

Legislative History for Connecticut Act

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Act Number: 515 **Year:** 1979

Bill Number: HB 7748

House Pages: 9529-9537

Senate Pages: 5081-5082, 5135

Committee: **Judiciary** 613-614, 617-618,
651-653, 671-672, 675-676,
715-717, 719-24, 1060-1062,
1493, 1521-1522, 1532

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1979

VOL. 22
PART 27
9226-9588

House of Representatives

Tuesday, May 22, 1979

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REP. GROppo: (63rd)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. John Groppo.

REP. GROppo: (63rd)

May this be recommitted to the Committee on Finance,
Revenue and Bonding, please?

DEPUTY SPEAKER COATSWORTH:

Is there objection? Hearing none, the matter is recommit-
ted.

CLERK:

Calendar No. 1282, File No. 1077, Substitute for House
Bill No. 7748, AN ACT CONCERNING REVISION OF PROCEDURES GOVERNING
THE COMMITMENT OF MENTALLY ILL PERSONS. Favorable Report of the
Committee on Appropriations.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move for acceptance of the Joint Committee's
Favorable Report and passage of the bill.

DEPUTY SPEAKER COATSWORTH:

The question is on acceptance of the Joint Committee's

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Favorable Report and passage of the bill. Will you remark, sir?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO No. 8293.

DEPUTY SPEAKER COATSWORTH:

The Clerk will please call and read LCO No. 8293, hereby designated House Amendment Schedule "A".

CLERK:

LCO No. 8293, offered by Rep. Wright of the 77th. Delete section 5 and renumber the remaining sections accordingly.

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

You have the amendment, sir. What is your pleasure?

REP. TULISANO: (29th)

I believe the amendment is self-explanatory. It deletes the provision with regard to cost allocation. That amendment was submitted by the Appropriations Committee Chairman in the belief that it made the bill properly drafted. I move its adoption.

DEPUTY SPEAKER COATSWORTH:

The question is on adoption of House Amendment Schedule "A". Will you remark on the adoption of House Amendment Schedule "A"? Will you remark further on the adoption of the amendment?

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REP. CONNOLLY: (16th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Connolly.

REP. CONNOLLY: (16th)

A question through you, to the proponent of the bill.

DEPUTY SPEAKER COATSWORTH:

Please frame your question, madam.

REP. CONNOLLY: (16th)

Mr. Speaker, Mr. Wright is the proponent --

DEPUTY SPEAKER COATSWORTH:

The Chair would note Rep. Tulisano brought out the amendment.

REP. CONNOLLY: (16th)

Mr. Speaker, may I pose the question to Rep. Wright, who is the author of the amendment?

DEPUTY SPEAKER COATSWORTH:

Please frame your question, madam.

REP. CONNOLLY: (16th)

Thank you, Mr. Speaker. Rep. Wright, I discussed this amendment with you previously, and I wonder if you would explain for the record your reason for the amendment and what it does.

DEPUTY SPEAKER COATSWORTH:

Rep. Gardner Wright, do you care to respond to the question?

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REP. WRIGHT: (77th)

Mr. Speaker, through you, the purpose of the amendment is to eliminate the responsibility on the part of the Judicial Department to pay for any hospital or physician charges that are required before somebody is admitted. We feel that there are already ways in the existing system to cover any medical costs, either through private insurance or if the person is indigent he might be on Medicaid or Medicare or some other program. And there was no need to establish a new program with the responsibility for paying for medical costs within the Judicial Department.

And that was the reason for eliminating this section of the bill.

DEPUTY SPEAKER COATSWORTH:

Rep. Connolly.

REP. CONNOLLY: (16th)

Thank you, Mr. Speaker. Through you, one question further. I can understand that change, however I do have a concern about the patient who comes into the Emergency Room, is not on Blue Cross or a private insurance or Medicare. Then who is responsible for that bill? Will that be charged against the hospital? Patient is discharged from the hospital that night after treatment and the bill is sent to the patient's home. The patient may possibly have no recollection of that visit, even.

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Then it becomes a bad debt for the hospital. Could you respond to that question, please?

REP. WRIGHT: (77th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Re. Gardner Wright.

REP. WRIGHT: (77th)

Mr. Speaker, through you, I discussed this issue with the representative from the Hospital Association today and they are concerned about that. But certainly it is not the responsibility of the Judicial Department to pay medical expenses. I'm concerned that there may be bad debts and apparently there are some bad debts, but still if you go to the hospital for a service, it is legally your responsibility to pay for that medical service. If you don't have insurance, and are indigent, then the State has programs to pay for you. I don't think that in this bill we should attempt to create a whole new State program to pay for medical services. If there's a problem with bad debts with the hospitals, then I think that should be addressed, but I don't think it should be addressed necessarily in this bill dealing with the commitments of mentally ill persons. I think it's the wrong place to deal with that subject.

REP. CONNOLLY: (16th)

Through you, Mr. Speaker.

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DEPUTY SPEAKER COATSWORTH:

Rep. Connolly.

REP. CONNOLLY: (16th)

I would agree with you, Rep. Wright, that this is inappropriate for the Judicial Department and I do support that portion of the amendment, but I do have a concern about those patients who are admitted through an Emergency Room admission, may be in there for a couple of days. And this runs a very, very high rate with patients with mental problems, as you probably realize.

And so I do have a concern there. However, I think we have it on the record and we can perhaps later address that problem.

Thank you, Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Will you remark further? Will you remark further on the adoption of the amendment? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COATSWORTH:

Opposed, no. The ayes have it. The amendment is adopted and ruled technical.

Will you remark further on the bill as amended by House Amendment Schedule "A"?

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REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the bill before you as amended establishes a number, redefines proceedings for a commitment and release from hospitals for the mentally ill for those over 16. You recall earlier today we dealt with commitment of children under 16 years of age. This establishes a review proceeding, cost establishment as result of work of a sub, a committee that met for the last two years with Judge from the Probate Office. Connecticut Hospital Association supports the legislation as does the, we received a letter from the John Donnelly, a psychiatrist and chief of the Institute of Living, who also supports this legislation. They've all worked together to get together this bill which is another proceeding in a redefinition as we've been developing all this year on commitment proceedings.

Very interesting enough, the day that this bill was sent to the Appropriations Committee, the United States Supreme Court came out with a decision that indicated that we should have legislation which uses or has a finding of clear and convincing evidence of the person who is complaintive of being mentally ill is dangerous to himself or herself, and then others, and there are

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other standards. But that was the language that was in this proposed bill. We meet the Supreme Court test and we're proud to say that we met that test before the Supreme Court said that we had to and I move passage of the bill.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the bill as amended? Will you remark further on the bill as amended?

