

Legislative History for Connecticut Act

PA 14-103

SB154

House	6728-6729, 6733-6736	6
Senate	1119, 1211-1212	3
Judiciary	902-904, 910-911, 1009-1013, 1208-1210, 1214-1218	18
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 20
6540 – 6911**

Calendar, as amended by Senate "A." Is there
objection?

Hearing none, so ordered.

Mr. Clerk, 518.

THE CLERK:

House Calendar 518, Favorable Report of the joint
standing Committee on Public Safety and Security,
Senate Bill 426, AN ACT SUSPENDING AND EVALUATING THE
CONSOLIDATION -- CONSOLIDATION OF DISPATCH CENTERS
WITHIN THE DIVISION OF STATE POLICE.

DEPUTY SPEAKER GODFREY:

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I move we, I move we add this item
to the Consent Calendar, as amended by Senate "A."

DEPUTY SPEAKER GODFREY:

The question is on placing this on the Consent
Calendar, as amended by Senate "A." Is there
objection?

Hearing none, so ordered.

Mr. Clerk, 452.

THE CLERK:

House Calendar 452, Favorable Report of the joint
standing Committee on Judiciary, Substitute Senate

Bill 154, AN ACT CONCERNING PROBATE COURT OPERATIONS.

DEPUTY SPEAKER GODFREY:

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

I'd like to move the following item to the

Consent Calendar, Mr. --

DEPUTY SPEAKER GODFREY:

The question --

REP. ARESIMOWICZ (30th):

-- Speaker.

DEPUTY SPEAKER GODFREY:

-- is on placing this on the Consent Calendar.

Is there objection?

Hearing none, so ordered.

Mr. Clerk, Calendar 511.

THE CLERK:

House Calendar 511, Favorable Report of the joint
standing Committee on Judiciary, Substitute Senate

Bill 155, AN ACT CONCERNING PROBATE COURTS.

DEPUTY SPEAKER GODFREY:

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I'd like to move the following item
to the Consent Calendar.

506 from the Consent Calendar, please.

DEPUTY SPEAKER GODFREY:

506 is removed from the Consent Calendar.

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I'd like to remove Calendar 508 from the Consent Calendar, please.

DEPUTY SPEAKER GODFREY:

Calendar 508 is removed from the Consent Calendar.

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Mr. Clerk, would you kindly call the Consent Calendar.

THE CLERK:

Mr. Speaker, Consent Calendar Number 1, consisting of Calendar Numbers 548; 512, as amended by Senate "A"; 450, as amended by Senate "C"; 236, as amended by Senate "A"; Calendar 425; Calendar 518, as amended by Senate "A"; Calendar 452; Calendar 511; Calendar 5 -- excuse me -- 458; Calendar 491; Calendar 467; Calendar 468; item under suspension, 535; Senate Bill 00114, as considered under suspension; Senate Bill 417, suspension; Calendar Number 537, as amended by Senate "A"; Calendar 498; Calendar 499, as amended by Senate "A"; Calendar 508; and, House Bill -- what

SB176
SB179
SB70
SB247
SB271
SB426
SB154
SB155
SB262
SB456
SB463
SB493
SB114
SB417
SB269
SB309
HB5312

is it? Is off -- excuse me -- and House Bill 5312,
which was done under suspension with Senate "A" and
"B."

DEPUTY SPEAKER GODFREY:

Thank you, Mr. Clerk.

Just -- just for my own clarification, was --
that was 326 not 236?

THE CLERK:

Three-two-six.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Aresimowicz, what's your pleasure
on today's Consent Calendar?

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I move passage of the bills on
today's Consent.

DEPUTY SPEAKER GODFREY:

Question is on passage of the bills on the
Consent Calendar.

Staff and guests please come to the well of the
House. Members take their seat. The machine will be
open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll, by --
on today's first Consent Calendar. Will members
please report to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Have all the members voted?

Ladies and gentlemen, before I call for the
machine being locked, I need to note that the board is
not completely in line with the motion. Calendar 520
"A," which unfortunately is up on the board, was --
there was no motion to put that on the Consent
Calendar. Unless there's objection, we'll just fix it
ministerially and proceed on. Is there any objection
to that solution?

Thank you all.

If all the -- if everyone has voted, the machine
will be locked. Clerk will take a tally.

And the Clerk will announce the tally.

THE CLERK:

Consent Calendar Number 1.

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0

Those absent and not voting 3

DEPUTY SPEAKER GODFREY:

The Consent Calendar as moved, the bills on it
are passed.

And now, Mr. Clerk, we will do Calendar 528.

THE CLERK:

House Calendar 528, Favorable Report of the joint
standing Committee on Insurance and Real Estate,
Senate Bill 480, AN ACT CONCERNING LIFE INSURANCE
PROCEDURE LICENSES AND REGISTRATIONS OF BROKER-
DEALERS, AGENTS, INVESTMENT ADVISERS AND INVESTMENT
ADVISER AGENTS.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Insurance and
Real Estate Committee, Representative Megna.

REP. MEGNA (97th):

Thank -- thank you, Mr. Speaker.

