

# Legislative History for Connecticut Act

PA 11-129		PA11-129
HB6440		
House	3754-3761	8
Judiciary	536-538, 569-571, 609-619	17
<u>Senate</u>	<u>6556-6557, 6573-6578</u>	<u>8</u>
		<b>33</b>

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2011

VOL. 54  
PART 11  
3438-3771

cd/rgd  
HOUSE OF REPRESENTATIVES

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May 19, 2011

locked and the Clerk will take a tally. The Clerk will please announce the tally.

THE CLERK:

House Bill 6538 as amended by House "A."

Total Number voting 144

Necessary for adoption 73

Those voting Yea 144

Those voting Nay 0

Those absent and not voting 7

DEPUTY SPEAKER ARESIMOWICZ:

The bill as amended is passed.

Will the Clerk please call Calendar 420.

THE CLERK:

On page 22, Calendar 420, Substitute for House Bill Number 6440, AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITY AND STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITY, favorable report of the Committee on Judiciary.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Holder-Winfield, you have the floor, sir.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Chair.

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This bill, House Bill 6440, I move acceptance of the joint committee's favorable report and passage of the bill.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark, sir?

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Chair.

What this bill seeks to do is deal with some issues of transition for individuals who have intellectual disabilities and their parents' abilities to remain their guardians at the point at which they turn 18.

Currently under the law parents cannot put in a request to become the guardians at 18 of the children who are their children by birth. What this would do is allow them 180 days prior to the child turning 18 to put in that application, thus creating a seamless transition.

Mr. Speaker, the Clerk is in possession of an amendment. It is LCO 6557. I request that the LCO -- or that the amendment be called and I be granted leave of the Chamber to explain.

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DEPUTY SPEAKER ARESIMOWICZ:

Will the Clerk please call LCO Number 6557, which will be designated House Amendment Schedule "A."

THE CLERK:

LCO Number 6557, House "A," offered by  
Representatives Fox and Lyddy.

DEPUTY SPEAKER ARESIMOWICZ:

The Representative seeks leave of the Chamber to summarization of the amendment. Is there objection to summarization? Is there objection to summarization? Hearing none, Representative Holder-Winfield, please proceed with summarization, sir.

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Chair.

This amendment strikes the bill and becomes the bill upon passage of this amendment. What it does is it does exactly the same thing as the bill except it also comports this bill with the notion we passed in another bill, that we do have respectful language, therefore removing language that is -- talked about mental retardation and inserting language which talks about intellectual disabilities.

And I urge passage, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

The question before the Chamber is adoption of House Amendment Schedule "A."

Will you remark further on the amendment? Would you remark further on the amendment? If not, I will try your minds. All those in favor of the amendment, please signify by saying, aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Representative Lyddy of the 106th, you have the floor, sir.

REP. LYDDY (106th):

Thank you, Mr. Speaker.

Mr. Speaker, very quickly I just wanted to thank the probate court, Representative Holder-Winfield, as well as a constituent of mine, Mr. Stein for his continued advocacy for children/young adults with intellectual disabilities.

This bill certainly protects families' rights and preserves the dignity of each child and young adult with an intellectual disability. And as we know, the

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continuum of services and care for these individuals is paramount in their progress. And this bill certainly ensures that we close a loophole that hadn't been recognized by us in the past. So I appreciate the support of the Chamber, the Judiciary Committee and the probate court.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

My good friend Representative Alberts of the 50th, you have the floor, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

If I may, a question to the proponent?

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed -- please prepare yourself, sir.

Please proceed, Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

There are several references in the bill now amended that's before us. In line 131, for example, there is the language, persons with autism. And for purposes of establishing legislative intent, wherever the word "autism" is used, is it not our desire to

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include anyone in the autism spectrum, to include, for example, individuals that may have Asperger's?

Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Thank you, Mr. Speaker.

And through you, Mr. Speaker. Yes, it is our intention to include all of those who would be on the spectrum.

Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

I thank the gentleman for his answers.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Will you remark further?

Representative Hetherington of the 125th, you have the floor, sir.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

I rise in strong support of this bill. This

permits parents to apply for a guardianship for their intellectually challenged children prior to the child reaching the 18th birthday.

And this will allow for guardians to be in place when the young person reaches 18 and therefore allow the seamless delivery of services and care for the disabled person. And I urge adoption.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Will you remark further on the bill as amended?  
Will you remark further on the bill as amended? If not, will staff and guests please come to the well of the House. The members, take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber.

