

Legislative History for Connecticut Act

Act Number: 07-117	
Bill Number: 7067	
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Committee: Judiciary: 1215-1220, 1242-1243, 1318-1327, 1358, 1361, 1373-1375, 1418, 1463-1471, 1472-1475	37

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2007

VOL. 50
PART 11
3344-3661

jlm

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Senate

May 29, 2007

Calendar 555, Senate Bill 125, Mr. President,
would move to place this item on the Foot of the
Calendar.

THE CHAIR:

Hearing and seeing no objections, so ordered,
Sir.

SEN. LOONEY:

Thank you, Mr. President. Moving to Calendar
Page 20, Calendar 559, Senate Bill 1215, would move to
place this item on the Foot of the Calendar.

THE CHAIR:

Hearing and seeing no objections, so ordered,
Sir.

SEN. LOONEY:

Thank you, Mr. President. Calendar 561, PR.
Calendar 562, Passed Temporarily.

Calendar 568, House Bill 7067, Mr. President,
would move to place this item on the Consent Calendar.

THE CHAIR:

jlm

Senate

May 29, 2007

Hearing and seeing no objections, so ordered,

Sir.

SEN. LOONEY:

Thank you, Mr. President. Calendar 597, PR.

Moving to Calendar Page 21, Calendar 601, PR.

Calendar 602, PR.

Next item is single-starred, and then moving to Disagreeing Actions, Calendar Page 21, Calendar 137, PR.

Moving to Calendar Page 22, Calendar 164, PR.

Calendar 625, PR, under Emergency Certified Bill.

Calendar 626, PR.

Moving to Favorable Reports and Resolutions on Calendar Page 23, Calendar 270, PR.

Calendar 574, PR.

Calendar 604, PR.

Calendar 605, PR.

That concludes our markings at this time, Mr. President. Thank you.

THE CHAIR:

jlm

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Senate

May 29, 2007

A roll call has been ordered in the Senate on the
Consent Calendar. Will all Senators please return to
the Chamber.

Mr. President, those items previously placed on
the first Consent Calendar, beginning on Calendar Page
1, Calendar 631, Senate Resolution 68.

Calendar Page 4, Calendar 519, Substitute for
Senate Bill 1458.

Calendar Page 5, Calendar 591, Substitute for
House Bill 7089.

Calendar Page 15, Calendar 394, Substitute for
Senate Bill 145.

Calendar Page 20, Calendar 568, House Bill 7067.

Mr. President, that completes those items
previously placed on the first Consent Calendar.

THE CHAIR:

Please call the roll. The machine will be open.

THE CLERK:

jlm

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Senate

May 29, 2007

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

THE CHAIR:

Have all Senators voted? If all Senators have
voted, the machine will be locked, and the Clerk will
call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar 1.

Total number voting, 36; necessary for adoption,
19. Those voting "yea", 36; those voting "nay", 0.
Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar passes. Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, I rise
for the purpose of an announcement.

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HOUSE

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kkc
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Thank you, Mr. Speaker. For purpose of
announcement.

SPEAKER AMANN:

You may proceed, Sir.

REP. HENNESSY: (127th)

Thank you, Mr. Speaker. I would like to direct
the attention of the General Assembly to the Gallery.
We have Madison Elementary School coming to visit us,
and I would ask the Members to give them our usual
warm welcome.

(APPLAUSE)

Thank you, Mr. Speaker.

(APPLAUSE)

SPEAKER AMANN:

Will the Clerk please call Calendar Number 182.

CLERK:

On Page 3, Calendar Number 182, House Bill Number
7067, AN ACT CONCERNING THE APPOINTMENT AND POWERS OF
CONSERVATORS AND SPECIAL LIMITED CONSERVATORS WITH
RESPECT TO PSYCHIATRIC TREATMENT, Favorable Report of
the Committee on Judiciary.

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SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Good afternoon. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

SPEAKER AMANN:

Good afternoon, Sir. It's good to see you. The question is acceptance of the Joint Committee's Favorable Report and passage of the Bill. Will you remark, Sir?

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. This Bill accomplishes two things, both relate to persons who have been found not competent due to a psychiatric disability.

Under current law, Probate Court Judges may appoint temporary limited conservators for the purpose of making decisions on behalf of a patient with regard to medication that would be administered to that patient in order to restore him or her to competency.

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Under the current law there is no specific standard of evidence which is required to be proved or established before the Probate Court Judge and this Bill specifies the standard, which according to the Judges of the Probate Court, is the standard currently used.

The standard is, and would continue to be, clear and convincing evidence of the three factors which can be found in Lines 120 through 126 of the Bill.

That the patient is in fact capable, the patient is capable of giving informed consent but refuses to consent to medication for treatment of psychiatric disabilities, there's no less intrusive beneficial treatment and without the medication the disabilities which the patient, with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm.

In addition to that, Mr. Speaker, the Bill gives access to medical records for that patient to the temporary limited conservator for the purpose of determining whether or not the patient may be, for

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example, allergic to certain medications, etc., so the conservator can make the appropriate decision whether or not the medication should be administered.

Mr. Speaker, there is an amendment. The Clerk has LCO Number 6768. I'd ask the Clerk to call and I be allowed to summarize.

SPEAKER AMANN:

Thank you, Sir. Will the Clerk please call Calendar LCO Number 6768 and be designated House Amendment Schedule "A".

CLERK:

LCO Number 6768, House "A", offered by Representative Lawlor.

SPEAKER AMANN:

Is there objection to the Representative summarizing the Amendment? Will you remark, Sir? Are there objections, first? No objections. Will you remark, Sir.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. This Amendment would make it clear that the same procedural guidelines and

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standards would apply in these cases as applies in other similar matters before the Probate Court in terms of notice, etc.

Mr. Speaker, I think it's important to point out that this Bill, as is the case with other similar Bills this year, is a delicate balance between concerns of the mental health treatment providers and the persons who advocate on behalf of persons with mental disabilities, psychiatric disabilities.

And this is a request that came from the communities who represent persons who suffer from psychiatric disabilities. It is not at all unusual to add in these standards. It gives a level of assurance to people that individual's rights will be respected within the court process, and I urge adoption.

SPEAKER AMANN:

The question in the House is adoption of House Amendment "A". Will you remark? Representative O'Neill.

REP. O'NEILL: (69th)

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Thank you, Mr. Speaker. If I may, a question through you to the proponent of the Amendment?

