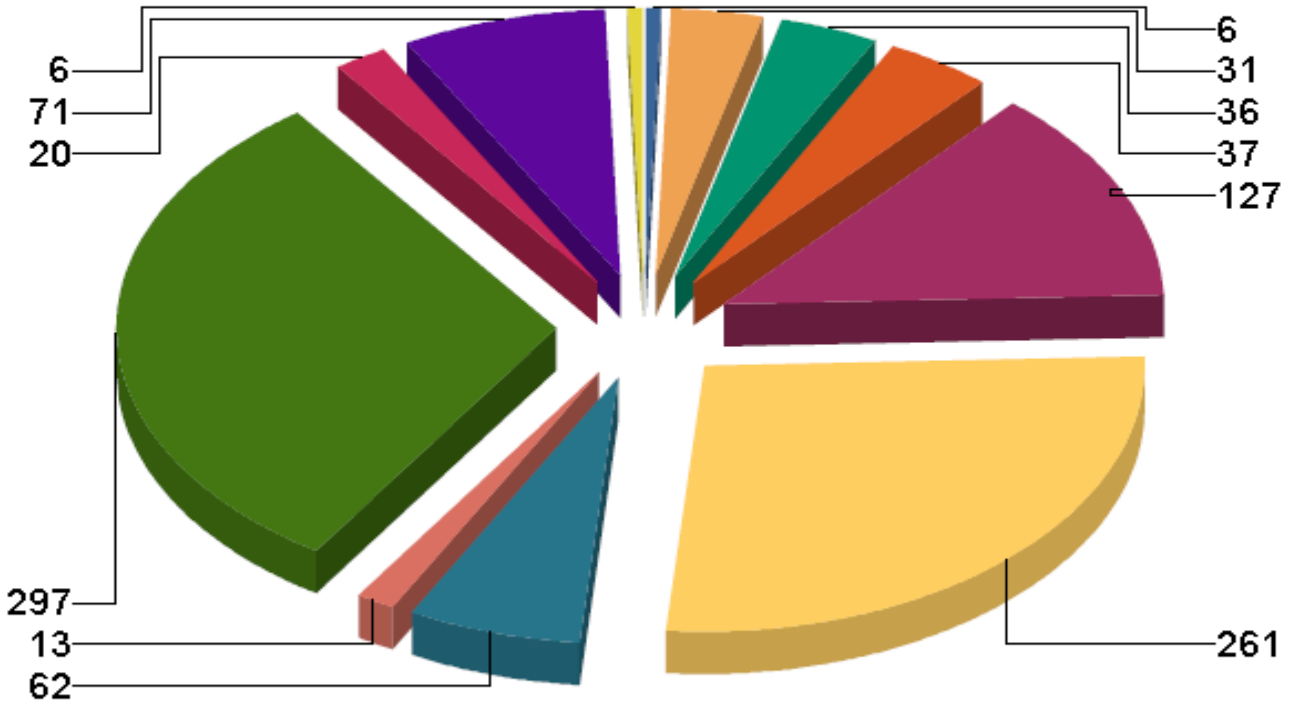


< 21	12.3%
21 - 29	22.2%
30 - 39	10.8%
40 - 49	7.0%
50 - 59	10.1%
60 - 69	10.2%
70 - 79	10.5%
80 - 89	11.5%
90 - 99	4.7%
Older Than 99	0.6%
No DOB Data Entered	0.1%
Total:	100.0%

Total Persons: 982

Placement Breakdown

For Persons Subject to a Guardianship



Incarceration / Commitment	0.6%
Living in Secured Facility	3.2%
Hospital - Acute Care	3.7%
Out of State Placement	3.8%
Living in Skilled Nurs. Home	13.1%
Living in Group Home	27.0%
Living in Support. Adult Res.	6.4%
Living with Host Family	1.3%
Living with Guardian	30.7%
Living with Family / Friends	2.1%
Living Independently	7.3%
No Data Entered	0.6%
Total:	100.0%

Total Placements: 967

- **December 2016** $4000 1 year grant - **National Resource Center for SDM** "the Court will … collect information and report on the successes, challenges, and opportunities associated with implementing supported decision-making agreements."
- 40 Stakeholders statewide; monthly telephonic meetings and subcommittees
- 29 community outreach presentations across state – 2 three hour CLE broadcast statewide by UNR Cooperative Extension Centers
- Over 450 attendees of families, protected persons, lawyers advocates, mental health workers and social workers

ROAD TRIPS MAKE A DIFFERENCE!