DEPUTY SPEAKER ARESIMOWICZ:

Have all the members voted? Have all the members voted? Will the members please check the board to ensure your vote has been properly cast. And if all the members have voted the machine will be locked and

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the Clerk will take a tally. The Clerk will please announce the tally.

THE CLERK:

House Bill 6440 as amended by House "A."

Total Number voting 143

Necessary for adoption 72

Those voting Yea 143

Those voting Nay 0

Those absent and not voting 8

DEPUTY SPEAKER ARESIMOWICZ:

The bill as amended is passed.

Will the Clerk please call Calendar Number 210.

THE CLERK:

On page 9, Calendar 210, House Bill Number 6433,

AN ACT CONCERNING ADULT EDUCATION, favorable report of the Committee on Education.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Fleischmann of West Hartford, you have the floor, sir.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker.

Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

DEPUTY SPEAKER ARESIMOWICZ:

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY

PART 2

303-641

2011

SENATOR COLEMAN: Other questions? Seeing none, thank you.

Representative Lyddy.

And Richard Stein.

REP. LYDDY: Good morning -- or afternoon actually. Good afternoon, Senator Coleman, Representative Fox, members of the Judiciary Committee. Representative Albis, congratulations and welcome.

I'm here today to testify in support of House Bill 6440, An Act Concerning Applications for Guardianship of an Adult with Intellectual disabilities and Statutory Changes Related to intellectual Disabilities. I'm going to speak very briefly and I'm going to turn the microphone over to my constituent, Mr. Stein, who will elaborate as to why this is important to him and to the constituency.

This bill makes very important changes to the statutes in regard to guardianship for individuals with intellectual disabilities. Again, it's a concern that was brought to my attention by a constituent. And I appreciate Mr. Stein's advocacy on behalf of families who are going through guardianship process as well as children and adults with intellectual disabilities.

So with that said, I will turn it over to him and he can elaborate a little bit more based on his experience regarding this issue.

RICH STEIN: Good afternoon, Mr. Chair, members of the committee. My name is Rich Stein. I'm from Sandy Hook. I'm here to speak in favor of passing H.B. 6440 as written.

Our son Andrew has diagnosis of moderate autism. For those who you have not had autism touch you life, moderate is -- there's nothing moderate about Andrew's disability. He has very little concept of danger, money, nor does he understand the need for almost any health care procedures. In other words, he is a poster child for plenary guardianship, which was granted after a very short hearing two months and four days after Andrew turned 18.

The reason for my appearance in front of your committee concerns the two-month and four-day gap between Andrew turning 18 and when guardianship was granted, during which time Andrew was not afforded the legal protections that he needed to keep him as safe as possible. It was only by pushing a lot of people very, very hard and having the hearing on Christmas Eve day that we were able to accomplish this so quickly.

Approximately six months prior to Andrew's 18th birthday I visited our local probate court to begin the process of applying for guardianship. I was told that I could, quote, take the form to fill out, but that they wouldn't accept our application for guardianship until Andrew turned 18, end quote.

I asked how long it typically took to get guardianship if all parties were in agreement and was told three or four months, depending how long the Department of Mental Retardation -- now DDS -- took to compile a report.

I asked, what would happen if Andrew ended up in the emergency room during that time. I was concerned that we would not be able to direct Andrew's care. I was told -- and I believe the earlier person testified about a snarky tone of voice -- oh, we try not to worry about things like that.

Really that was the response of the probate court's secretary. As a parent that was not reassuring in the least. I recognized that it would be relatively long odds that a situation would have come up during the relatively brief period that Andrew was not afforded legal protections. However, given Andrew's diagnosis we are unfortunately believers in long odds.

For us all turned out well, and the gap period was just one more event in a long line of events that we've had to worry about during Andrew's life. But I asked the committee, what if one of your constituents was not so fortunate and had to seek emergency guardianship during a health care or other type of crisis?

This bill won't add any additional ongoing costs to the state budget, other than briefly shifting some of DDS and probate court's workload forward in time, no new work is created other than notifying DDS, DDS clients and the probate court of the new law's impact on the guardianship application process.

I urge you to pass this bill out of committee in its present form. And for any questions, I'm happy to answer them.

SENATOR COLEMAN: Are there questions? Seeing none, thank you both.

RICH STEIN: Thank you.

REP. LYDDY: Thank you.

SENATOR COLEMAN: Claude Albert.

CLAUDE ALBERT: Good afternoon, Senator Coleman, members of the committee. My name is Claude Albert and I am the legislative chair of the

SB1054

that, if you've gone through that and the values are acceptable to there, that they should just accept that. And that was in practice the way they used to do it back when it was a pickup tax regime before 2005. So we would prefer that.