SPEAKER AMANN:

Yes. Sir, please frame your question.

Representative Lawlor, please prepare.

REP. O'NEILL: (69th)

Thank you. Unfortunately, my computer isn't accessing the Intranet, Internet, or any kind of net, so I can't determine whether there is a Fiscal Note associated with this Amendment, and so I would ask if there is a Fiscal Note and what the content of that might be. Thank you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Mr. Speaker, it's been represented to me that there is no fiscal impact on this Amendment.

SPEAKER AMANN:

That is the answer, yes. Representative O'Neill.

REP. O'NEILL: (69th)

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Thank you, Mr. Speaker. With that then, I would urge adoption. Thank you.

SPEAKER AMANN:

Thank you. And thank you, Sir. Representative Lawlor. Will you remark, Sir? Will you remark further on the Amendment before us? Will you remark further on the Amendment before us? If not, let me try your minds. All in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

All opposed, Nay. The Ayes have it. The Amendment passes. Care to remark further on the Bill as amended? Care to remark further on the Bill as amended?

If not, staff and guests please come to the Well of the House. Members please take your seats and the machine will open.

CLERK:

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The House of Representatives is voting by Roll
Call. Members to the Chamber. The House is voting by
Roll Call. Members to the Chamber, please.

SPEAKER AMANN:

Have all the Members voted? Have all the Members
voted? If all the Members have voted, please check
the board and make sure that your vote has been
properly cast.

If all the Members have voted, the machine will
be locked and the Clerk will take a tally. The Clerk
will please announce the tally.

CLERK:

House Bill Number 7067, as amended by House
Amendment Schedule "A",

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

SPEAKER AMANN:

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The Bill passes as amended. Will the House
please stand at ease.

(CHAMBER AT EASE)

Will the Clerk please call Calendar Number 356.

CLERK:

On Page 25, Calendar Number 356, Substitute for
House Bill Number 7043, AN ACT CONCERNING OFF-TRACK
BETTING BRANCH FACILITIES, Favorable Report by the
Committee on Finance.

SPEAKER AMANN:

Representative Dargan.

REP. DARGAN: (115th)

Good afternoon, Speaker. I move acceptance of
the Joint Committee's Favorable Report and passage of
the Bill.

SPEAKER AMANN:

Representative Dargan. I'm sorry. The question
is on acceptance of the Joint Committee's Favorable
Report and passage of the Bill. Will you remark, Sir?

REP. DARGAN: (115th)

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SEN. MCDONALD: Any other questions? If not, thank you very much.

CHRISTINA GHIO: Thank you.

SEN. MCDONALD: Next is Dr. Michael Norko.

DR. MICHAEL NORKO: Good morning. Good morning, Senator McDonald, distinguished Members of the Judiciary Committee, my name is Dr. Norko.

I am the Director of the Whiting Forensic Division of Connecticut Valley Hospital, and I am here today to speak in support of House Bill 7067, an ACT CONCERNING THE APPOINTMENT AND POWERS OF CONSERVATORS AND SPECIAL LIMITED CONSERVATORS WITH RESPECT TO PSYCHIATRIC TREATMENT.

I'll just highlight a few of the main points of the testimony, which you have in written form.

This is a bill in which we are asking you to consider, really, only one new thing, and it's limited to the Special Limited Conservators, which affects approximately 22 people per year.

This is what the Legislature accomplished in 2004, in order to respond to a U.S. Supreme Court decision in the case of Sell v U.S., in order to create a civil process for, potentially, involuntarily medicating defendants who are found not competent to stand trial, and then are sent to the hospital to receive treatment.

In an effort to restore that competence, we've successfully created that civil process and we've used it, nearly exclusively, since this was made available to us by the Legislature, as of October 1, 2004. It's worked very well.

One of the few things that we've had a problem with, though, is that because of the powers of the Special Limited Conservator were narrowly tailored only to consider the issue about giving or withholding consent to involuntary medication.

Sometimes, we come across a patient, a defendant, who is unable to give consent, but also is refusing to allow us to have access to previous treatment records, and we would like to be able to access that information, because we don't want to propose a course of treatment that would either be ineffective for that person or that the past history might have demonstrated there was some adverse side effects to a particular medication.

As it stands now, the Special Limited Conservator does not have the authority to give us access to those records.

And what we are asking is that you consider correcting that specific authority, so that the Probate Court, when it appoints a Special Limited Conservator, can give that authority to the Conservator, Special Limited Conservator, as well, so that, we only propose medication treatments that would be in line with what the known past history is for that individual.

That's really the only new change that we are asking you to consider and, again, it only deals with Special Limited Conservators, not with conservatorship in general.

The one other thing that this Proposed Amendment accomplishes, though, is to attempt to fix what seems to be a technical flaw in the existing language.

As we are going through this, it's clear that when the language was crafted about the Special Limited Conservator, the implied findings were mentioned as to what the Probate Court had to find in order to appoint a Special Limited Conservator.

But we didn't create language that explicitly said, this is what the Probate Court must find, and this is the standard of proof by which the Probate Court must find it.

So this language inserts the findings that are necessary, and says that the Court must find those by clear and convincing evidence, which is the standard that's used in all of the other probate proceedings that are related to mental health.

While we were fixing this Statute, or proposing a fix to this Statute, this Statute was patterned nearly precisely after our original Conservatorship with Medication Authority Statute, which also has the same flaw, in terms of an absence of that language, and so we are proposing that both Statutes ought to be fixed, while we're at this.

The only other thing that I'll comment on is that become aware that, that advocate community is going to ask you to consider adding in some measures to increase notification due process in the appointment of the Special Limited Conservator.

We don't have any problem with that, the way things occur currently, and this only occurs in Middletown, because treatment to restore competence only occurs at Connecticut Valley Hospital.

The Probate Court currently does give notice to the defendant, who is our patient, gives notice to identified, interested parties, and we notify defense counsel directly that we're pursuing this, and copies of that are given to the Court Clerk and to the States Attorney.

So we have no objection with the idea of notice being given, but we think that the specific mention that's going to be made of referring back to specific notice requirements of CGS 17a-543, which is our general conservatorship with medication authority Statute, actually, are being misread.

I think that what they are referring to are the notice requirements that the Legislature created for the internal hearing process, not for the process of appointing a Conservator with medication authority, and I think you would be on the wrong track to utilize those exact same requirements in this bill.