Carson City, Reno, Winnemucca, Elko, Ely, Las Vegas and many places in between!

PRESS RELEASES AND CLE EVENTS

SUPPORTED DECISION-MAKING COMMUNITY EVENTS CALENDAR, JULY 2017

DATE	City	TIME	Location
July 17, 2017	Carson City	9:00 a.m.	Rural Regional Center, 1665 Old Hot Springs Rd, Ste 165, Carson City, NV 89706
July 17, 2017	Carson City	1:30 p.m.	Carson City Senior Center, 911 Beverly Dr, Carson City, NV 89706
July 17, 2017	Carson City	3:30 p.m.	Carson Tahoe Regional Medical Center, Bristlecone Room, 1600 Medical Parkway, Carson City, NV 89703
July 18, 2017	Winnemucca	11:00 a.m.	Humboldt County Library, 85 E. Fifth St., Winnemucca, NV 89455
July 18, 2017	Winnemucca	3:00 p.m.	Rural Regional Center, 475 W. Haskell St., Winnemucca, NV 89445
July 19, 2017	Elko	10:00 a.m.	Great Basin College, High Tech Center (HTC) #123, 1500 College Parkway, Elko, NV 89801
July 19, 2017	Elko	1:00 p.m.	Elko County Courthouse, Commissioners' Meeting Room, 540 Court St., Elko, NV 89801
July 20, 2017	Ely	3:00 p.m.	White Pine County Library, 950 Campton St., Ely, NV 89301

Contact: 775-328-3164/ AdultGuardianship@washoecourts.us for more information

*These programs are helped made possible by the National Resource Center for Supported Decision-Making and Association for Community Living

SUPPORTED DECISION-MAKING AS AN ALTERNATIVE TO GUARDIANSHIP

A Nevada Conversation

FREE PROGRAM—NOVEMBER 28, 2017

Two Sessions Available

9:00 a.m.— 12:00 p.m. or 1:30 p.m.— 4:30p.m.

University of Nevada Cooperative Extension, Clark County Learning Center

8050 Paradise Road, Suite 100, Las Vegas, NV 89123*

Click HERE for Pre-Registration

3 Free CLE Credits Pending/ Professional Certificates of Completion Available

*Additional Video Conference Cooperative Extension Sites:

RENO
4955 Energy Way
CARSON CITY
2621 Northgate Ln.
Suite 15
ELKO
701 Walnut St.
FALLON
111 Sheckler Rd.
YERINGTON
504 S. Main St.
WINNEMUCCA
1085 Fairgrounds Rd.
TONOPAH
1 Tenant Dr.

Please join other judges, attorneys, advocates, families and adults with disabilities in attending a free seminar about using **Supported Decision-Making** as an alternative to adult guardianships. Nationally recognized speaker, ***Jonathan Martinis***, Esq., Senior Director of Law and Policy at the Burton Blatt Institute, will highlight national and international trends, including his personal experiences advocating on behalf of adults with disabilities.

Judge Frances Doherty, Dr. Elaine Brown, Debra Bookout, Esq. and Mary Bryant of UNR will join Mr. Martinis in an interactive conversation about how to support individuals' autonomy and what Supported Decision-Making looks like in Nevada.

Nevada Supreme Court Justice James Hardesty recommends attendance: "I recommend all attorneys, advocates, families caring for loved ones and persons with disabilities, attend this free program for an opportunity to learn about supported decision-making as an innovative alternative to guardianship from national expert, Jonathan Martinis."

Sponsored by Second Judicial District Court, National Resource Center on Supported Decision-Making, State Bar of Nevada and Legal Aid Center of Southern Nevada.

