



Conservatorship & Alternatives

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Acknowledgement & Resources

- Conservatorship & Alternatives Google Drive (SCDD) – contains curricula, surveys, and resources related to the series.
 - <https://bit.ly/scddalternatives>
- Much of the content contained herein is from our federal partner, Disability Rights California www.disabilityrightsca.org
 - Publication: Limited Conservatorship and Alternatives
 - <https://www.disabilityrightsca.org/publications/limited-conservatorships-alternatives>
 - Publication: Duties of a Conservator
 - <https://www.disabilityrightsca.org/publications/duties-of-a-conservator>
- With Support and Without the Court by Disability Voices United
 - https://disabilityvoicesunited.org/wp-content/uploads/2020/11/SDM-Handbook_Oct2020.6.pdf
- Handbook for Conservators by The Judicial Council of California (2016)
 - <https://www.courts.ca.gov/documents/handbook.pdf>

Topics

- Rights of Persons with Disabilities
- Alternatives to Conservatorship
 - Supported Decision-Making
 - Durable Power of Attorney
 - IEP, IPP
 - Access to Records
 - Finances
 - Health Care
 - Living Arrangements
 - Relationships
 - Court Proceedings

A stylized sun graphic on the left side of the slide. It features a large yellow circle representing the sun's disk, with several yellow curved lines of varying lengths radiating from its top edge, suggesting rays. The background is a solid orange color, and a large white semi-circle is positioned on the right side of the slide, partially overlapping the sun's rays.

Rights & Responsibilities of Persons with Disabilities

California Welfare & Institutions Code Section 4502

“Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California.”



California Welfare & Institutions Code

Section 4502 - Rights

(a) A right to treatment and habilitation services and supports in the **least restrictive environment**. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the **most independent, productive, and normal lives possible**. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.

California Welfare & Institutions Code Section 4502 - Rights

- (b) A right to **dignity, privacy, and humane care**. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.
- (c) A right to participate in an appropriate program of publicly supported **education**, regardless of degree of disability.
- (d) A right to **prompt medical care** and treatment.
- (e) A right to **religious freedom and practice**.

California Welfare & Institutions Code

Section 4502 - Rights

(f) A right to **social interaction** and participation in **community activities**.

(g) A right to **physical exercise** and recreational opportunities.

(h) A right to be **free from harm**, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.

(i) A right to be **free from hazardous procedures**.

California Welfare & Institutions Code Section 4502 - Rights

(j) A right to **make choices** in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.

A stylized sun graphic on the left side of the slide. It features a large yellow circle at the bottom left, with several yellow curved lines above it representing rays. The sun is partially obscured by a large white semi-circle that frames the text.

Alternatives to Conservatorship

Supported Decision-Making

AB 1663 – Maienschein (1.19.22)

WIC §21000 - §21008

Summary

Supported Decision Making is a less-restrictive alternative to probate conservatorships; requires the court to make conservatorships the last resort; and makes important changes to protect the rights of conservatees and make it easier to end probate conservatorships. To help people maintain choice and control over their lives.

One key area of probate conservatorship reform through this law:

DEFLECT—Avoid probate conservatorships by recognizing alternatives

- Establish SDM as a less-restrictive option for people with disabilities and older adults
- Create a SDM Technical Assistance Program to provide grants, training, and technical assistance that promote and strengthen the use of SDM and other supports

Alternatives to Conservatorship Supported Decision-Making

Using trusted family, friends and professionals to help you understand situations and choices in your life:

- Make things happen in own life instead of depending on someone else, empowered
- Where, how, and with whom to live
- Where you want to work and what type of work
- Increases opportunities, independence and overall community integration
- Positive quality of life
- Expands “circle of support”
- Learn from experiences and enhance decision making abilities
- Provide an opportunity to make decisions about service plans and goals, allows for growth and involvement (present at meetings)
- Better able to recognize and resist abuse

Alternatives to Conservatorship Supported Decision-Making (cont.)

Tips for Supporters:

- Use plain language and provide information in accessible forms (ex. visual, audio)
- Provide extra time to discuss choices and make decisions
- Creating lists of pros and cons
- Role-playing activities to help the person understand choices
- Bringing someone to appointments to take notes, help the person remember, and discuss options
- Opening a joint bank account to manage financial decisions together

Alternatives to Conservatorship Supported Decision-Making Agreements

- Names individual supporters
- Provides information on what each supporter can or cannot do
- Signatures from each supporter which explains their understanding of what they can and cannot do
- Supporters CAN help the person communicate their wishes
- Supporters CANNOT make decisions for the person