REP. CONNOLLY: (16th)

Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Rep. Connolly.

REP. CONNOLLY: (16th)

Thank you, Mr. Speaker. I would just like to commend the Judiciary Committee and Rep. Tulisano is unusually modest today, but this represents a tremendous amount of work and over a year study of, to handle an extremely difficult problem. I think it's been handled very, very well and I would commend the bill to you for your unanimous approval. Thank you, Mr. Speaker.

DEPUTY SPEAKER COATSWORTH:

Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, would the members please be seated. Staff and guests come to the well of the House. The members please be seated. Staff and guests come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll call at this time. Will all members please return to the Chamber. The House of Representatives is voting by roll call at this time. Will all members please return to the Chamber.

Have all the members voted? Is your vote properly recorded? Have all the members voted? And is your vote properly recorded? If so, the machine will be locked and the Clerk will please take a tally.

The Clerk will please announce the tally.

CLERK:

House Bill No. 7748, as amended by House Amendment Schedule "A".

Total number voting	143
Necessary for passage	72
Those voting yeas	143
Those voting nay	0
Those absent and not voting	8

DEPUTY SPEAKER COATSWORTH:

The bill as amended is passed.

CLERK:

Calendar page 9, Calendar No. 1283, File No. 1066, Substitute for House Bill No. 7678, AN ACT CONCERNING STATE PERSONNEL. Favorable Report of the Committee on Appropriations.

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THE CHAIR:

So ordered. Senator Barry, you have an amendment which you wish to withdraw?

SENATOR BARRY:

Clerk read for the record the LCO number?

THE ASST. CLERK:

Yes, Mr. President, the Clerk has LCO No. 9144, LCO. no. 9144 on Calendar No. 1199, Amendment submitted by Senator Barry. And Senator Barry, you're withdrawing this?

SENATOR BARRY:

Mr. President, at this time I would withdraw this amendment and state that this bill is the final one of six bills from the Juvenile Justice Commission. I would join Senator Schneller in urging this to be placed on the consent calendar.

THE CHAIR:

Hearing no objections, so ordered.

THE ASST. CLERK:

Calendar No. 1200, File No. 1077, 1184, Substitute for House Bill No. 7748, An Act Concerning Revision Of Prodedures Governing The Commitment Of Mentally Ill Persons. (As amended by House Amendment Schedule "A").

THE CHAIR:

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, I move acceptance of the joint committee's

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favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR SCHNELLER:

Yes, Mr. President. The bill redefines proceedings for commitment to and release from hospitals for the mentally ill. It expands an individual's right to opt for voluntary commitment and requires that hospital patients receive hearings at least every two years, provides for the State payment of costs related to annual review proceedings and it requires an appropriation of \$35,000.00. House Amendment "A" deletes a provision in the bill which would have made the State liable for medical and hospital costs, costs incurred when an indigent person, alleged to be mentally ill, was delivered to an emergency room of a hospital under a court warrant, and if there's no objection, I would move the bill as amended by House "A" to the consent calendar.

THE CHAIR:

Hearing no objections, so ordered.

THE ASST. CLERK:

Calendar No. 1201, File No. 1104, Substitute for House Bill No. 5131. An Act Authorizing the Municipality to Issue Bonds For the Construction Loans To Its Housing Authority.

THE CHAIR:

Senator Beck.

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bill concerning Manchester Community College under emergency certification. I didn't hear it. It's not on the calendar, but it is on the consent calendar and it should be read in.

THE CHAIR:

You're absolutely right, Senator Barry. This is a matter that was not printed in the calendar. It was given emergency certification. The Clerk will please announce that one also.

THE ASST. CLERK:

The Clerk will announce, let's see, Senate Bill No. 1685. It's a committee bill, LCO No. 8528.

THE CHAIR:

That is also on the consent calendar. Any errors or omissions? Are we ready to vote? Machine is open. Please record your vote.

SENATOR LIEBERMAN: SB 1123, HB 5556, HB 5701, HB 6484, HB 6540, HB 6818, HB 7548,
HB 7695, HB 6816, HB 7490, HB 7855, HB 5739, HB 6710, HB 7673,
 Mr. President. HB 7718, HB 7806, HB 7014, HB 5107, HB 7032, HB 5399, HB 5550,
HB 6256, HB 6258, HB 7166, HB 7426, HB 7662, HB 7766, HB 7919,
 THE CHAIR: HB 5297, HB 7233, HB 7240, HB 7246, HB 7442, HB 7497, HB 7903,
HB 7976, HB 6270, HB 6259, HB 6553, HB 7747, HB 7748, HB 5843,

Machine may be closed. Clerk please tally the vote. Result
of the vote, 36 yea, 0 nay. The consent calendar is adopted.

Senator Lieberman. HB 7889, HB 7951, SB 382, SB 595, SB 803, SB 303, SB 1533,
 SENATOR LIEBERMAN: SB 1536, SB 1314, SB 547, SB 1685

Move for suspension of the rules to allow for immediate transmittal to the House of those items that should go to the House.

THE CHAIR:

Hearing no objection, so ordered.

JOINT
STANDING
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COMR. PLAUT (Continued): procedures required for psycho-surgery and shock treatment. The Department opposes this bill. As you remember, last year the legislature enacted a new patient's bill of rights. In that bill of rights, adequate protections regarding psycho-surgery and electric shock were contained to the best of the Department's knowledge, there have not been problems with the bill that the legislature passed last year and this current proposal would be very cumbersome and expensive to implement so the Department opposes 7745.

You have before you Bill 7746, which is really redundant because its substance has been included in Bill 7748. So I will now address Bill 7748, 7746 has been folded into it, and is redundant at this point. 7748 is a bill revising civil commitment. Two years ago, because of my concern about the Connecticut Civil Commitment Statutes, I asked Judge of the Probate Court to chair a task force to study proposed revisions. The result of Judge task force work was last year's revision of the Civil Commitment Law that the legislature passed and it is a major improvement. Obviously, when such a major piece of legislation comes in, almost inevitably, there are minor aspects which in practice turn out to need further attention. Accordingly, I asked Judge again, to head a similar task force to monitor the implementation of last year's legislation. 7748 is the outcome of the work of that task force and essentially it is a series of clean-up items in the major legislation that was passed last year, they are minor changes which do not at all alter the thrust of the legislation. I will simply list for you the minor changes.