Although, as I said, we're certainly not opposed to notice being given and we're happy to have that, but we wouldn't want it to be referencing the wrong, the wrong part of the original Statute. That's all I wanted to say, and I'd be happy to answer any questions.

SEN. MCDONALD: Thank you. The standard of clear and convincing evidence I see in here, there are also three elements that would have to be met.

The patient is capable of giving informed consent but refuses to consent is no less intrusive than official treatment and without medication, psychiatric disabilities would continue on unabated. Correct?

DR. MICHAEL NORKO: Yes.

SEN. MCDONALD: And is that just a, is that a codification of existing case law, or just practice?

DR. MICHAEL NORKO: No. That's the language taken from the other part of the Statute that refers to what the two physicians and the head of the hospital--

SEN. MCDONALD: Okay.

DR. MICHAEL NORKO: --make a finding of, so the implication was clearly there that this is what the Legislature intended the Probate Court to decide, they just never said explicitly, the Probate Court shall make this determination.

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SEN. MCDONALD: I see. Thank you. Any other questions? If not, thank you very much.

DR. MICHAEL NORKO: Thank you. Next is Judge William Lavery.

HON. WILLIAM LAVERY: Good morning, Senator McDonald and Members of the Committee. I am here today to testify on three bills, House Bill 7068, AN ACT CONCERNING FEES CHARGED BY COURT REPORTERS AND MONITORS. I'll rely on my written testimony.

House Bill 6073, AN ACT AUTHORIZING BONDS FOR STATE FOR COURTHOUSE IMPROVEMENTS OR CONSTRUCTION IN MANCHESTER. I will mostly rely on my written statement, but saying that in any project done by DPW, the first thing is done is a needs study and it takes about eight months.

So if you feel that this is an appropriate project, which we support for a needs study, that could be the first appropriation, because of the two acres here.

We have to figure out what we can put on the property, and where, what parking could be available.

Moving on. House Bill 7039, AN ACT CONCERNING PUBLIC ACCESS TO PROCEEDINGS IN CERTAIN JUVENILE MATTERS. This proposal would create a presumption that proceedings, in a Superior Court for juvenile matters concerning children who are abused and neglected, are open to the public.

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from the troubles, so that they can be helped to get back into their community.

REP. HOVEY: Thank you very much, Sir.

SEN. MCDONALD: Anything further for Judge Lavery? If not, thank you very much.

HON. WILLIAM LAVERY: Thank you very much, Senator and Members of the Committee.

SEN. MCDONALD: Next is James McGaughey?

JAMES MCGAUGHEY: Morning, Senator McDonald and Members of the Committee. My name is Jim HB6828 McCaughey. I'm the Executive Director of the Office for Protection and Advocacy for Persons with Disabilities.

I have submitted written testimony on two bills that you are hearing on your agenda today. I will not read it, but I just want to comment briefly on Raised House Bill 7067, which is the bill that Dr. Noriko testified on earlier.

It's hard for us to object to a measure that would introduce additional standards, such as clear and convincing evidence standards into a proceeding.

So certainly we don't object to that, but we do think that as long as you're fixing these, the Statutes, you ought to go all the way and add some additional safeguards.

And the safeguards that we're specifically recommending all have to do with the type of

evidence that would be presented to the Probate Court considering these matters.

Also, the notice that there may be some confusion as to what type of notice the advocates are urging.

One of the things we would like is for the respondents in these matters, the people for whom involuntary medication is being considered, that they be aware of the availability of advocacy from advocacy programs.

It's not simply a matter of having their attorney show up at the Probate Hearing. Advocates from advocacy programs can often work with people, work with interdisciplinary teams, when involuntary medication is being considered and make sure that those individuals voices are heard, that their concerns are taken seriously, and that they understand the realistic options available to them.

It's been our experience that when advocates from our office and advocates from other advocacy programs intervene in situations like this, that in about half the cases, the need for the involuntary medication proceeding just goes away, because there is some kind of an agreement that's reached.

I don't know that that is going to work, necessarily, for the folks that are subject to the 5456-D proceedings, but I think it's worth a shot, given the gravity of the, and intrusiveness of involuntary mediation.

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To answer, I think it was Representative Tong's concern about the MySpace issue, let me just tell you, the community knows when families, that they know, are involved in the child protection venue.

Classmates know when children have are in foster care or have a DCF social worker. The people who post on MySpace, they already know all of this information.

Opening the courts, I don't believe, is going to disclose anything that's not already known to the community that these children are involved in. Thank you very much, and I am willing to answer any questions anyone has.

SEN. MCDONALD: Are there any questions? If not, thank you very much.

SUE COUSINEAU: Thank you.

SEN. MCDONALD: Susan Aranoff, followed by Adam Scott.

SUSAN ARANOFF: Good afternoon, Senator McDonald--

SEN. MCDONALD: Good afternoon.

SUSAN ARANOFF: --and other Representatives of the Committee. My name is Susan Aranoff. I'm a staff attorney at Connecticut Legal Rights Project, and I am here today to speak on House Bill 7067. And if I have time, I'll touch briefly on the Probate Recording Bill as well.

Connecticut Legal Rights Project is a nonprofit legal services agency that exists solely to provide individual and systemic legal services to indigent adults who have or are perceived as having psychiatric illnesses or who receive or are eligible to receive services from DMHAS, from the Department of Mental Health.

The Department of Mental Health has put forth this bill. It's essentially a housekeeping bill and we would support it, with additional amendments.

Those of you, who were here earlier when Dr. Norko, Mike Norko, Acting Director of Whiting, testified, made mention of the fact that some of the advocates want to see this bill go further. I would be one of those advocates, who would like to see this bill go further.

Essentially, it is a housekeeping bill, and what it proposes to do is amend the statutes, in three ways. The first would be to require that judges, in involuntary medication hearings, make findings of fact.

It might surprise you to know, that right now, there is no requirement in these hearings. And it would also require that those findings, in fact, be based upon clear and convincing evidence.

Now, I will say, as Dr. Norko said, that all of the Probate Court judges, that we are aware of, who, routinely, hear these matters, have over the years made findings of fact, and they tend to make those by clear and convincing evidence.

However, it's very telling that that's not in the statute, because when I get to the points of the things I would like to add to the statute, it's very similar.

It's like I don't think anyone would ever intentionally would leave something like that out of a statute. It's just inadvertent. And the fact that this area of law is practiced by so few people, and affects so few people, it's still extremely consequential.

But it's not something that has been looked at, many times over, by a large number of members of the Barr. So first of all, about those two requirements, we have absolutely problem with that.

