



Support for Disability Services Reform Amendment Act 2017

WE ARE A COALITION OF INDIVIDUALS AND DISABILITY RIGHTS ORGANIZATIONS that help people with disabilities and their families to live and flourish in the District of Columbia. We strongly support Bill 22-0154, Disability Services Reform Amendment Act of 2017. We urge you to swiftly pass this legislation, as it will move the District forward in respecting the rights and dignity of all of its residents.

END MANDATORY CIVIL COMMITMENT – Passage of this legislation would stop people with at least a moderate level of intellectual disability from being civilly committed and would allow those who already are the choice of whether to remain so.

No other jurisdiction in our country requires a person to be civilly committed to receive community-based residential services. The District should stop requiring any of its residents with intellectual disabilities to give up their rights through a court process in order to receive certain residential services.

Civil commitment is an intrusion on the person's liberty interests and privacy. People with intellectual disabilities who are civilly committed are required to have an annual court hearing where a judge reviews and approves important life decisions for the person, like where they live and work and spend their days and money. Such a review regularly includes discussions about personal matters, including a person's weight and diet, medical diagnosis and care, and relationships.

Civil commitment is a remnant from the days of Forest Haven, when the only service available was a large institution with thousands of people and the only avenue to access that service was through the court. After over 25 years since the closure of Forest Haven, now most people with intellectual disabilities receive their services through Medicaid, a system based on choice. No other Medicaid beneficiary in the District must go to court to access a Medicaid service for which he or she is otherwise eligible.

Under this bill, any of the 705 people who are currently civilly committed and find it helpful can choose to remain committed at their annual court hearing. If they cannot make that decision themselves, then family members, close friends, or someone appointed by the court could make that decision for them. This list of decision-makers is based on a section of existing law (D.C. Code 21-2210), which is regularly used for substitute health care decision-making within the DDA system.

People with intellectual disabilities who choose not to stay committed will not be left without support. Those with family members, friends, guardians, conservators, attorneys-in-fact through powers of attorney, and health care substitute decision makers will retain them. Based on DDS statistics, 97% of people who are civilly committed have these substitute decision-makers involved in their lives.

The vast majority – over two thirds – of people currently receiving DDA services navigate the system without civil commitment. This uncommitted population is not limited to people with mild intellectual disabilities and includes many people with significant support needs.

Fewer people are being civilly committed to the system because they are not seeking facility-based services. Based on DDS data, since the beginning of 2010, there have been only 16 new commitments, with an average of around two per year.

Within the DDA system, people with intellectual disabilities who have significant cognitive limitations usually have either court-appointed guardians or involved family members who can check in on them to ensure their needs are met. When they do not and cannot make their own decisions, DDS can petition the court for the appointment of professional guardians.

Rather than relying on an outdated civil commitment court process, District law will require DDS to create a formal complaint process that people receiving DDA services can use, with appeal rights to the Office of Administrative Hearings.

**DISABILITY RIGHTS
ARE CIVIL RIGHTS**



CREATE STATUTORY SUPPORTED DECISION-MAKING AGREEMENTS – We support this bill because it formally recognizes Supported Decision-Making across the lifespan, disability, and life areas in the District.

Supported Decision-Making is an alternative to guardianship where an adult with a disability makes his or her own decisions by using people he or she trusts to help understand the issues and choices faced. It can be used by people with a wide range of disabilities and older adults.

Supported Decision-Making was not invented by DDS or by this bill. Across the United States, Supported Decision-Making is being recognized more and more by legislatures, courts, legal literature, and advocacy discourse. The Administration for Community Living, created by the U.S. Department of Health and Human Services, recognizes Supported Decision-Making as an important element to promote the independence and well-being of older adults and people with disabilities.

The District has already formally recognized Supported Decision-Making in its law, regulation, and policy for adult students in special education. Bill 22-0154 would clear the path for Supported Decision-Making to be recognized as an option in all areas of life and across the lifespan.

Creating a statutory Supported Decision-Making agreement form was not invented by DDS or this bill. In fact, DDS modeled the proposed SDM agreement very closely on a similar legislative form that was enacted in Texas in 2015.

Supported Decision-Making is becoming recognized as a best practice in the disability field. Research has shown that people with disabilities who have greater self-determination and control over their lives have better life outcomes. For example, they are more integrated into their communities, healthier, more likely to be employed, and better able to recognize and resist abuse. We need to educate people with disabilities and family members on this important option and help them plan for their future.

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