The first one gives the respondent the right to refuse counsel. The second one clarifies the admissibility of the hospital record in the probate hearing, which is ambiguous and is leading to different interpretations by different probate judges at the present time. The third one clarifies the fiscal responsibilities section again, a clean up of ambiguity, not an additional cost. The fourth one clarifies the courts authority with regard to the offering of voluntary status. It turned out that the language that was used last year, allowed someone to be brought to the probate courts for a commitment procedure while he was there to respond yes, to the mandatorial offer of the court for voluntary status to go back to the hospital as a voluntary patient the next day to say he wanted discharge requiring being brought back to the court and we go through the whole thing over and over again. What this section does is it prevents

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COMR. PLAUT (Continued): that kind of circular repeat court performance. The fifth change requires mandatory court review of civil commitment and this brings last year's statute in conformity with the Connecticut Supreme Court decision in Farsulo versus . That decision came down after last year's legislative drafting. This change is required to bring last year's drafting in conformity with that Supreme Court decision. The sixth change clarifies the probable cause language to allow consideration of a condition, both at the time of admission and at the time of hearing, again, the current language is ambiguous and different probate court judges are interpreting it differently, leading to varying procedures, inconsistent procedures in different probate courts.

The final change in this bill does not come out of Judge task force but was folded in in order to have one bill and this makes the appeal of probate court hearings on the record. Thereby, conforming these kinds of appeals to similar administrative agency appeals in the State of Connecticut and not requiring a new de novo trial in the Superior Court. We feel that this would be an improvement in the current process both in terms of the quality of the probate court hearing which now will, you know, need a record if there is to be an appeal possible, and it will also simplify the work of the Superior Court which will not have to start a de novo hearing every time a probate court hearing is appealed.

REP. TULISANO: Excuse me, Commissioner, that may conform it to appeals from administrative agencies, but it is not the standard appeal for probate court, am I right?

COMR. PLAUT: Currently not, that's correct, sir.

REP. TULISANO: Confuse them at one end rather than the other. I mean, you are not standardizing with regard to probate fact?

COMR. PLAUT: No, sir, no sir, That is correct. But we are hoping to improve the quality of the probate hearings and to simplify the work of the Superior Court. The last bill is Bill No. 7758. A bill regarding the competency to stand trial. Here again, I felt a year ago that there were some serious problems with Connecticut statute and I asked Professor Leasy of the School of Social Work to chair a task force to study the Connecticut Statute and come up with some recommendations. This bill is the outcome of the work of that task force. Basically what it does is it brings the Connecticut statute in conformity with the United States Supreme Court decision in Jackson versus

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JGE KNIERIM(Continued): courts. Most of the bills before you today dealing with probate courts come from all segments of our state and many people have worked on them, including physicians, lawyers, volunteer citizens and so, we hope that -- we appreciate your having a hearing on them and we hope that you'll take a close look at them. Many of them represent more than two years work.

Also, to save time, there are some officials of the Connecticut Probate Assembly in the hearing room this morning. Judge Iacovo, who is President-Judge of the Assembly, Judge vonWettberg, who is the Executive Secretary, Judge Keyes from New Haven, Judge Consella from Hartford, all of whom would be most happy to testify, but in the interest of saving time have authorized me, although I'm not an official of the Connecticut Probate Assembly, to state that the Connecticut Probate Assembly is in complete support of those bills about which I will testify and in many cases has assisted in their preparation.

The first subject I would like to get involved in is that of mental health. And I'd like to lead off by apologizing to the committee for a major error in draftsmanship on my part and that is H.B. 7745. Last year, the General Assembly gave us the task of reviewing whether or not a patient should be administered shock therapy. The words were also -- words psycho-surgery were also in that bill last year, but fortunately the probate courts were not given any authority over deciding whether or not psycho-surgery should be administered. In our drafting, the word psycho-surgery appears in Line 33, 64, 67 and 68 and they should be deleted as soon as possible. We had not intent to get involved in whether or not anyone should be administered psycho-surgery and we apologize for the oversight. What we are asking for is that since you want us to look at applications for shock treatment, that we be given a proper procedure for reviewing that so that we have some intelligent way of deciding whether shock treatment should be administered.

Comr. Plaut has already addressed H.B. 7748. This bill came about from many people who are expert in the field reviewing our civil commitment procedures and I think Comr. Plaut adequately described its major provisions. I would point out to the committee that the bill does have a price tag. As a result of Fasula versus I think we have been told that patients in mental hospitals are mandated periodic reviews. This bill provides court hearing at least once every two years and since the state has mandated this court hearing, we feel that it's only fair that the State of

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JGE KNIERIM (Continued): Connecticut should pay for the expenses of those hearings. We think the cost will run in the neighborhood of between \$30,000 up to \$50,000 per year, cost of counsel, cost of physicians, but it seems to us that it's the only way to follow the mandate of that Supreme Court case to provide the necessary tools to review the confinement of these people.

The remaining portions of the bill, most of them are, as explained by Comr. Plaut, I would like to just comment briefly on that portion which the chairman referred to, making the record in the probate court and having the appeal on that record. I'd like to emphasize that that was not a decision of the committee. Personally, I'm in favor of that type of appeal, especially since the proposal in this bill, does permit the introduction of new evidence at the Superior Court level. Many attorneys complain that they have to try their cases twice. They try them once in probate court and then they go to Superior Court and they try the case all over again. This takes the judges time in Superior Court, it takes attorneys time and to the extent that we're already required to make a record, those portions of that record, which are relevant, it seems to me ought to be used in the Superior Court.

But that is a personal opinion and not one which has been adopted by the committee and if you feel that that is too much too soon, I would rather have you remove Sections 8 and 9 from this bill, because the remaining portions of this bill, it seems to me are entirely necessary to respond to Supreme Court mandates.

The second major area involves bills relating to adoption and termination of parental rights. You have three bills before you today in that field, H.B. 7756, 7771 and 7772. These are the first installment in a very small part of a major proposal which is coming before you. That proposal was developed by a large committee of experts working for more than a year, reviewing our adoption and termination statutes. The portions before you deal primarily with birth certificates and also one other one which deals with the Commissioner of the Department of Children & Youth Services being permitted to petition for termination of parental rights in probate courts, but only when the matter should not properly be before the Superior Court Juvenile matters. As far as the birth certificates are concerned, we find that it's entirely too easy to get a putative father's name on a birth certificate, even though the present statute, says that it shall not be placed on the birth certificate

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DR. ZONANA (Continued): similar to the one that has been working in Hartford for the past four years. We strongly support this bill, which we feel makes the competency to stand trial statute constitutional. The only recommendation that I would have is that the statute over the past couple of years has an additional section which established the clinical team as well as a psychiatric. The team consisting of a psychiatrist, a social worker, and a psychologist to perform these examinations, and what I would like to recommend is that an additional line be added which says that any member of the clinical team who has examined the defendant shall be competent to testify as to the team's examination and finding. I think this will make the procedure much more efficient and allow better use of professional time. We can develop the kind of expertise for the social worker who will be the Director of the clinic.