We would note that, you know, that probably the most important to us is the double taxation of the gifts. These are all things we'd like, but most important is the double taxation of the gifts. We recognize that these things do have revenue impacts, so it's difficult to get the estate tax changes made. So the one that's really most important to us would be the double taxation, which just seems totally unfair.

REP. E. WRIGHT: Okay. Thank you so much.

Thank you Mr. Chairman.

SENATOR COLEMAN: Thank you.

Other questions? Seeing none, thank you, Mr. Ivimey.

JOHN R. IVIMEY: It's Ivimey. Yes.

SENATOR COLEMAN: Thank you for your testimony.

Lynn Warner.

LYNN C. WARNER: Good afternoon, Senator Coleman and members of the Judiciary Committee. I'm Lynn Warner, the executive director of the Arc of Connecticut, a 59-year-old advocacy organization for individuals with intellectual disabilities and their families.

We have 23 local chapters that provide support services and advocacy for individuals with disabilities throughout Connecticut. I'm here today to testify in support of House Bill 6440,

An Act Concerning Applications for Guardianship of an Adult with Intellectual Disabilities and Statutory Changes Related to Intellectual Disabilities.

By providing that an application for guardianship of a young adult with intellectual disabilities be permitted 180 days prior to the date of his or her 18th birthday and that the approved application become effective on that date, this action will help protect the continuity and continuation of supports and services for young adults with intellectual disabilities.

For example, young adults with intellectual disabilities are legally able to attend school until the age of 21 provided that they have strong advocacy and input of their families and/or guardians. If there's a gap in guardianship when a person becomes 18, the schools no longer have to communicate with the families or guardians and precious education and services could be lost.

If the student is allowed to continue in school his or her ability to become a more productive number of society increases. In addition, the Arc of Connecticut is in strong support of changing all of the statutory references of mental retardation to intellectual disability, as retardation and all of the derivatives of the R word are now considered insulting and pejorative, especially by the people who have intellectual disabilities. Connecticut would be in good company should it vote to make this change.

In October 2010, President Obama signed Rosa's Law, which mandated changing references in federal laws from mental retardation to intellectual disability and references to the

mentally retarded to people with intellectual disabilities.

This type of language change acknowledges the person, not the disability and eliminates the hurtful terminology and suggestions. The disability community in Connecticut and all over the country along with self advocates who receive supports and services are anxious to make these changes and relegate these words to history.

Thank you for the opportunity to testify before you today. On behalf of the Arc of Connecticut, I urge you to vote favorably on House Bill 6440. Thank you.

SENATOR COLEMAN: Thank you.

Questions for Ms. Warner? Seeing none, thank you for your testimony.

LYNN C. WARNER: Thank you.

SENATOR COLEMAN: Barbara Taylor.

BARBARA A. TAYLOR: Senator Coleman, Representative Fox and members of the Judiciary Committee, thank you for this opportunity to testify before you today. I'm here to testify regarding the disclaimer provisions of Raised Bill 1056, the same bill my partner John Ivimey previously testified on regarding estate tax changes.

I am also a stockholder at Reid & Riege, PC, and a member of the Connecticut Bar Association's estate and probate sections. The estate and probate section supports Raised Bill 1056 and the qualified disclaimer provisions. The provisions regarding the qualified disclaimer are intended to mirror legislation on the federal level that happened at the end of last year. At the end of last year significant estate tax changes happened

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Advocates for people with intellectual disabilities and related developmental disabilities

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President  
*Diane Aubin*  
The Arc of New London County  
Norwich

February 28, 2011

Executive Director  
*Lynn C. Warner*

First Vice President  
*Imelda Reno*  
The Arc of Farmington Valley  
Canton

**Testimony before the Judiciary Committee:  
H.B. #6440 (Raised), "An Act Concerning Applications for  
Guardianship of an Adult with Intellectual Disabilities and Statutory  
Changes Related to Intellectual Disabilities**

Second Vice President  
*Barry Sheffel*  
The Arc of Meriden-Wallingford  
Meriden

By  
**Lynn C. Warner, Executive Director/The Arc of Connecticut**

Secretary  
*Lori Baer*  
The Arc of Litchfield County  
Torrington

Senator Coleman, Representative Fox, and Members of the Judiciary Committee:

Treasurer  
*Anthony Recck*  
Futures, Inc.  
Middletown

I am Lynn Warner, Executive Director of The Arc of Connecticut, a 59 year-old statewide advocacy organization for individuals with intellectual disabilities and their families. We have 23 local chapters that provide supports, services, and advocacy for individuals with intellectual and related developmental disabilities throughout Connecticut.