The third thing it does is it would provide this group of people, called special limited conservators, with the ability to access the medical records of the people they will have authority to order involuntary medication for.

Another thing, that would be surprising, is that these people who courts are empowering to make serious, medical decisions for people, do not, right now, have access to those medical records. So again, we totally support that.

I personally think it's would be medical malpractice, basically, if you're making medication decisions and you don't have the person's prior history before you.

One of the things that they added in that section, that Mike, Dr. Norko agreed to take out, but I don't know if that's gotten anywhere, is to extend the orders for 45 days, to let people get those records. A very minor point.

The points I really wanted to stress, today, though, are the other things that are missing from these provisions of law. And basically, I'm going to depart from my written comments, at this point, and, kind of, use analogies I use when I taught law classes as an adjunct.

Everyone knows the bundle-of-sticks analogy. Conservators get a certain bundle of sticks, and then they might get additional powers.

The way conservators work under 17a-543, the Primary Conservator of Medication Authority statute in the state, is that a person is first appointed to be a conservator, can I continue?

Conservator of the person. And they're appointed to be conservator of the person in accordance with the conservator statutes, 45a-644, etc.

Those conservator statutes have a lot of due process requirements. People have to be noticed about the hearing. They have to be told what the legal consequences are of the hearing.

They have to be told that they can have an attorney. One will be appointed for them. They have the right to be present at the

hearing, that whole set. And I included that excerpt in my testimony.

So for somebody to become a conservator of the person, they have to go through that process. Conservators of the person have a whole bundle of rights, including the right to access records, a whole bundle of rights. Can make medical decisions.

The Legislature, long ago, decided that the right, the ability to authorize psychiatric medication was such an exceptional power to give someone, that that right only exists, if the judge says so.

And so to get medication authority under 17a-543, an existing conservator, or the court can appoint a new conservator of the person, is designated by the Probate Court to have medication authority.

And that authority only lasts for 120 days, and it only lasts while the person is inpatient. So it's a very limited, very controlled process that is gone through, and that process is tied directly to the conservator statutes.

Well, along comes 17a-543(a), which is a provision that applies just to special limited conservators. Those are the medication conservators appointed for people whose competency is either being questioned, or being restored.

When 17a-543(a) was passed, it wasn't tied, in any way, to the conservator statutes. The

people appointed are called Special Limited Conservators, but in fact, that's a misnomer.

So going back to the bundle of sticks, conservators have this bundle of sticks, or arrows in the quiver, or whatever analogy you like, and then they're given the additional one, of medication authority.

Special limited conservators, it's the total opposite, all they have is one stick, or one arrow, just medication authority.

And that's why this amendment is before you, that would let them get medical records. Because right now, they can't even get medical records, because all they have is this limited authority.

There are not conservators, the way we all think of about conservators. They are not appointed in accordance with the conservator statutes.

As a result, even though Judge Marino, Presiding Judge of Middletown, where most of these are heard, has been providing counsel, and has been giving notice of hearings.

There is nothing in the statutes that require him to do so, just like there's nothing that would require him to make findings of fact. But you know, they're good judges, so they do so.

So we strongly urge that the respondents the respondents under 17a-543(a) are given the same

due process that anyone else facing involuntary medication, in this state, is given.

And that they be given notice of the hearing, and the notice says what the legal consequences are, and all that other stuff, in clear right to counsel.

In addition, and this is what Dr. Norko was referring to, 17a-543(d) requires that respondents be told that they have advocacy services available to them.

And, you know, being a provider of some of those advocacy services, the hospital's own patient advocates count, the advocacy on limited advocates count.

We think, it's really important that anyone facing involuntary medication process be informed that they have advocates available. It's a de minimis. It's provided to everyone else.

It's not part of the conservator statute, that's why I'm referring to it separately. But it really is de minimis, and as Jim McGaughey testified it frequently helps kind of grease-the-wheels to get in agreement.

When someone is facing involuntary medication has an advocate present, with them, and frankly, my job as an attorney, I have to counsel those folks to say, look it, this is the likely result of this hearing, you are likely to lose.

If you want to retain any power, let's negotiate. If you want to retain any control over what medications you're given, what dose, all of that, let's negotiate.

And frequently, we reach negotiation, and people aren't forcibly medicated. Which, I think, everyone would agree is a good thing.

So anyway, those are the two main points. We want to see equal due process for everyone facing involuntary medication, both the right to counsel be made clear, and, also, the right to have notice of advocacy services.

One thing, that's sometimes misunderstood about that, and this will be the last thing that I say, is that we don't want, nor would we ever expect the state to inform us of the people it's proposing to involuntarily medicate.

Without a release, they should not be informing us of any of that stuff. All we want is that the state informs the respondents of available advocacy services.

SEN. MCDONALD: Thank you very much. And actually, before I open it up to questions, I would, actually, like you to, briefly, touch on the Probate Court [inaudible]

SUSAN ARANOFF: The probate? Yeah. I don't know if you saw me shaking my head back there, about the recording issue. Yeah. Basically, the way it works right now, is that if the parties agree, that the hearing will be, quote, unquote, on the record.

And then a tape recording is made of the hearing, then the appeal at the Superior Court is not de novo. Then it could be an appeal on the record. But the parties have to agree, at the time of the hearing, to have the hearing proceed that way.

Our experience with involuntary medical applications and conservators, is that the system is very imperfect. Twice now I've tried to get tapes from the Newington Probate Court, this one just happened to me, recently.

The hearing had been taped, but the tapes were blank. And the new judge there, he just took office in January, has a new tape recorder, he said, yeah, I just learned that our tape equipment wasn't really working.

So that's just, as someone who practices in Probate Court, from time to time, it's just a frustration.

SEN. MCDONALD: Is that a statutory provision, that it wouldn't be a de novo hearing to the Superior Court?

SARAH ARANOFF: Yes. And I would have to look. It's either statutory or it's the Rules of Probate Procedure. I would have to--

SEN. MCDONALD: Okay. We'll figure that out. So if that's the case, what's the standard? Is it abuse-of-discretion standard, when it goes to the Superior Court?

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SARAH ARANOFF: You know, I'm not positive about that.

UNIDENTIFIED SPEAKER: [inaudible - microphone not on.]

SEN. MCDONALD: Thank you. Any other questions from Members of the Committee? If not, thank you very much.

SARAH ARANOFF: Okay. Thank you.