DR. ZONANA: Yes.

The other bill I want to talk about briefly is the 7748, which are the amendments to the Civil Commitment Act. By and large, we support most of the amendments and most of them are basically the housekeeping ones that the Commissioner suggested. There are two areas that we do oppose and one which was not the recommendation of the Committee is the appeals procedure, which makes appeals a record appeal and not a de novo appeal. Last year the Supreme Court reviewed a case in this State in Thomas vs. [unclear] and very strongly came out that this should be a de novo appeal, that the informalities of the Probate Court can only be corrected by having it set up so that the Superior Court is a new trial and especially in an area where change in status can play such a dramatic role by the time appeal goes through that we feel that the defendant -- patient in this situation -- should have an allowance for his current mental status to be looked at at the time of the appeal. In habeas proceedings the burden of proof is still on the patient, and this is a very separate kind of proceeding.

The secondary issue is one where it says that if a patient refuses to accept medication or treatment in accordance with the treatment plan prescribed by the attending physician, an application for involuntary commitment may be filed. This reads poorly. I think we are in support of the intent but it kind of implies that if a patient says he doesn't want to take any medication that he will be dragged into Probate Court for commitment. I think the purpose here is that there is a real group of patients who like remain voluntary and can go around sort of smashing their heads into walls and refusing any treatment, and when the hospital

DR. ZONANA (Continued): tries to go to Probate Court, the Probate Court is obliged to ask them if they want to be a voluntary and when they say, yes, then you also cannot force medication or any other kind of treatment on a voluntary patient, and so you're in a bind. The patients are too dangerous to be released. At the same time, you can't provide any treatment. I have some other wording which I would include which basically just says that if a patient refuses treatment, which negates the purpose of hospitalization, an application to Probate Court can be made. I think that is not as offensive and the person still has to meet the standards for Probate commitment, and we would like to see that.

REP. TULISANO: Will you leave that with the Committee?

DR. ZONANA: Yes.

REP. TULISANO: Thank you.

DR. ZONANA: Thank you.

REP. TULISANO: Richard Bridberg.

DR. BRIDBERG: I'm Clinical Director of the Institute of Living in Hartford and a psychiatrist. I'd like to testify on Bill No. 7748, concerning commitment of mentally ill persons and support the bill in general.

I would like to register my opposition to both the bill and the amendment for two reasons. First, electroconvulsive shock therapy are linked together. There are a number of different procedures which are in the public mind, and it should therefore not be linked with shock therapy, which is an extremely useful and effective type of treatment in some illnesses and which, if used properly, is extremely safe. I would like to register my opposition to both the bill and the amendment for two reasons. First, electroconvulsive shock therapy are linked together. There are a number of different procedures which are in the public mind, and it should therefore not be linked with shock therapy, which is an extremely useful and effective type of treatment in some illnesses and which, if used properly, is extremely safe.

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MR. BUDBINGS (Continued): Bill No. 7748, concerning commitment Belt mentally ill persons and support the bill in general, but #9 again support Dr. Zonana's concern about the fact that after probate court commitment and the appeal process, the bill does not allow for the patient's mental condition at the time of the appeal to be taken into account, and we think that's important.

Bill No. 7793, an act concerning emergency and voluntary commitments, I would agree with Comr. Plaut that this bill is unnecessary and I can't find any need for it in talking with my colleagues, personally, we have never seen the use of serial emergency certificates as suggested in this way, which would be an abhorrent practice but occasionally, it's important to have the flexibility, especially in situations where a patient is sent on a 15 day paper to a facility that cannot handle him to then send him to another facility, so that being able to do it at least once, to send someone on a 15 day emergency certificate, who originally came in on a 15 day emergency certificate, at least once to another institution may be important. So for that reason, I would oppose it -- the language of this bill, not the intent of the bill.

The third bill I'd like to testify on is Bill No. 7745, an act concerning procedures governing psychosurgery and shock treatment. This amending to the original does not, in my opinion, make any substantial difference, but I would like to register my opposition to both the original and the amendment for two reasons. First, psychosurgery and shock therapy are lumped together. These are entirely different procedures. Psychosurgery is irreversible and in the public mind, it's a drastic procedure. It should therefore not be linked with shock therapy, which is an extremely useful and effective form of treatment in some illnesses and which, if given properly, is extremely safe.

Secondly, I want to object to the idea that the court should make a decision about the treatment modality to be used. I think that this should be a medical decision and the court should make a decision in regard to the patient's capacity to give informed consent. And for that reason, I'd like to recommend removing the words, on Lines 66 and 67 and 68, which state that if there is no reasonable alternative procedure to psychosurgery or shock treatment and in the second two lines, when there is no reasonable alternative procedure. I think those are medical decisions rather than judicial decisions.

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gpa

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HB 7748

MR. PODOLSKY (Continued): and permits in two different places --
Belt 12 line 165 and line 403, it permits the wholesale admissibility
of hospital records without regard to parts of them which
ought to be inadmissible because they contain heresay or
other problem areas. That needs to be rewritten so that it
is clear that you can object to the inadmissible parts of
the hospital records.

At line -- starting at line 252, it talks about the procedure
for converting an involuntary petition into a voluntary
commitment. The law is now designed, the law is now designed
to say that you can -- to encourage voluntary treatment.
It's designed to say that if you're faced with involuntary
commitment right up to the time of the hearing, you can
sign a voluntary and thereby avoid the involuntary, and
in some ways, that increases the rights of the patient while
he's in the hospital by going in as voluntary. What this
bill would do is it would say, you could only do it once
ever. It seems to me either that should be taken out so
there's no such limit, or conceivably you can say, you can
only do it once in a certain period of time. For example,
if you do it once, you can't do it for the next six weeks,
if you come back on a second and voluntary petition, and
require a certain amount of passage of time, but to say as
this bill says that once you've done it, you can never come
back, seems to me ducks that protection, and that protection
is designed as a treatment protection to encourage voluntary
rather than compulsory admission. I would say that if you
are going to put a limit in, then six weeks might be a
reasonable period of time. I can give you draft language
on all these things.

The -- starting at line 285, it has the section that says
you can commit somebody as an involuntary patient because
they refuse to take the medicine or to follow a treatment
plan. The bill that was passed last year, and in fact, a
series of bills to reform commitment procedures, is
designed to make a tough standard for involuntary commitment
-- gravely disabled, danger to himself or others. If you're
going -- if there -- I have doubts about making refusal to
take medicine a ground for -- a separate ground for
committing somebody involuntarily, but if you do, at the
very least, tie it into the standard so there has to be an
imminent danger, not just a mere refusal in and of itself.