Immediate Past President  
*Ken Cholewinski*  
SARAH Seneca  
Gullford

I am here today to testify in support of H.B. 6440, "An Act Concerning Applications for Guardianship of an Adult with Intellectual Disabilities and Statutory Changes Related to Intellectual Disabilities.

Contributions are tax-deductible

By providing that an application for guardianship of a young adult with intellectual disabilities be permitted one hundred and eighty days prior to the date of his/her eighteenth (18<sup>th</sup>) birthday and that the approved application become effective on that date; this action will help protect the continuity and continuation of supports and services of young adults with intellectual disabilities.

For example, young adults with intellectual disabilities are legally able to attend school until the age of twenty-one (21) provided that they have strong advocacy and the input of their families or guardians. If there is a gap in guardianship when a person becomes 18, the schools no longer have to communicate with families or guardians and precious education and services could be lost. If a student is allowed to continue in school, his /her ability to become a more productive member of society increases.

The Arc/Connecticut, Inc. Member Chapters: Futures, Inc., Middletown / Greater Enfield Arc / Family Options, Watertown / The Arc of Farmington Valley / Friends of New Milford, Inc. / The Arc of Litchfield County / LOV-Arc, Westbrook / MARC, Inc., Manchester / MARC: Community Resources, Portland / The Arc of Meriden-Wallingford / The Arc of Greater New Haven / The Arc of New London County / Options, Unlimited / The Arc of Plainville / The Arc of Quinebaug Valley / SARAH Inc., Gullford / SARAH Seneca Residential Services / SARAH Tuxis Residential Services / STAR, Norwalk / The Arc of Southington / Tii County Arc, Columbia / Waterbury Arc / WeCAHR, Danbury

Affiliated with The Arc of the United States

There are waiting lists for adult services from the Department of Developmental Services, so allowing for supports to continue in school – also keeps students active and learning in addition to being supported. This just makes sense for everybody.

Additionally, we are in strong support of changing all of the statutory references of 'mental retardation' to intellectual disability; as retardation and all of the derivatives of the r-word are now considered insulting and pejorative, especially by the people who have intellectual disabilities.

Connecticut would be in good company should it vote to make this change. In October 2010, President Obama signed *Rosa's Law*, which mandated changing references in federal laws from mental retardation to intellectual disability and references to the mentally retarded to people with intellectual disabilities. This type of language change acknowledges the person *not* the disability and eliminates the hurtful terminology and suggestions. The disability community in Connecticut and all over the country, along with the self advocates who receive supports and services, are anxious to make these changes and relegate these words to history.

Thank you for the opportunity to testify before you today. On behalf of The Arc of Connecticut, I urge you to vote favorably on H.B. 6440.



State of Connecticut  
 HOUSE OF REPRESENTATIVES  
 STATE CAPITOL  
 HARTFORD, CONNECTICUT 06106-1591

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 LINE 16

REPRESENTATIVE CHRISTOPHER LYDDY  
 ONE HUNDRED SIXTH ASSEMBLY DISTRICT

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VICE CHAIRMAN  
 PUBLIC HEALTH COMMITTEE

MEMBER  
 EDUCATION COMMITTEE  
 HUMAN SERVICES COMMITTEE

Testimony of  
 Representative Chris Lyddy, 106<sup>th</sup> District  
 February 28, 2011

In Support of HB 6440, An Act Concerning Applications for Guardianship  
 of an Adult with Intellectual Disabilities and Statutory Changes Related to  
 Intellectual Disabilities

Good morning Representative Fox, Senator Coleman and Members of the Judiciary  
 Committee,

I want to thank the Committee for raising HB 6440, An Act Concerning Applications for  
 Guardianship of an Adult with Intellectual Disabilities and Statutory Changes Related to  
 Intellectual Disabilities.

This bill makes important changes to the statutes in regards to guardianship for  
 individuals with intellectual disabilities. It is a concern that was brought to my attention  
 by a constituent of mine, Mr. Rich Stein, after he went through the guardianship process  
 with his son. After conversations with the Probate Court System, I understand that his  
 concerns and frustrations are evident across the state, and strongly believe that these  
 changes are necessary and important.