For More Information Call (775) 328-3470 or Click HERE

COLLECT FEEDBACK AT EVERY STOP
Supported Decision-Making Survey

- SDM survey completed by 108 persons
- 17% were interested in SDM for themselves; 83% for another
- 50.48% were familiar with SMD; 49.52% had no previous knowledge
- 58.25% were interested in being a supporter
- 14.29% were potentially supported persons; 24.49% were parents; 21.43 % were agency reps; 29.59% other
- 40% of potentially supported persons lived with family; 11% lived independent, 11.7% lived independently with assistance; 8.2% lived in group home; 3.5% in residential care; 1.18% in assisted living
- 30.53% had guardianship in place; 51.59% no guardianship; 17.89% didn't know
- 97.92% of those responding (96) wanted to see SDM as an alternative to guardianship; 2.08% (2) would not

THE QUESTION

STAKEHOLDERS INVALUABLE

- Washoe County School District with 60,000+ student population implemented SDM as an alternative to referring families to guardianship court; implemented protocol to include decision-making in IEP plans; testified at hearings
- Persons wanting SDM for themselves – best advocates
- Mental health advocates at regional centers
- Protection and advocacy groups
- NAMI
- Legal Services Attorneys

DECEMBER 2017 STAKEHOLDER RECOMMENDATIONS

- I. Nevada **incorporate use of Supported Decision-Making**, *intended to preserve full or partial self-determination of people with disabilities,* **into Nevada practice** and utilization and advance its general acceptance.
- II. **Nevada law incorporate** recommendations of the *National Resource Center for Supported Decision Making (NRC-SDM), the National Guardianship Association, the Uniform Commission on Laws, the American Bar Association, the Department of Health and Human Services* that other alternatives to guardianship, including **Supported Decision-Making**, be identified and considered whenever possible prior to the commencement of guardianship proceedings.
- III**. Nevada law recognize Supported Decision-Making** arrangements may be **operationalized through individualized agreements**, without required words, protocols or forms and may be incorporated into a power of attorney, advanced directive, educational, medical, therapeutic or vocational plans and other agreements.
- IV. **Nevada Legislature adopt law(s) incorporating Recommendations I through III to recognize, promote, advance, and affirm the use of Supported Decision-Making as an alternative to surrogate decision making arrangements such as guardianships**

Bill Draft Request - Supported Decision Making
Committee on Seniors, Veterans and Adults with Special Needs
July 19, 2018 Work Session

Bill draft request related to **supported decision-making agreements as a recognized means to support** and accommodate adults with a disability in making life decisions. Supported decision-making is a process of creating an **agreement between an adult with a disability and a trusted supporter** or supporters, **which empowers an** adult to make decisions about his or her own housing, services, medical care, vocation, education, personal relationships and other life matters without third parties making such decisions**. Supported decision-making is recognized as a less restrictive alternative to guardianship** whereby supporters may assist the adult gather and evaluate information, help consider and communicate decisions, but not as a substitute decision-maker, and are afforded the legal status to be with the adult and participate in discussions with others regarding areas where the supporter provides assistance. Under the principles of supported decision-making, **adults are enabled to choose to live their lives** in the manner they wish consistent with their desires, values, beliefs, wishes and cultural norms.

Supported decision-making agreements may be created in any format in accordance with the personal needs and desires of the supported person but must include all of the following:

- Designation of at least one supporter;
- The types of decisions for which the supporter is authorized to assist;
- The types of decisions, if any, for which the supporter may not assist;
- The agreement must be in writing;
- The agreement must be dated;
- Each party to the agreement must sign the agreement in the presence of two witnesses.

- A supported decision-making agreement written and signed in accordance with this language shall be recognized for the purposes of any provision of law as the decision or request of the supported person. The Bill draft request would include provisions and direction for non-parties to the agreement, including but not limited to, medical and financial professionals, to rely on the supported adult's decisions, not unlike provisions in laws governing powers of attorney.

Helping Adults With Disabilities Make Decisions
SUPPORTED DECISION-MAKING AGREEMENTS
NEVADA SENATE JUDICIARY

Nevada Takeaways

- MUST HAVE VOICES OF THOSE WHO ARE MOST IMPACTED
- Community partners care about this issue
- Security is everyone’s concern
- Constitutional preservation of rights is a compelling issue
- Nevada is a large state with a small population: 3 million
- Data is convincing
- Partner with the press
- Vignettes are important
- Continue the conversation until you are the last person talking!

Thank You

Judge.Doherty@washoecourts.us