The last two items -- starting at line 310, the bill talks
about how often you have to review a person's commitment --

(Interruption by announcement on Public Announcement System)

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MR. PODOLSKY (Continued): There's a major case from 1977, Fasulo v. Arafeh, which says that you must systematically and repeatedly and regularly review the commitments to make sure people -- that you still have basis for keeping them.

The Connecticut statute has to be changed because it's unconstitutional under that decision -- this bill says every two years that you have a doctor check it every one year -- at the very least, you should have a hearing every year, and at the very least, you should change that to require an annual hearing. I'll leave it at that. I think you've heard enough and I've taken up a great deal of your time. Thank you.

REP. TULISANO: Thank you. Frank Smith.

MR. SMITH: Mr. Chairman, members of the committee. I'm Frank Smith, a member of the Board of Hartford Property Owners Association, and I'm president of a local property management firm. I want to speak to bill No. 1497, an act concerning security deposits.

The bill itself has many ramifications. It attempts to give the receiver the power to be able to pay back security deposits to exiting tenants, however, it missed it altogether. I have had many, many talks with the banking commission in regards to this. The receiver under law, whether it be the federal courts or the superior courts can only pay out what he receives. We have served and we are still serving on many, many properties, as a property manager in receivership. We cannot pay to the exiting tenant if we did not receive the security deposit from prior management or prior ownership or the owner of equity.

I have asked the banking commission to foster a bill that would allow anybody who's operating the building or operating the guise of ownership in a law that would force him to pay it from operating funds. In other words, the receiver would be by law, by state statute, be allowed to pay these funds to the exiting tentant that is due his money and needs it at that time -- he's in dire need of that money -- to pay it from operating funds.

Now the argument that I got from the members of the banking commission or who work at the banking commission -- they felt that the bank would be harmed or the owner of equity would be harmed because this was equity being shifted to the exiting tenant.

thinking and working with this for many years, I've come

March 22, 1979

MS. LERNER: I've been asked to give testimony also for Lance Krane, who's the chairman of the Mental Health Law Committee of the Connecticut Bar Association. The only part of my testimony which will include his is the part about de novo review.

I'm speaking in support of bill 7743, 7745, 7748, 7758, 7766, , and 7758, competency to stand trial. I don't think anyone will speak today on competency to stand trial. They gave up and went home.

Briefly, however, this bill represents the work of a commissioner's subcommittee and I think clears up serious constitutional defects in the present competency bill. It's a very important bill, and I strongly urge the committee to consider and support it.

Bill No. 7743 gives voluntary patients the right to consent when they are competent to do so. This is really important. The provision right now for third party consent delays necessary diagnostic and surgical procedures and is not necessary.

Bill 7745 clarifies the type of hearing required before the probate court can order shock treatment. I have represented patients at this kind of hearing. The probate courts really cannot act without independent medical testimony which is provided for in this bill, and I think you're familiar with that psychosurgery problem that is going, I hope, to be eliminated.

Bill 7748 -- although I support the bill, I have a few problems which have already been discussed. I'll just highlight my objections. I think some clarification is necessary to insure that certain portions of the hospital record will be objectionable if they are hearsay, prejudicial, that sort of thing.

In lines 285 to 289 -- provide that an application for involuntary commitment may be filed if a voluntary patient refuses medication. I feel this is very cohesive. The hospital setting is by nature cohesive. The hospital staff controls every aspect of the patient's life, and I feel that the legislature should not provide another club to be held over the patient's head. I think that if the legislature feels that this is an essential provision, that it should be limited as much as possible, and I suggest after line 289, possibly changing the language to add the sentence, "if there is imminent physical danger to the patient or --"

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gpa

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REP. TULISANO: There's a California statute -- I know you do a lot of this -- which restricts the giving of medication of any kind to any person who was either committed to a prison or to a -- do you have any knowledge of that statute?

MS. LERNER: No, I don't --

Belt

REP. TULISANO: (Inaudible) but I've heard it at a conference -- that they restrict any forced -- giving medication to anybody --

MS. LERNER: I can get a copy of that statute and send it to you. Massachusetts -- there are several lawsuits throughout the country, in fact, to restrict involuntary medication, even to involuntary patients. These medications cause serious side effects, they can even cause death and permanent brain damage.

MR. FALLON: 285 and 281?

MS. LERNER: If such patient is imminently physically dangerous to himself or others.

Lines 296 to 340 deal with review and require a hearing at least every two years. I would recommend to comply with this, a hearing every year.

Section 9 deals with appeals to the Superior Court, and here I speak also for the Mental Health Law Committee of the Connecticut Bar Association. Probate judges are often not lawyers. They don't go -- you've heard all this before -- they don't go by rules of evidence. Heresay is introduced, the record is sketchy, and also require that the patient get a hearing on their present condition, and I strongly urge the committee to delete that section.

I'll let it stand on my written testimony and prior testimony unless there are any questions.

REP. TULISANO: Okay, thank you. Edward Dale.

MR. DALE: Thank you. My name is Edward Dale. I'm an attorney with the Legal Services Legislative Office and I'd like to testify in favor of bill 1497, an act concerning security deposits. There are two major problems with the existing security deposit laws.

The first is that if the landlord fails, without reason, to return a security deposit, at most they will be subject to

STATEMENT OF LANSING E. CRANE, CHAIRMAN

Mental Health Law Committee
Connecticut Bar Association

RE: Raised Committee Bills 7746 and 7748

Senator DePiano, Representative Tulisano, and ladies and gentlemen of the Judiciary Committee. I am speaking on behalf of the Mental Health Law Committee of the Connecticut Bar Association. Our Committee has reviewed Raised Committee Bills 7748 and 7746 which would revise the procedures governing civil commitment of adults. Last year at this time, similar legislation was pending before your Committee and at that time I expressed the opinion of the Mental Health Law Committee that the Adult Civil Commitment statutes required revision based on our experiences with the impact of Public Act 77-595 which comprehensively revised the then existing Civil Commitment statutes. The revisions proposed last year were not enacted, and are still needed. Raised Committee Bill 7748 would accomplish many of these necessary changes, and therefore is supported by my Committee.