SEN. MCDONALD: I appreciate your help. Next is Adam Scott, followed by Paul Zaroni.

ADAM SCOTT: Good afternoon, Senator McDonald, Honorable Legislators. I come before your Committee asking you to support House Bill 6073, AN ACT AUTHORIZING BONDS FOR THE STATE FOR COURTHOUSE IMPROVEMENTS AND CONSTRUCTION IN MANCHESTER.

I've worked out of G.A. 12, for approximately 21 years, first as a probation officer and then a prosecutor. The court has been open for 27 years. Currently, G.A. 12 is the fourth busiest courthouse behind New Haven, Waterbury, and Hartford.

I am currently employed as a Supervisory Assistant State's Attorney at G.A. 12. I am here to tell you that our facility is woefully inadequate. My office, currently, staffed by four attorneys, and I might add understaffed, myself included in the numbers.

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SEN. MCDONALD: Anything further? If not, thank you very much. Next is Judge Dianne Yamin, followed by Bill Sweeney. It's Yamin, isn't it? Sorry.

HON. DIANNE YAMIN: [inaudible - microphone not on]

SEN. MCDONALD: After it came out of my mouth, I realized. Good afternoon.

HON. DIANNE YAMIN: Good afternoon. Senator McDonald, Members of the Judiciary Committee, I'm Judge Dianne Yamin. I am the Presiding Judge of the Connecticut Probate Assembly. I'm also in my fifth four-year term as Judge of Probate for the District of Danbury.

I am speaking today, time allowing, in favor of three bills, with some proposed modifications and clarifications.

Those are, House Bill 6675, CONCERNING THE SALE OR MORTGAGE OF SPECIFICALLY DEVISED REAL ESTATE, also on House Bill 6828, which is THE ACT CONCERNING THREE RECORDING OF PROBATE PROCEEDINGS, and House Bill 7067, which is regarding the appointment of special limited conservators.

Although the 117 judges have not had a formal vote on these bills, I have obtained a cross-section input from judges from small, middle, and large courts. And I am speaking on their behalves.

Lastly, regarding the special limited HB 7067 conservators, we are in agreement with this proposed bill. It is increase the standards of proof and it raises the standards and has certain requirements, and we are in agreement with that.

In this provision our only modification would be under provision three, we suggest a change where it says, the reasonable compensation of the special limited conservator to be paid, we would suggest that it be paid for through funds appropriated for that purpose to the Judicial Department.

And in any given set time, no such funds have been appropriated, for such purpose to the Judiciary Department, that the compensation shall be established and paid though funds allocated for such purpose by the public court administrator of the Public Court Administration Fund.

And we suggest this change to make it consistent with all of the other statutes that deal with the indigency fees, any statutes that deal with indigency fees.

And since these are criminal defendants under the diction services department, some of our judges have suggested that it be paid out of DMHAS. Any questions, your honors?

SEN. MCDONALD: Wow. Are there any questions from Members of the Committee?

But I think a lot of the judges are very open to recording, especially conservator proceedings, where there has been some questions, although I must say that in the overwhelming majority of cases, there are very good results.

REP. SPALLONE: Thank you very much.

HON. DIANNE YAMIN: Thank you.

REP. SPALLONE: Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you. Any other questions for the Judge? I'm sorry. Representative Gonzalez.

REP. GONZALEZ: And thank you for the second time. HB 7067
If the court appoints a conservator to a person that is legally in their own apartment, not in a convalescent home, how they goes with the financial. You know, what obligation that conservator has with that person.

HON. DIANNE YAMIN: Basically, if a person is appointed as a conservator over an individual that's in the community?

REP. GONZALEZ: Yes.

HON. DIANNE YAMIN: And their own apartment. The conservator steps into their shoes, and essentially, handles their finances, makes their personal and medical decisions, depending on whether or not the judge might have limited their duties and responsibilities.

You could limit the powers of the conservator. That's also in the statutes. That's sometimes done.

REP. GONZALEZ: So they have to provide like food.

HON. DIANNE YAMIN: That's correct. And many times they will work with the person's, if they have a social worker, or a mental health agency that they're working with, they often coordinate with that agency to meet the person's needs, including the setting of a budget, making sure their food is purchased, arranging for Meals on Wheels, making sure all their needs are met.

REP. GONZALEZ: Okay. What can I do with a conservator that is supposed to provide to a person and that person is always hungry because they don't provide the food, even though they are supposed to and that puts him always complaining? What can I do against that?

HON. DIANNE YAMIN: Any interested party can make a request to the court and a status hearing can held to see what the problems and issues are and always.

Any interested party can make a motion to remove a conservator that's not acting appropriately.

REP. GONZALEZ: So I have to go to Probate Court?

HON. DIANNE YAMIN: I suggest a call to the court indicating your concerns or writing a letter, and that will prompt the judge to review the

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file and make sure that that person is taken care of.

REP. GONZALEZ: Yeah. Because that's a situation in my community.

HON. DIANNE YAMIN: Absolutely.

REP. GONZALEZ: Thank you.

HON. DIANNE YAMIN: Thank you.

SEN. MCDONALD: If there's nothing else, thank you very much, Your Honor.

HON. DIANNE YAMIN: Thank you.

SEN. MCDONALD: Next is Dennis O'Neil. Oh, I'm sorry. I apologize. Wait. Bill Sweeney. Then Dennis O'Neil. Good afternoon.

BILL SWEENEY: Thank you, Senator McDonald and HJ 40 Representative Lawlor and my old friend, Patricia McMahan, who used to be my conservator when I was like 12 and somehow I survived. She was the conservator for a lot of kids running around New Britain about that time.

I appear here as an attorney on behalf of Fremont Riverview, LLC. And to be technically correct, in deference to the written testimony, it is actually a request to deny the denial of a claim before the Claims Commission. So it's kind of a double negative, but I don't know how else to say it.



CONNECTICUT PROBATE ASSEMBLY

RAISED BILL NO. 7067 (LCO No. 3887)

03887 JUD

Comments of President-Judge, Hon. Dianne E. Yamin

(An Act Concerning the Appointment and Powers of Conservators and Special Limited Conservators with Respect to Psychiatric Treatment):

HELLO, I AM JUDGE DIANNE YAMIN, PRESIDENT JUDGE OF THE CONNECTICUT PROBATE ASSEMBLY, AND IN MY 5TH 4-YEAR TERM AS JUDGE OF PROBATE FOR THE DISTRICT OF DANBURY.