When The Stein's autistic son was about 17-1/2, his parents went to the local Probate  
 Court to begin the process of guardianship. They were told that they could have the form  
 but it couldn't be submitted until his 18<sup>th</sup> birthday. When they asked how long the  
 process would take from that point, they were told 3-4 months. When they asked what  
 would happen if their son was in the Emergency Room during that time, where he would  
 be unable to direct his own care and the hospital would be unable to inform them that he  
 was there, they were told "that we try not to worry about things like that!"

This change in statute will ensure we don't need to worry, rather than trying not to!

By starting the process 6 months earlier, we ensure that the guardianship process is completed by the 18<sup>th</sup> birthday so that there is no gap in guardianship. It is an essential change to ensure that adults with intellectual disabilities are taken care of.

I appreciate The Steins bringing this concern to my attention, and have worked closely with the Probate Court to ensure these changes address the concern in an appropriate way. I urge the Judiciary Committee's favorable report on this bill, and would be happy to answer any questions.

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Testimony of Mr. Rich Stein  
In SUPPORT of HB 6440

February 28, 2011

Chairman Coleman, Chairman Fox and members of the committee. My name is Rich Stein from Sandy Hook, CT. I'm here to speak in favor of passing HB 6440 "AN ACT CONCERNING APPLICATIONS FOR GUARDIANSHIP OF AN ADULT WITH INTELLECTUAL DISABILITIES AND STATUTORY CHANGES RELATED TO INTELLECTUAL DISABILITIES" as written. The purpose of the bill is to: (1) Provide that an application for guardianship of an adult person with mental retardation be permitted one hundred eighty days prior to the date such person attains the age of eighteen, and that such application be effective no earlier than the date such person attains the age of eighteen; and (2) change statutory references from "mental retardation" to "intellectual disability".

Our son Andrew has a diagnosis of moderate autism. For those of you whose lives have not been touched by autism, there is nothing moderate about Andrew's disability. He has very little concept of danger, money, nor does he understand the need for almost any healthcare procedures. In other words, he is a poster child for plenary guardianship which was granted after a very short hearing two months and four days after Andrew turned eighteen.

The reason for my appearance in front of your committee concerns the two month and four day gap between Andrew turning eighteen and when guardianship was granted during which time Andrew was not afforded the legal protections that he needed to keep him as safe as possible. It was only by pushing a lot of people very, very hard and having the hearing on Christmas Eve Day, that we were able to accomplish this so quickly.

Approximately six months prior to Andrew's eighteenth birthday, I visited our local Probate Court to begin the process of applying for guardianship. I was told that I could "take the form to fill out but that they wouldn't accept our application for guardianship until Andrew turned eighteen". I asked how long it typically took to get guardianship if all parties were in agreement and was told "three or four months, depending on how long Department of Mental Retardation (Now the Department of Developmental Services) took to compile their report". I asked what would happen if Andrew ended up in an Emergency Room during that time. I was concerned that we would not be able to direct Andrew's care. I was told "oh, we try not worry about things like that." Really, that was the response of the Probate Court's secretary. As a parent that was not re-assuring in the least.

I recognize that it would be relatively long odds that a situation would have come up during the relatively brief period that Andrew was not afforded legal protections, however given Andrew's diagnosis; we are, unfortunately, believers in long odds. For us all turned out well and the gap

period was just one more event in a long line of events that we've had to worry about during Andrew's life but I ask the committee, what if one of your constituents wasn't so fortunate and had to seek emergency guardianship during a healthcare or other type of crisis?

This bill won't add any additional on-going costs to the state budget. Other than briefly shifting some of DDS and the Probate Court's work load forward in time, no new work is created other than notifying DDS, DDS clients, and the Probate Court of the new law's impact on the guardianship application process. I urge you pass this bill out of committee in its present form.



## STATE OF CONNECTICUT

OFFICE OF THE  
PROBATE COURT ADMINISTRATOR186 NEWINGTON ROAD  
WEST HARTFORD, CT 06110TEL (860) 231-2442  
FAX (860) 231-1055PAUL J. KNIERIM, JUDGE  
Probate Court AdministratorTHOMAS E. GAFFEY  
Chief CounselHELEN B. BENNET  
AttorneyDEBRA COHEN  
Attorney

**To:** Senate Co-Chair Eric D. Coleman  
House Co-Chair Gerald M. Fox, III  
Senate Ranking Member John A. Kissel  
House Ranking Member John W. Hetherington  
Honorable Members of the Judiciary Committee

**From:** Paul J. Knierim  
Probate Court Administrator

**Re:** HB 6440, An Act Concerning Applications for Guardianship of an Adult with Intellectual Disabilities and Statutory Changes Related to Intellectual Disabilities

**Date:** February 28, 2011

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The Office of the Probate Court Administrator supports adoption of this bill.