Our support, however, does not extend to Section 9 of Raised Committee Bill 7748 or to Section 2 of Raised Committee Bill 7746, both of which would amend Section 17-202 of the General Statutes and substitute a record appeal from the Probate commitment proceeding for the existing right to a Superior Court

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Mental Health Law Committee
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de novo review of civil commitment proceedings. While all other determinations of the Probate Court would continue to be reviewed in a de novo fashion on appeal to the Superior Court, Section 9 of 7748 and Section 2 of 7746, if enacted, would relegate the very important decisions involving civil commitment to a record review of the Probate Court proceeding. Last year, our Connecticut Supreme Court, in Thomas vs. Arafah, stated that persons subject to civil commitment proceedings should be entitled to a review, at the time of the Superior Court hearing, of their current mental status and need for confinement rather than their mental status and need for confinement at the time of the Probate Court hearing. If enacted, Section 9 of Raised Committee Bill 7748 (and Section 2 of Raised Committee Bill 7746) would effectively repeal the Connecticut Supreme Court decision and diminish the rights of persons subject to civil commitment proceedings. There can be no legitimate State interest in such a result and my Committee urges you to remove these Sections from the proposed legislation.

I would like to draw your attention to several other aspects of Raised Committee Bill 7748. Specifically, Section 6 of the Bill creates a commitment review procedure which would

Statement of Lansing E. Crane, Chairman
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require the judge to release a patient petitioning for review unless the judge were to conclude that further confinement of the patient is necessary under the civil commitment standards. The problem with this procedure is that the application is to be brought by the patient, and therefore the judge will have no evidence to conclude that the patient should remain hospitalized if no one else participates in the proceeding and introduces such evidence. The standards should be altered to put the burden upon the patient to show that release is appropriate.

Finally, Section 3e of 7748 would amend the existing provisions on offering patients the right to elect voluntary status in lieu of civil commitment. While the change proposed is appropriate in order to afford some discretion to the Probate Court judge to accept or reject the voluntary request, my Committee would support a preservation of this right for some time period following the filing of the application for commitment. As the provision is currently drafted, the right would exist up to the time of filing, but would become discretionary following that point. Patient should be allowed a reasonable period of time following filing and service of commitment papers and appointment of counsel in which to give due consideration to electing voluntary status. Such an important right should not be withdrawn until after an individual has had an opportunity to consult with legal counsel.

Bill No. 7746

Section 2(E) of this provision must be changed. It provides that an appeal from a decision of the probate court shall be confined to the record. This requirement is palpably absurd in the context of appeals from civil commitments. As the Supreme Court has recently ruled, the issue on appeal from a probate court is whether the patient at the time of the appeal is presently mentally ill. It is clear that the appeal is rendered useless if the only evidence which the reviewing court has^{available} to determine whether the patient is currently subject to commitment is that testimony which was produced probably some 60 to 90 days previous. This provision, therefore, should be altered to allow an appeal to be conducted as a trial de novo.

Bill No. 7748

Subsection (B) of Bill No. 7748 should be modified by this committee. As it presently stands this section would allow the wholesale introduction of the patient's medical record into evidence at the probate court proceeding. It has been my unfortunate experience that many of the entries in the patient's chart 1) contained conclusory statements, 2) made by those who are largely incompetent to judge the

person's psychiatric condition such as aides and 3) often time repeat verbatim the original entry made by the attending psychiatrist. It is exceedingly unfair to the patient to allow these entries into evidence when there is no opportunity to cross-examine those who made the entries and therefore is impossible to test their veracity. It is my suggestion that only those reports prepared by the attending psychiatrist, social worker and psychologist be allowed into evidence.

Section (C) of Bill No. 7748 represents an unfortunate retreat and regression to the outmoded attitudes which formerly governed mental patients. This section permits the hospital to petition for the involuntary commitment of a voluntary patient who refuses to accept medication. Under this proposal, the patient is denied his or her constitutional right to determine what substances he or she will inject into her system. As a result the patient's right to privacy and individual autonomy is violated.

It should be emphasized that the refusal to take medication should not suggest that the patient is mentally incapacitated. There are many patients who I have observed

who have a pronounced and severe reaction to the medication: there are others who legitimately object to polluting their systems with the high dosages of chemicals that are commonly prescribed, and there are others who simply do not need the medication. Nevertheless, under this proposal the hospital can achieve the forced medication of voluntary patients by: 1) threatening the patient with involuntary commitment or 2) actually obtaining the involuntary commitment. I would encourage this committee, therefore, to delete this section and allow the present law to remain as it is whereby involuntary patients can not refuse medication but voluntary ones may.

Bill No. 7748 (G)

This section attempts to define the circumstances under which a patient who has been committed to a mental institution may have that commitment reviewed. Unfortunately, for the reasons set forth below, the provisions of section (G) run afoul of the most recent Connecticut Supreme Court decision on this matter. (Fasulo v. Arafah, 173 Connecticut 473 (1977)).

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Section (G) requires that the hospital notify each patient annually that he or she is entitled to a review of the original commitment. If the patients so request, the probate court is required to provide him or her with a hearing. It seems clear from the Fasulo decision that this provision is clearly inadequate. In discussing a similar provision under Connecticut General Statute 17-178 the Court said:

"Unfortunately, though the statute provides for annual notice to patients of their right to a hearing, the burden of requesting and, therefore, initiating review remains with the patient. The state seeks to justify this procedure by arguing that allowing the patient to choose whether to have a hearing will avoid unnecessary judicial proceedings. We doubt whether this rationale is adequate since it ignores the practical difficulties of requiring a mental patient to overcome the effects of his confinement, his close environment, his possible incompetence and the debilitating effects of drugs and other treatment on his ability to make a decision which may amount to the waiver of his constitutional right to a review of his status."

In light of this statement it is inconceivable to me that the identical provision in proposed Section(G) will pass constitutional muster.

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Section (G) also provides that if the patient does not request a hearing he or she will be examined

by a court appointed physician and if that physician indicates that a hearing is necessary the court will convene one on its own motion. It is equally obvious in light of Fasulo that this provision will also fail. The Supreme Court stated unequivocally that the decision to release a patient which is based solely on medical judgment and without any judicial scrutiny is illegal. There is no reason to believe that this provision, which essentially places the decision as to whether a person should be released in the hands of a court appointed physician, is any more constitutional than the provision the court found inadequate in Fasulo.

Findly Section (G) provides that in any event a patient is to be provided with a hearing every two years to review his or her commitment. It is difficult to understand where the commissioner divined the figure of two years. Again in light of Fasulo it seems clear that a judicial hearing is required as least annually. That decision stated that the state "may confine the individual at the time of the hearing and for the foreseeable period during which that status is unlikely to change." Although the Supreme Court did not

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explicitly hold that an annual hearing is required it strongly hinted that such annual hearings are constitutionally mandated. Indeed, it puzzles me that the commissioner should think otherwise since in the words of Fasulo the "foreseeable period" during which a patient's mental condition is unlikely to change is much less than one year. Although the suggested rationale behind this rule may be that there will be a drain on the resources of the probate court that justification is wholly unexceptable when it comes to deprivation of liberty.