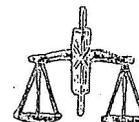
AS I HAVE STATED, ALTHOUGH THE 117 JUDGES OF THE ASSEMBLY HAVE NOT HAD AN OPPORTUNITY TO VOTE ON THESE 3 PROBATE-RELATED BILLS, I HAVE RECEIVED RESPONSES FROM A CROSS-SECTION OF JUDGES, AND I AM HERE TO EXPRESS THEIR OPINION, IN WHICH I CONCUR.

JUDGES WHO PROVIDED INPUT REGARDING THIS BILL GENERALLY WERE IN AGREEMENT WITH ITS PROVISIONS. HOWEVER, WE PROPOSE AN IMPORTANT CHANGE TO PROPOSED SECTION 17a-543(a)(3) SUCH THAT THE JUDICIAL DEPARTMENT WOULD PAY THE CONSERVATOR'S REASONABLE COMPENSATION, AS FOLLOWS:

"(3) THE REASONABLE COMPENSATION OF A SPECIAL LIMITED CONSERVATOR APPOINTED UNDER THIS SUBSECTION SHALL BE ESTABLISHED, AND PAID FOR THROUGH, FUNDS APPROPRIATED FOR THAT PURPOSE TO THE JUDICIAL DEPARTMENT; IF AT ANY GIVEN TIME NO SUCH FUNDS SHALL HAVE BEEN APPROPRIATED FOR SAID PURPOSE TO THE JUDICIAL DEPARTMENT, SUCH COMPENSATION SHALL BE ESTABLISHED, AND PAID FOR THROUGH, FUNDS ALLOCATED FOR SUCH PURPOSE BY THE PROBATE COURT ADMINISTRATOR OUT OF THE PROBATE COURT ADMINISTRATION FUND."

THIS CHANGE WOULD MAKE THIS PORTION OF THE STATUTE CONSISTENT WITH EACH AND EVERY OTHER STATUTE THAT REQUIRES THE PAYMENT OF INDIGENCY COSTS BY THE PROBATE COURT ADMINISTRATION FUND, (EXCEPT FOR THE REGIONAL PROBATE CHILDRENS' COURTS).

yy.probate.3.2/16/2007



Honorable Dianne E. Yamin

Judge

Probate Court, District of Danbury

CONNECTICUT LEGAL RIGHTS PROJECT

001463

P.O. Box 351, Silver Street, Middletown, CT 06457
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**Testimony of Susan Aranoff, J.D. Staff Attorney
Connecticut Legal Rights Project, Inc.
Before the Judiciary Committee
February 16, 2007**

Good afternoon, Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee. I am Susan Aranoff, Staff Attorney at Connecticut Legal Rights Project and I am here today to speak on H.B. 7067, An Act Concerning the Appointment and Powers of Conservators and Special Limited Conservators with Respect to Psychiatric Treatment.

Connecticut Legal Rights Project, Inc. is a non-profit legal services agency that provides individual and systemic legal services to indigent adults who have, or are perceived as having, psychiatric disabilities and who receive, or are eligible to receive, services from the Department of Mental Health and Addiction Services.

Connecticut Legal Rights Project maintains offices at all DMHAS operated in-patient and out-patient facilities in the state. Our offices are staffed by attorneys and paralegal advocates. I provide legal services to individual clients and I supervise four paralegals. My testimony today is informed by my ten years of experience practicing disability law, including six years in Connecticut.

Connecticut Legal Rights Project, Inc. **SUPPORTS H.B. 7067 WITH
ADDITIONAL AMENDMENTS.**

In essence, H.B. 7067 is a housekeeping bill. If passed, it will add three significant provisions – two we would agree are essential- to 17a-543 and 17a-543(a), the statutes governing non-emergency involuntary medication. First, H.B. 7067 would require the probate courts that hear involuntary medication applications under both 17a-543 and 17a-543(a) to make certain findings of fact before granting involuntary medication applications. Second, it directs that the court make its findings based upon “clear and convincing” evidence. Third, H.B. 7067 would authorize the special limited conservators appointed under 17a-543(a) to access the medical records of the persons for whom they are given medication authority.

It may surprise you to learn that at present there is nothing in either statute requiring the probate courts to make any findings whatsoever before granting a conservator the authority to consent to involuntary medication, let alone to make findings by clear and convincing evidence. Likewise it may strike you as odd that presently special limited conservators have no authority to obtain the medical records of the people they have the authority to have involuntarily medicated with psychotropic medications. However, for those of us who practice in this narrow but highly consequential area of law, nothing about this is surprising. There are many deficiencies in these statutes. We commend the effort to address some of these deficiencies, however this bill does not address one of the most significant deficiencies that we are aware of. Presently, just as the statutes inadvertently failed to require probate judges to make findings of fact, 17a-543(a) also fails- hopefully inadvertently- to afford basic due process. Accordingly, we are proposing two amendments to address the lack of due process provide under 17(a)-543(a) and will support H.B. 7067 with these additional amendments.

Our proposed amendments would provide persons medicated under 17a-543(a) the same due process protections afforded to persons medicated under 17a-543. Pursuant to 17a-543, a probate court must grant a conservator of the person specific medication authority in order for that conservator to consent to the involuntary administration of non-emergency psychotropic medication. Conservators of the person have the authority to make a wide range of decisions, including health care decisions on behalf of their wards. However, the legislature long ago determined that conservators of the person cannot authorize the involuntary administration of psychotropic medication - a decision that implicates the fundamental constitutional right to liberty- in the absence of adequate due process. Accordingly, pursuant to 17a-543, a conservator cannot authorize involuntary medication unless or until a probate court grants them the specific authority to do so. In brief, all conservators with medication authority are conservators of the person to whom a probate judge, after a hearing, has given additional, specific authority to give or withhold consent to the involuntary administration of psychotropic medication.