Section 1 amends the timelines under which probate courts hear applications to appoint guardians for adults with intellectual disabilities. The purpose of the bill is to facilitate a seamless transition when an individual who needs the assistance of a guardian reaches the age of majority.

This special form of guardianship, which is established under C.G.S §§ 45a-670 to 45a-684, is designed to meet the particular needs of adults with intellectual disabilities. Because parents are the natural guardians of their children, formal guardianship is not needed until an individual turns 18. Parents of a child with an intellectual disability typically petition for guardianship at the time of or shortly before the child reaches the age of majority.

While probate courts try to accommodate families by accepting applications to appoint guardians before the child's 18<sup>th</sup> birthday, the statute does not authorize courts to conduct the hearing or issue orders before the individual actually turns 18. This bill would enable probate courts to hear and decide such petitions up to 180 days before a child reaches the age of majority and to issue orders that

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become effective immediately on the 18<sup>th</sup> birthday. We fully support this concept, but suggest that the period be reduced to 120 days, which is more than sufficient time to complete the entire process.

The remaining sections of the bill update the statutes by replacing the term "mental retardation" with "intellectually disabled." The proposed amendments include several provisions of Title 45a that govern probate courts, and both Probate Court Administration and the Connecticut Probate Assembly are in favor of the changes.



State of Connecticut  
Department of Developmental Services

**DDS**

Dannel P. Malloy  
Governor

Peter H. O'Meara  
Commissioner

Kathryn du Pree  
Deputy Commissioner

TESTIMONY OF THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
TO THE  
JUDICIARY COMMITTEE

February 28, 2011

Senator Coleman, Representative Fox and members of the Judiciary Committee. I am Peter O'Meara, Commissioner of Developmental Services. Thank you for the opportunity to submit testimony in support of H.B. No. 6440 - An Act Concerning Applications for Guardianship of an Adult with Intellectual Disabilities and Statutory Changes Related to Intellectual Disabilities. I would also like to testify to certain areas of concern our department has with H.B. No. 6438 - An Act Concerning Probate Court Operations and S.B. No. 1058 - An Act Concerning the Applicability of Probate Court Orders to State Agencies.

The department supports the change in the timing of the guardianship application process proposed in Section 1 of H.B. No. 6440. The bill would allow a parent or guardian of a person under the age of 18 to apply for guardianship of that child 180 days prior to that child turning 18. This change would address a problem that parents and guardians of individuals with intellectual disability have faced in continuing to be their child's guardian as they become adults. Currently a child with intellectual disability and his parents must wait until the child turns 18 and then his parents may apply to become guardian of their adult child. This has left a gap in guardianship for some vulnerable adults with intellectual disability.

I would also like to acknowledge the proponents of H.B. No. 6440 efforts to use both respectful language and person first language in reference to individuals with intellectual disability and autism spectrum disorder in their statutes. Our department would suggest that this bill be amended to conform with the terminology DDS has proposed in our agency bills H.B. No. 6278 AN Act Concerning The Department Of Developmental Services Division Of Autism Spectrum Disorder Services and H.B. No. 6279 An Act Concerning Revisions To Statutes Relating To The Department Of Developmental Services Including The Utilization Of Respectful Language When Referring To Persons With Intellectual Disability, which have been heard in the Public Health Committee. In these bills, we have amended the Department of Developmental Services' statutes that H.B. No. 6440 is also attempting to amend.

Phone: 860 418-6000 ♦ TDD 860 418-6079 ♦ Fax: 860 418-6001

460 Capitol Avenue ♦ Hartford, Connecticut 06106

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Our proposed changes H.B. No. 6278 and H.B. No. 6279 were based on the recently passed federal legislation "Rosa's Law" which changed the term "mental retardation" to "intellectual disability" in many instances. This change at the federal level, coupled with the proposed changes to the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) by the American Psychiatric Association that are scheduled to take effect in May 2013, made changing the department's statutes to more appropriate and up-to-date terminology necessary.

Because Rosa's Law did not change all federal references of "mental retardation", there are some places in statute where we propose retaining the use of the term for now. For example, there are statutes that refer to "intermediate care facilities for the mentally retarded" (ICFsMR). This is still the federal term and so it must remain that way in state statute. That is why in our agency bill H.B. No. 6279, we retain the term "mental retardation" and add the term "intellectual disability" as an equivalent in the statutory definition in section 1-1g of the Connecticut General Statutes. The bill before the Judiciary Committee would eliminate the term "mental retardation" in the statutory definition and the department opposes this change.