Conservatorship vs. Supported Decision-Making

Conservator makes final decision about conservatee's life	Person makes final choices using support network
All changes go through court (problems, successor conservators, change in powers)	Person can change or add supporters, as needed, for life decisions
Typically, one person overseeing decisions	Multiple supporters may mean protection from abuse or manipulation (monitor for \$)
Needs assessed by judge (based on IQ/diagnosis), what they can do without support, assume no growth	Strengths and abilities primary focus, what they can do with and without support, can modify and change as growth occurs

WIC §21000

- (c) “Supported decisionmaking” means an individualized process of supporting and accommodating an adult with a disability to enable them to make life decisions without impeding the self-determination of the adult.
- (d) “Supported decisionmaking agreement” means a voluntary, written agreement, written in plain language accessible to the adult with a disability and in conformance with Section 21005. A supported decisionmaking agreement shall be signed in conformance with subdivision (b) of Section 21005 and may be revoked orally or in writing at any time by either party. A supported decisionmaking agreement may include images, be read aloud, or be video or audio recorded, in addition to the written version.



Alternatives to Conservatorship

Durable Power of Attorney, IEP, IPP, Access to Records, Finances, Health Care, Living Arrangements, Relationships, Court Proceedings

Alternatives to Conservatorship

Durable Power of Attorney

- A legal document allowing a person to authorize someone else to handle monetary decisions on their behalf. It does not require court intervention but requires the presence of a notary public. It covers transactions involving:
 - Banking and financial institutions
 - Insurance
 - Estate and trust
 - Tax matters
 - Benefits from Social Security, Medi-Cal, and other government programs (some agencies may require their own forms as well)

Alternatives to Conservatorship Services through IEP or IPP

Right to Invite Advocates to IEP or IPP Meetings:

- Regional center service coordinator
- Family and others in circle of support
- Trained advocate / facilitator
- Client's Rights Advocate through OCRA assigned to your regional center

Transfer of Educational Decision-Making Authority:

- Assign educational rights to someone else
- Suggested form available on DRC website



Alternatives to Conservatorship Access to Records & Information

- Individual may sign authorizations for release of information
 - Specific agency release form
 - HIPAA release for medical records
- Individual and support person can contact agencies together
 - Go into office together
 - Make 3-way phone call
 - Copy in email/written communication



Alternatives to Conservatorship Finances



- Power of Attorney for Finances
 - Revocable / Notarized
- Choose someone to be your SSI/Social Security Representative Payee
- Services in the IPP to assist with money management: ILS/SLS agency
- Special Needs Trust
 - Trustee manages money
- Joint bank accounts
- Laws to help protect SSI benefits (non-garnishment)

Alternatives to Conservatorship Health Care

- Advance Health Care Directive
 - Notarized or 2 witness' signatures
 - Revocable
- The individual/patient must always be provided with risks/benefits, other alternatives, and what happens if no treatment
- If individual is unable to make decision (after information provided)
 - Closest relative available (ex. parent) can authorize healthcare.
 - Regional center can authorize some medical, surgical, or dental care
 - Doctors and dentists can make emergency decisions
- Court authorization for specific operations
- If living in an ICF/SNF
 - An Interdisciplinary team can approve medical treatment in absence of legal authority/medical decision-maker

Alternatives to Conservatorship



Living Arrangements

- Circle of Support
- Independent Living Services/Supported Living Services
- Have choices written into IPP

Social & Sexual Relationships

- Services written into IEP or IPP
 - Counseling
 - Independent Living Services/Supported Living Services
 - Social skills
 - Safety awareness
 - Healthy relationship training

Alternatives to Conservatorship



Court Proceedings

- Guardian ad Litem can be appointed
 - Helps you talk with your lawyer
 - May take place in court if you cannot attend or do not understand proceedings

Self-Advocacy Training

- Write into IEP or IPP
- Self-advocacy organizations such as People First
- Role playing and discussion

Facilitators to assist with decision-making



Conservatorship & Alternatives to Conservatorship Webinar

Are you interested in learning more about Conservatorships & Alternatives to Conservatorship?

The State Council on Developmental Disabilities (SCDD) Orange County Office has launched our newest ONLINE, SELF-PACED WEBINAR SERIES to help you learn the basics of Conservatorship & Alternatives to Conservatorship from the comfort of your own device. A certificate of participation will be emailed to you once you complete the series.

The 5-Part Series includes:

1. Rights and Responsibilities of Persons with IDD
2. Supported Decision-Making
3. Alternatives to Conservatorship
4. Conservatorship Basics, Types, and Expectations
5. Limited Conservatorship Powers, Conservatorship Process & Rights

Join us today!

You can email us at orangecounty@scdd.ca.gov for registration.

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Website: www.scdd.ca.gov/orangecounty

- Email orangecounty@scdd.ca.gov for registration to the self-paced webinar.



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