In order to become a conservator with medication authority, a person must first be appointed a conservator of the person in accordance with the procedures set out in 45a-644, et. seq. C.J.S. 45a-644-650 contains procedural requirements which taken as a whole provide the respondent adequate due process protection. Specifically, 45a-649(a) requires that specific parties be notified of the proceedings and 45a-649(b) requires that the respondent be provided with legal counsel and further that the respondent be notified of the following :

- (1) The notice required by subdivision (1) of subsection (a) of this section shall specify (A) the nature of involuntary representation sought and the legal consequences thereof, (B) the facts alleged in the application, and (C) the time and place of the hearing. (2) The notice shall further state that the respondent has a right to be present at the hearing and has a right to be represented by an attorney at his or her own expense. If the respondent is unable to request or obtain counsel for any reason, the court shall

appoint an attorney to represent the respondent in any proceeding under this title involving the respondent. If the respondent is unable to pay for the services of such attorney, the reasonable compensation for such attorney shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund. If the respondent notifies the court in any manner that he or she wants to attend the hearing on the application but is unable to do so because of physical incapacity, the court shall schedule the hearing on the application at a place which would facilitate attendance by the respondent but if not practical, then the judge shall visit the respondent, if he or she is in the state of Connecticut, before the hearing. Notice to all other persons required by this section shall state only the nature of involuntary representation sought, the legal consequences thereof and the time and place of the hearing.

The process for appointing a special limited conservator set out in 17a-543(a) does not include any similar procedural requirements. Just as the statutes do not require the courts to make any findings, the statutes do not require the court to provide a 17a-543(a) respondent notice, the right to be present or the right to counsel. It must be noted that notwithstanding the lack of a statutory mandate to do so, the Honorable Joseph Marino, who has presided over most of the special limited conservator proceedings in his capacity of probate judge for the district of Middletown, has provided 17a-543(a) respondents with notice, the right to be heard and be represented, just as he has issued findings of fact and made his finding by clear and convincing evidence in the absence of any statutory mandate to do so. Nevertheless, the statute needs to be amended so that it is clear that 17a-543(a) respondents are afforded the same due process as 17a-543 respondents.

The reason the due process requirements set out in the conservator statutes do not apply to special limited conservators is that special limited conservators are not in fact conservators. A special limited conservator is not a conservator who has been appointed

under 45a-644 et seq. and then given medication authority in addition to any other authorities. Rather, 17a-543(a) establishes certain criteria a person must meet in order to be granted the authority to consent to involuntary medication and then bestows upon such person the title of "special limited conservator." A special limited conservator possesses one power and one power only and that power is the rather weighty power of consenting or refusing to consent to the involuntary administration of psychotropic medication. Indeed, it is precisely because a special limited conservator has only this one singular power that it is necessary to amend the statute to allow the SLC to obtain the records he or she needs to responsibly exercise their medication authority. Presently, special limited conservators lack the authority to perform this *di minimis* task that is arguably essential to the performance of their statutory duty to make informed medication decisions.

To recap, the term "special limited conservator" is truly a misnomer. A special limited conservator is not a conservator at all. Because special limited conservators are not appointed pursuant to the conservator statutes none of the due process provisions set out in the conservator statutes apply to the appointment of a special limited conservator. But they should.

Our first proposed amendment therefore is to add a requirement that special limited conservators be appointed in accordance with the procedures set out in 45a-644 et. seq., specifically section 649 which contains the notice and appointment of counsel requirements.

Our second proposed amendment would afford 17a-543(a) another important right that their 17a-543 counterparts are afforded but which they are denied - and that is simply the right to be informed of available advocacy services. 17a-543(d) specifically requires that patients who are the subject of an internal involuntary medication hearing be

informed of available advocacy services, and 17a-543(e) states that the hospital is to use the procedures set forth in (d) when it applies to the probate court for an involuntary medication order. There is no reason why 17a-543(a) respondents should not receive similar notice. We therefore propose amending 17a-543(a) so as to require the hospital to inform the patient orally and in writing of available advocacy services both at the time it is seeking a second opinion and at the time it files its involuntary medication application.

In sum, the United States Supreme Court has held that because the involuntary administration of psychotropic medication implicates the fundamental right to liberty, a state cannot do it unless it provides adequate due process protections. Presently, and likely inadvertently, 17a-543(a) does not provide adequate due process protections. As the legislature considers other housekeeping amendments to 17a-543 and 17a-543(a) it is an opportune time to amend 17a-543(a) so as to ensure that all involuntary medication respondents are afforded equal due process.

Thank you for the opportunity to address the committee with regard to H.B. 7067. I would be happy to answer any questions you may have at this time.



STATE OF CONNECTICUT
OFFICE OF THE
PROBATE COURT ADMINISTRATOR

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To: Senate Co-Chair Andrew McDonald
House Co-Chair Michael Lawlor
Senate Ranking Member John Kissel
House Ranking Member Arthur O'Neill
Honorable Members of the Judiciary Committee

From: Judge James J. Lawlor
Probate Court Administrator

Re: RB 7067 An Act Concerning the Appointment and Powers of Conservators and
Special Limited Conservators with Respect to Psychiatric Treatment.

Date: February 16, 2007

For a number of years §17a-543 has governed the ability of the Probate Court to authorize the administration of medication for the treatment of psychiatric disability to a patient without his or her consent.

While the existing statute provides definite requirements for the issuance of such orders, it does not specify the standard of proof to be applied by the court. The proposed bill would provide needed clarification, requiring that the necessary facts be established by clear and convincing evidence.

The treatment governed by the statute is highly intrusive to the patient and justifies this elevated standard of proof. We urge the committee's favorable consideration of this bill.

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STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES

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Executive Director

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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Judiciary Committee
February 16, 2007

Presented by: James D. McGaughey
Executive Director

HB 6828

Good morning Senator McDonald, Representative Lawlor and members of the Committee. Thank you for this opportunity to comment on several bills on your agenda today.

The first of these is Raised Bill No. 7067, AN ACT CONCERNING THE APPOINTMENT AND POWERS OF CONSERVATORS AND SPECIAL LIMITED CONSERVATORS WITH RESPECT TO PSYCHIATRIC TREATMENT. This bill would help clarify the circumstances under which conservators may be appointed or authorized to consent to the administration of psychiatric medication and related functions. More specifically, it would amend statutory provisions (found in Section 17a-543) that describe the role of conservators who are appointed for people with mental illness who have been hospitalized but who refuse to consent to receive medication that the hospital thinks is necessary or who are believed to be incompetent to make their own decision about medication. Existing statutes also provide a parallel mechanism - appointment of a special limited guardian - for criminal defendants who are undergoing evaluation and/or restoration to competency to stand trial pursuant to Section 54-56(d). The bill would also amend those provisions (Section 17a-543a).