Bill No. 7794

I encourage this committee to support this bill. It simply provides that prisoners who are in the state correctional system who suddenly become in need of commitment to a mental institution will be given the same procedural protections as afforded to all other Connecticut residents. They would be entitled to a hearing at the probate court, be subjected to the same standards, and provided an attorney and an opportunity to present evidence and cross-examine witnesses.

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MR. KAZARIAN (Continued): Bill 7934 which concerns disclosure of financial interests of judges of probate. Our office has drafted a proposed bill to correct -- to recommend correction of two serious defects which we see. One is the matter of the public record nature of the financial disclosure of the interests of spouses and dependent children as distinguished from the judges. We would like to suggest that in some cases there are independent pursuits that in many cases independent pursuits that the spouses and children have and that it would be an intrusion on a right of privacy that they perhaps are entitled to too. The fact that --

SEN. DE PIANO: I think the legislators too.

MR. KAZARIAN: And the legislators too. Yes. And our recommendation is that with respect to legislators and all public officials, we would think that perhaps that could be maintained confidentially available only to whatever ethics commission or counsel on judicial conduct may look at it and then decide whether to pursue it further or not. We're recommending.

The second aspect, Senator, is that there are -- especially in the case of probate judges and I think perhaps in the case of legislators too because of their involvement with legal practice or medical practice -- there are privileged communication problems with their clients which this requires -- which the present bills require be made public records and disclosed. Again, perhaps the counsel in the case of the probate judges could be allowed to on application of the judge ask for an alternative method of sufficient disclosure so that the privileged communication status can be maintained. These are the two things that we suggest and we urge strongly that it be applied also to other public officials.

The second bill with which we comment -- or with respect to which we comment is Committee Bill 1620, an act concerning psychiatric witnesses for indigents at post-commitment hearings. The problem with this bill, among others, is that neither the title nor the statement of purpose reflect the contents of the bill. The language of the bill as it's presently written, seems to indicate that even at the initial hearing and not at post-commitment hearings the respondent will have an opportunity to request and have the state pay for if necessary an independent psychiatrist. Our thought is that the bill is probably unnecessary because the present commitment statute provides for the court to appoint two independent physicians, one of whom shall be a psychiatrist and does provide for the state to pay for them. As far as post-commitment hearings are concerned, this committee has already heard Committee Bill No. 7748 which addresses the question of post-commitment hearings rights to

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MR. KAZARIAN (Continued): clarify the rights of respondents in that situation. My thought on 1620 is that if the committee feels that it's necessary, then it should include on

... the law
... Review Commission already commented on it, this bill
... removed language from the statute language which has
... been declared unconstitutional under some former Public
... and in fact the bill

SEN. DEBONOIS: ...

SEN. DEBONOIS: ...

SEN. DEBONOIS: ...
... you reflect on a letter with an account of these, and to
... told you whether or not, and as a public record, it was
... violate privileged communication status and the alternative
... method that might be preferred and I don't feel specifically
... about it, may be something like the case of a candidate
... of the council deciding what records they give the name of
... a citizen in the case of a corporate judge, for example, I
... might say that I have a bank and I want to say I have
... under it in the State of Connecticut, which is so not
... contact and that sort of disclosure which would be sufficient
... to disclose his potential conflict and not violate the
... client's attorney privilege

SEN. DEBONOIS: Thank you, my vote is entirely in support

MR. GARDNER: ...
... of various cases Connecticut and the existing bill
... BILL 7934; an Act Concerning Financial Disclosure of
... Large Judges ... on by their General Assembly
... committee approved and the General Assembly enacted
... law which required all judges in the State of
... Connecticut to make a public financial disclosure

... by which I received a ...
... originated in the Government ... and the
... Committee ... to judicial reform going to the
... and Senate for approval. The Government ...
... Judiciary Committee originally recommended that judges
... be included in the Code of Ethics for Public Officials
... bill to do just this was again narrowly defeated
... just last week

... and Superior Court judges filed public statements of
... financial interests with the Judicial Review Commission
... prohibit judges from their public statements of financial

MR. KAZARIAN (Continued): the language that is in Committee Bill No. 7748, Section 6, the language in proposed amended sections 17-192. The last bill, and I'll comment only briefly, it's Raised Committee Bill No. 7938, the Law Revision Commission already commented on it, this bill removes language from the statute language which has already been declared unconstitutional under Adams versus Rubinow and we favor the bill, of course.

SEN. DEPIANO: Any questions? Rep. Berman.

REP. BERMAN: (Inaudible)

SEN. DEPIANO: I suspect that perhaps even revealing the name of your client on a list with the amount of money that he paid you whether or not, that's a public record, it might violate privileged communication status and the alternative methods that might be envisioned and we are just speculating about it, may be something like the commission deciding or the council deciding that rather than give the name of a client in the case of a probate judge for example, you might say that I have a bank and trust company licensed under -- in the State of Connecticut who pays me so many dollars and that sort of disclosure which might be sufficient to disclose his potential conflicts and still maintain the client's attorney privilege.

SEN. DEPIANO: Thank you, any other questions? Betty Gallo.

MS. GALLO: My name is Betty Gallo and I'm executive director of Common Cause Connecticut and I'm testifying on House Bill 7934, an Act Concerning Financial Disclosure of Probate Judges. During the 1979 General Assembly session, this committee approved and the General Assembly enacted into law a bill which required all judges in the State of Connecticut to make a public financial disclosure statements.

This legislation received a great deal of scrutiny, it originated in the Government Administration and Elections Committee and it came to judiciary before going to the House and Senate for approval. The Government Administration and Elections Committee originally recommended that judges be included in the Code of Ethics for Public Officials. A bill to do just that was again narrowly defeated in GAE just last week.

But a compromise was reached whereby the Supreme Court and Superior Court judges filed public statements of their financial interests with the Judicial Review Council and Probate Judges filed their public statements of financial

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Court. We not only ask for this change in our own reporting statute, but urge your Committee to give it strong consideration in the reporting requirements of all other officials. It seems to us that a sense of fairness dictates that you treat spouses' and childrens' financial interests with some degree of privacy, although having reports available should they be needed.

A second change requested in this proposal relates to the right of privacy of those persons who may have dealings with Judges of Probate, spouses or dependent children. Most of our Judges of Probate are part-time, and therefore make their living at other pursuits. Many of them are attorneys, accountants, and other professionals who deal with customers and clients who may wish for various reasons to remain anonymous. We ask that the legislature grant the Council on Probate Judicial Conduct the right to review an application by a Judge of Probate when it appears that disclosure of financial information would violate the right of privacy, or privileged communication protection of any person or organization. The statute does require an alternative method of reporting in those cases so that sufficient information would be provided to the Council to indicate the nature of the financial matter. Again, we think this is a most sensible request, and we strongly urge that the legislature consider this proposal for all public officials required to report their financial interests.