Also in section 33, H.B. No. 6440 would change the term "mental retardation" and other iterations of this term to "intellectual disability" throughout the statutes. In drafting our bills we were careful only to change this terminology in our department's statutes because we could not predict the impact of a change on other agencies. We would suggest that any agency that uses the term "mental retardation" in their statutes assess the impact of a change in terminology before proposing any changes to their statutes. Our department's staff would be happy to work with both the proponents of the bill and the Legislative Commissioners' Office to make changes in the use of these terms in Connecticut statute in a way that does not unintentionally jeopardize the legally established rights of individuals with intellectual disability in our state.

Although we understand and support the general intent of section 3 of H.B. No. 6438, the department would like to express some concern with changing the composition of the probate court-appointed panel that assesses an individual's ability to give informed consent to sterilization and the specific aspects of informed consent that the individual lacks. We would like to have a discussion on the qualifications of the "professionals" who would address the 8-point best interest test in the statute. Also, the department worries that some of the "professionals" who are selected may have their own biases, either towards the agency where they work or towards a parent or guardian who is presenting the request to the court. We suggest that it could be helpful if the word "impartial" be left in so that the Court *could* evaluate whether a specific professional being considered for appointment might not be impartial. Although our department does not have many of this type of proceeding, we feel that it is in an individual's best interest to have this life-changing proceeding be conducted to the highest professional standards. DDS has been working with the Probate Courts to draft some changes and is happy to continue this work to come to some mutually agreed upon language that would allay our concerns.

Our department's concerns with S.B. No. 1058 center on provisions in section 1 that would enable the Probate Courts to require any state agency to follow a Probate Court's order or decree applicable to state agencies even though the Courts of Probate are courts of limited jurisdiction. We believe that this new provision could invite orders which exceed the Probate Courts' statutory authority. For instance, with an order from the court to fund an individual for services, or provide services to an individual, our agency's only recourse would be a Superior court appeal. An appeal to the Superior court should not be the only recourse for agencies in such situations.

The probate courts already have the authority to enforce orders by convening a contempt "show cause" hearing if it is alleged that an agency has not complied with an order. The agency would have the opportunity to address the possible exercise of authority beyond what is conferred by statute, and if the Court still maintained its order, hold the agency in contempt, which could then be appealed to Superior court. In *Bellonio v. Richardson*, 2 Conn. Rpter 789, 1990 WL 274581 (1990), the Superior court ruled that the alleged failure of a state agency (DMR) to comply with an order within the limited jurisdiction of the probate court should be left to the probate courts' contempt authority for enforcement.

Thank you for the opportunity to testify in support of H.B. No. 6440, and to our concerns with H.B. No. 6438 and S.B. No. 1058. Please contact Christine Pollio Cooney, Director of Legislative Affairs at (860) 418-6066, if you have any questions.

S-632

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2011

VOL. 54  
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6546-6914

mhl/cd/gbl  
SENATE

503  
June 7, 2011

Moving now to calendar page 18, where we have a number of items. The first: Calendar 543, House Bill Number 6508.

Madam President, move this item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Calendar 544, House Bill Number 6412.

Move to place the item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Continuing on calendar page 18, Calendar 546, House Bill Number 6538.

Madam President, move to place this item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Calendar 547, House Bill Number 6440.

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SENATE

504

June 7, 2011

Move to place this item on the Consent

Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

The final item on calendar page 18, Calendar  
548, House Bill Number 6471.

Move to place this item on the Consent

Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving now to calendar page 19, where we also  
have several items. First: Calendar 550, House Bill  
Number 6, excuse me, House Bill Number 5802.

Madam President, move to place this item on the  
Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Calendar 551, House Bill Number 6433.

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SENATE

520  
June 7, 2011

Mr. Clerk.

THE CLERK:

Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call's been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

THE CLERK:

Madam President, the items placed..

THE CHAIR:

I would ask the Chamber to be quiet please so we can hear the call of the Calendar for the Consent Calendar.

Thank you.

Please proceed, Mr. Clerk

THE CLERK:

Madam President, the items placed on the first Consent Calendar begin on calendar page 5, Calendar 336, House Bill 5697.

Calendar page 7, Calendar 421, Substitute for House Bill 6126.

Calendar page 8, Calendar 449, Senate Bill 1149.

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Calendar page 10, Calendar 470, Substitute for  
House Bill 5340. Calendar 474, Substitute for House  
Bill 6274. Calendar 476, House Bill 6635.