The bill improves on existing statutory language by requiring that probate court find, by clear and convincing evidence that a person is either incapable of giving informed consent, or, in the case of a person who is competent but refuses medication, that various other facts be found before it can authorize imposition of involuntary medication. While adoption of the clear and convincing evidence standard is hardly objectionable, given the nature of the personal rights at stake, additional safeguards are warranted. Specifically, I would urge adding an explicit requirement that the court base its decision on the same type of evidence and documented facts that are required by Section 45a-650 for appointment of a conservator of the person. (E.G. medical testimony or reports, based on recent observations, coupled with testimony and reports from other sources with first-hand relevant information.) Judicial decisions about the involuntary imposition of powerful, mind and mood-altering psychotropic drugs - a process that usually involves physically overpowering and injecting the drug into a person - raise questions no less worthy of careful fact gathering than decisions about appointing a conservator in the first place.

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Testimony of James McGaughey, OPA Executive Director
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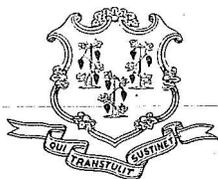
I would also urge that hospitals initiating petitions under these statutes be required to ensure that respondents are notified of sources of advocacy representation from which they can seek assistance. Our Office has represented a number of individuals for whom involuntary medication orders have been sought under different statutory mechanisms. It has been our experience, and I believe the experience of other advocacy programs as well, that people often have valid reasons for not wanting to take particular types of medications. We find that if people's objections are heard, and other treatment and medication options are explored, the need for involuntary administration often goes away.

The other bill I want to comment on is **Committee Bill No. 6828, AN ACT CONCERNING THE RECORDING OF PROBATE COURT PROCEEDINGS.**

Under existing statutes, if parties to a probate court proceeding agree to have a stenographic record made, the court may obtain the services of a stenographer or reporter and then apportion the cost between the parties as it sees fit. This bill would require probate courts to obtain a qualified stenographer when the parties to a proceeding agree, with the cost of compensating the stenographer being met by the party that requested the hearing.

One of the more frequently heard complaints about probate proceeding involves the lack of a record. So, presumably, encouraging more records to be made of probate court hearings is a good thing. While I appreciate that the bill removes the court's discretion to refuse a request when the parties are in agreement that a record should be made, I am not sure whether charging costs solely to the party that initiated the proceeding will result in more or fewer such agreements. I do worry about what happens in a proceeding initiated by someone with a disability who is seeking release from a commitment order, or seeking to remove his or her conservator. Even if that person or his or her attorney wants a transcript made, and other parties agree to it, the prospect of bearing the entire cost would likely be a significant disincentive to requesting that the hearing be recorded. If the committee goes forward with this bill, I would urge that some provision be made for indigent parties who initiate probate proceedings.

Thank you for your attention. If there are any questions, I will try to answer them.



M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT

DEPARTMENT OF MENTAL HEALTH
AND ADDICTION SERVICES

A HEALTHCARE SERVICE AGENCY

THOMAS A. KIRK, JR., Ph.D.
COMMISSIONER

**Testimony of Michael Norko, M.D., Director
Whiting Forensic Division, Connecticut Valley Hospital
Before the Judiciary Committee
February 16, 2007**

Good morning, Senator McDonald, Representative Lawlor, and distinguished members of the Judiciary Committee. I am Dr. Michael Norko, Director of the Whiting Forensic Division of Connecticut Valley Hospital, and I am here today to speak in support of H.B. 7067, An Act Concerning the Appointment and Powers of Conservators and Special Limited Conservators with Respect to Psychiatric Treatment.

In 2004, in response to the dicta of a U.S. Supreme Court decision (*Sell v. United States*), the Connecticut General Assembly created a civil procedure by which involuntary psychiatric medication could be sought for individuals charged with crimes who were committed to a DMHAS facility by the criminal court for purposes of treatment to restore competency to stand trial. That procedure was defined in CGS §17a-543a and was crafted as a parallel to the existing statutes governing the appointment of conservators with medication authority for civil psychiatric patients in inpatient settings [in CGS § 17a-543]. The procedure under CGS § 17a-543a consists of the appointment of a Special Limited Conservator (SLC) with authority to give or withhold consent to

suggested medications, only during the time that a defendant remains not competent to stand trial as determined by a criminal court and remains under court-ordered treatment to restore competence.

This new SLC mechanism has worked well, has been used approximately 20 times per year since it took effect in October 2004, and has been used preferentially to the criminal procedure for involuntarily medicating incompetent defendants under § 54-56d(k) – the latter has been used in only 3 cases since October 2004, and not at all since October 2005.

Often, defendants who decline to cooperate with psychiatric medications to treat their disorder will also decline to allow the treating clinicians access to their prior psychiatric treatment records (often as a manifestation of paranoid ideation). Former treaters are permitted to release such records [under CGS § 52-146(f)], but are not **required** to do so, and are often reluctant to do so. There is currently no provision in § 54-56d that allows the DMHAS facility charged with treatment to restore competency to procure such records to assist in planning effective treatment and avoiding ineffective treatment or treatment that has caused deleterious side effects for the individual in the past.

In this bill, we are asking that the statute regarding Special Limited Conservators be amended to specifically give to the SLC the additional authority to consent to the release of previous treatment records. This medical information is necessary to inform the responsible clinicians and the SLC about past treatment experience so that any planned and requested treatment has the benefit of knowledge of past experience.

We may currently petition the probate court to appoint a regular Conservator for the specific purpose of consenting to record release, but doing so has two distinct disadvantages: (1) regular Conservators continue to remain in place unless an action is taken to remove them, whereas the SLC expires upon the completion of the treatment to restore competency; and (2) having an appointed Conservator and Special Limited Conservator may lead to unnecessary confusion about role overlap and respective authorities.

Giving this additional authority to the SLC, thus, seems to fit well with the task required of the SLC to make appropriate medical decisions for the individual, as well as with the time-limited and task-focused authority of the SLC.

The other purpose of the proposed amendment is to add specific declarations of the findings and burden of proof required for the probate court to appoint conservators with medication authority or order involuntary medication under CGS § 17a-543 and to appoint special limited conservators or order involuntary medication under §17a-543a, as well as the court order for involuntary medication under the CGS. These authorities already exist, but existing statute does not specify what the probate court must determine and by what standard of proof in order to render these appointments or orders. Our probate judges have, in all cases of which we are aware, interpreted that the intent was to require findings determined by clear and convincing evidence, but it would be cleaner to have a specific statutory statement to this effect so that there could be no confusion about either the necessary findings or the burdens of proof.

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Thank you for the opportunity to address the committee today in support of H.B.

7067. I would be happy to answer any questions you may have at this time.