We ask for your joint and favorable approval of Committee Bill 7934.

Committee Bill 1620 - An Act Concerning Psychiatric Witness For Indigents at Post Commitment Hearings. The first problem with this Bill is that the text does not agree with either the title or the statement of purpose. The text as presented would permit respondents in the initial hearing on their commitment to call a psychiatric witness, at the expense of the State if the respondent is financially unable to retain a psychiatrist. This appears to be unnecessary because we already appoint two independent phsycians, one of whom must be a psychiatrist, to examine respondents at pre-commitment hearings. Most of these phsycians are already paid by the State, and they are independently appointed court phsycians.

Secondly, there is a Bill before you which has already been the subject matter of a public hearing (Committee Bill 7748) which clarifies patients' rights to post-commitment hearings, and provides for expenses of such hearings to be paid by the State if the patient is unable to pay. This appears in Section 6 of the Bill, which section permits the patient to ask for a hearing at any time, but limits the number of hearings for which the State will pay the expenses to two in any one year. That same Bill requires a hearing at least every two years initiated by the State, and at State expense. We believe that if that Bill is adopted, Bill 1620 is not necessary. If you feel that Bill 1620 is necessary, then it should be redrafted to insert the language in §17-192 of the General Statutes.

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REP. TULISANO (Continued): Page 207.

GLENN KNIERIM: It'll take me a minute to catch up with you, Representative Tulisano.

REP. TULISANO: Section B - Diligent Search.

GLENN KNIERIM: Well, it appears to just--when we use the diligent search in 4587, it appears to just clarify it; and, therefore, it's--it's--I don't think it's a substitutive change.

REP. TULISANO: Did you say that's been federal law right along?

GLENN KNIERIM: Without having an opportunity to look at case law, I really can't answer the question, but I don't see anything new and startling there.

REP. TULISANO: Okay, thank you.

GLENN KNIERIM: Angela Grant points out that it was moved from another section of the Statutes to be placed in 4587 where it belongs, so it's already in the Statues somewhere.

REP. TULISANO: Okay, thank you.

SEN. DE PIANO: Okay?

GLENN KNIERIM: If I can just comment briefly on one more statute, and that is Raised Committee Bill 1653, which deals with voluntary admissions to mental hospitals. I'm not too sure of the purpose to the bill, but I...

SEN. DE PIANO: What number is that?

GLENN KNIERIM: 1653. We have before you, Dr. Plough and I, a jointly sponsored bill, 7748, which does the subject of voluntary admissions after a long study, and I think what is set forth in 7748 is preferable to what you have here in 1653. I suppose this bill has the same goal, that is to prevent the use of the voluntary sign in as a revolving door to involuntary commitment, but I think that our bill, 7748, does it a little better because it recognizes the rights of the respondent better than this bill does. So I would hope that you take a look at our bill.

REP. TULISANO: That comes in your package, or Mr. Plough's?

GLENN KNIERIM: Dr. Plough and I have jointly sponsored 7748. He formed a Committee, and I was Chairman of the Subcommittee.

Now if the Committee wants any information on the bill that Angela Grant mentioned, which has already been the subject of a hearing before you on punitive father's rights, I'd be glad to discuss that with the Committee at any time, but it's not before you today, so I won't take up your time. But it does coincide with this guardianship bill which you have before you.

REP. TULISANO: There really wouldn't be no distinction between legitimate--will we--we don't have an intestacy...

GLENN KNIERIM: Well we do. Last year...

REP. TULISANO: Are there any changes proposed this year...

GLENN KNIERIM: No, not this year. So far, that bill you passed year seems to have worked will. We're hoping that as far as the child is concerned that there won't be any major difference.

SEN. DE PIANO: Okay? Thank you very much.

GLENN KNIERIM: Thank you.

SEN. DE PIANO: Commissioner Neiditz. I hear a voice. We hear you. I knew you were here, I could hear your voice.

DAVID NEIDITZ: Thank you, Messrs. Chairmen.

SEN. DE PIANO: By the way, Commissioner, you're sorely missed on this Committee. I just wanted to...

COMM. NEIDITZ: I sorely miss it. Sitting in the back there, Mr. Chairman, brought back many days when Judge Healy and I were the only people who were on the Committee sitting at the Committee table, and I know that that happens at the end of the year. And I appreciate the work that this Committee does, and I hope maybe I'll have time in the next few weeks, if I don't have a bill before you just to come in and sit and listen in on the Committee deliberation. I think it's one of the outstanding parts of the educational process of this General Assembly.

SEN. DE PIANO: I just want you to know that you never looked so healthy when you were the Chairman of this Committee as

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SEN. DE PIANO: Okay. Thank you very much. Bill Ploutfe - Bill Belt Ploutte? Raphael Podolsky.

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RAPHAEL PODOLSKY: My name is Raphael Podolsky, I'm a lawyer with the Legal Services Legislative Office. I wanted to speak briefly on three bills.

The first is Bill No. 1653 which is an act that concerns the option of a mental patient to choose voluntary commitment rather than involuntary commitment. It seems to me that this bill is an undesirable bill. What it would do is that it would preclude the right to choose voluntary commitment. The way the procedure now works is that if someone is faced with a commitment proceeding to put them into a mental hospital on an involuntary basis, right up to the time of the hearing, the person can opt, at his choice, to accept to go into the hospital voluntarily. By doing that, he retains some additional rights as a voluntary patient.

The reason for adopting that approach is to maximize the chances of productive treatment because you'd rather have somebody in as a voluntary patient than as an involuntary one. This bill would take away that right and for that reason ought to...

SEN. DE PIANO: The bill gives them a choice?

RAPHAEL PODOLSKY: No, 1653 takes away the choice as I understand the bill. The substance...you have a comprehensive bill from Judge Knierim - 7748 - that deals with probate court procedures and that touches on the same subject, although addresses it in a different way, and what I would suggest is that you'd be better off addressing the problem through 7748 and not dealing with this bill.

I don't have the bill directly in front of me, but I believe if you look at it what it does is it, in effect, brackets out the part that gives a patient a choice.

SEN. DE PIANO: Okay.

RAPHAEL PODOLSKY: The second bill, also in the mental health area, is Bill No. 6263 which deals with employment by the state of the physically and mentally disabled. That is a bill that I would support and would hope that the Committee would move forward. I believe that it came to the Committee from Human Services. What it does is that it simply requires the state to make an effort to identify state jobs which can be performed by those with mental or