Calendar page 12, Calendar 499, Substitute for  
House Bill 6638. Calendar 500, House Bill 6614.  
Calendar 508, House Bill 6222.

Calendar page 13, Calendar 511, House Bill  
6356. Calendar 512, Substitute for House Bill 6422.  
Calendar 514, House Bill 6590. Calendar 515, House  
Bill 6221. Calendar 516, House Bill 6455.

Calendar page 14, Calendar 517, House Bill  
6350. Calendar 519, House Bill 5437. Calendar 522,  
House Bill 6303.

Calendar page 15, Calendar 523, Substitute for  
House Bill 6499. Calendar 524, House Bill 6490.  
Calendar 525, House Bill 5780. Calendar 526, House  
Bill 6513. Calendar 527, Substitute for House Bill  
6532.

Calendar page 16, Calendar 528, House Bill  
6561. Calendar 529, Substitute for House Bill 6312.  
Calendar 530, Substitute for House Bill 5032.  
Calendar 532, House Bill 6338.

Calendar page 17, Calendar 533, Substitute for  
House Bill 6325. Calendar 534, House Bill 6352.

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Calendar 536, House Bill 5300. Calendar 537, House  
Bill 5482.

calendar page 18, Calendar 543, House Bill 6508.

Calendar 544, House Bill 6412. Calendar 546,  
Substitute for House Bill 6538. Calendar 547,

Substitute for House Bill 6440. Calendar 548,

Substitute for House Bill 6471.

Calendar page 19, Calendar 550, Substitute for  
House Bill 5802. Calendar 551, House Bill 6433.

Calendar 552, House Bill 6413. Calendar 553,

Substitute for House Bill 6227.

Calendar page 20, Calendar 554, Substitute for  
House Bill 5415. Calendar 557, Substitute for House  
Bill 6318. Calendar 558, Substitute for House Bill  
6565.

Calendar page 21, Calendar 559, Substitute for  
House Bill 6636.

Calendar page 22, Calendar 563, Substitute for  
House Bill 6600. Calendar 564, Substitute for House  
Bill 6598. Calendar 566, House Bill 5585.

Calendar page 23, Calendar 568, Substitute for  
House Bill 6103. Calendar 570, Substitute for House  
Bill 6336. Calendar 573, Substitute for House Bill  
6434.

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Calendar page 24, Calendar 577, Substitute for  
House Bill 5795.

Calendar page 25, Calendar 581, House Bill  
6354.

Calendar page 26, Calendar 596, Substitute for  
House Bill 6282. Calendar 598, Substitute for House  
Bill 6629.

Calendar page 27, Calendar 600, House Bill  
6314. Calendar 601, Substitute for House Bill 6529.

Calendar 602, Substitute for House Bill 6438.

Calendar 604, Substitute for House Bill 6639.

Calendar page 28, Calendar 605, Substitute for  
House Bill 6526. Calendar 608, House Bill 6284.

Calendar page 30, Calendar number 615,  
Substitute for House Bill 6485. Calendar 616,  
Substitute for House Bill 6498.

Calendar page 31, Calendar 619, Substitute for  
House Bill 6634. Calendar 627, Substitute for House  
Bill 6596.

Calendar page 32, Calendar 629, House Bill  
5634. Calendar 630, Substitute for House Bill 6631.

Calendar 631, Substitute for House Bill 6357.

Calendar 632, House Bill 6642.

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Calendar page 33, Calendar 634, Substitute for  
House Bill 5431. Calendar 636, Substitute for  
House, correction, House Bill 6100.

Page 34, Calendar 638, Substitute for House  
Bill 6525.

Calendar page 48, Calendar 399, Substitute for  
Senate Bill 1043.

Calendar page 49, Calendar 409, Substitute for  
House Bill 6233. Calendar 412, House Bill 5178.  
Calendar 422, Substitute for House Bill 6448.

Calendar page 52, Calendar 521, Substitute for  
House Bill 6113.

Madam President, that completes the item placed  
on the first Consent Calendar.

THE CHAIR:

Thank you, sir.

We call for another roll call vote. And the  
machine will be open for Consent Calendar number 1.

THE CLERK:

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

mhr/cd/gbr  
SENATE

525  
June 7, 2011

Senator Cassano, would you vote, please, sir.

Thank you.

Well, all members have voted. All members have voted. The machine will be closed, and Mr. Clerk, will you call the tally?

THE CLERK:

Motion is on option Consent Calendar Number 1.

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number 1 has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

We might stand at ease for just a moment as we prepare the next item...

THE CHAIR:

The Senate will stand at ease.

(Chamber at ease.)