Mr. Speaker, I move acceptance of the joint
committee's Favorable Report and passage of the bill,
in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

The question is on passage and concurrence.
Would you explain the bill, please, Representative --

REP. MEGNA (97th):

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
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SENATOR LOONEY:

Thank you, Mr. President. Mr. President moving back to Favorable Reports on the Calendar. Calendar page 16, Calendar 368, Senate Bill Number 262, move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. On Calendar page 17, Calendar 370, Senate Bill 411 would move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

And Mr. President also Calendar page 17, Calendar 372, Senate Bill Number 463, move to place this item on the Consent Calendar.

THE CHAIR:

Without objection so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Moving to Calendar page 19, under Favorable Reports, Calendar 391, Senate Bill Number 154. Move to place this item on the Consent Calendar.

THE CHAIR:

Without objection so ordered.

SENATOR LOONEY:

Thank you, Mr. President. And one additional item for the Consent Calendar, Mr. President, is on Calendar

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SENATE

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that we might proceed to a vote on the Consent Calendar.

THE CHAIR:

Madam would the people please take their conversations outside the chamber so the Clerk can so we can all hear the items on the Consent Calendar? Madam Clerk.

THE CLERK:

Items on the Consent Calendar. Page 1, Calendar Number 325, House Joint Resolution 66, and Calendar Number 326, House Joint Resolution 67.

Page 5, Calendar Number 102, Senate Bill 258. Page 6, Calendar Number 143, Senate Bill 363. Page 10, Calendar Number 287, Senate Bill 257.

Page 16, Calendar Number 368, Senate Bill 262. Page 17, Calendar Number 370, Senate Bill 411, and Calendar Number 372, Senate Bill 463.

Page 19, Calendar Number 391, Senate Bill 154. Page 20, Calendar Number 411, Senate Bill 493.

Page 27, Senate Bill 101, excuse me, Calendar 101, Senate Bill 156.

Page 28, Calendar Number 105, Senate Bill 221, and Calendar Number 115, Senate Bill 291.

And Calendar Number 114, Senate Bill 295.

Page 29, Calendar Number 123, Senate Bill 290. Page 31, Calendar Number 172, Senate Bill 314.

And Calendar Number 169, Senate Bill 70. And page 33, Calendar Number 217, Senate Bill 318.

THE CHAIR:

Thank you, Madam Clerk. Please announce the pendency for roll call vote, and the machine will be open.

THE CLERK:

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There will be an immediate roll call vote in the Senate. All senators report to the Chambers.
Immediate roll call vote for Consent Calendar in the Senate. All senators report to the Chambers.

THE CHAIR:

Senator Frantz.

Have all members voted? If all members have voted, please check the board to make sure your vote is accurately recorded. If all members have voted, the machine will be closed and the Clerk will announce the tally.

THE CLERK:

Total voting	36
Aye	36
Nay	0
Absent	0

THE CHAIR:

Consent Calendar Number 1 passes. Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. I would yield the floor for members if there are announcements of any other committee meetings or other points of personal privilege to be announced before adjournment.

THE CHAIR:

Any members with additional announcements or points of personal privilege? Seeing none, Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, since there are a number of committee meetings tomorrow morning, it's our intention to begin the day with a Senate caucus at noon, and then session to follow. And with that I move the Senate stand adjourned subject to the call of the Chair.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 3
886 – 1483**

2014

SENATOR COLEMAN: Are there further questions?
Seeing none, thank you very much for your
testimony.

REP. FLEISCHMANN: Thank you.

SENATOR COLEMAN: Next is Paul Knierim, Probate
Court Administrator.

JUDGE PAUL KNIERIM: Good morning, Senator Coleman,
Representative Fox, Senator Kissel,
Representative Rebimbas, members of the
Committee, I'm Paul Knierim and I'm Probate
Court Administrator, primarily here to testify
on two bills this morning concerning the
probate court system. They are Senate Bills
154 and 155, also comment briefly on one other
provision, 5218, a uniform act concerning
partition of heirs' property.

The two bills that I mentioned first, 154 and
155, both represent the ongoing efforts of the
Probate Assembly and my office together to
continually streamline probate court procedures
and update the provisions of probate law
embodied in Title 45a.

I've given you written testimony in which is a
detailed outline of each of those provisions,
but I'll summarize a few of the provisions that
I think are key and that I'd like to call to
your attention.

In Senate Bill 154, Section 2 deals with our
communications internally as a state to the
NICS Database, the National Instant Criminal
Background Check System, which deals with
eligibility to purchase and possess firearms.

Probate court says, well, if the superior
courts have a role in that system in that
adjudications concerning mental health, can
under both state and federal law render a

person ineligible to purchase and possess firearms.

Working under a federal grant, the superior courts, DESP and DHMAS, OPM and my office all worked together over the last two years to develop a single-state database to transmit that data to the federal database and automated the process by which reporting from the courts is made to that database.

So you'll see in Section 2 provision that will eliminate the paperwork process faxing documents back and forth because that automated electronic system is now in place. A great public safety step forward, labor saving also, but it ensures that that database is both timely and accurate.

A second provision of 154 I'd like to call your attention to is Section 9. It would amend an existing statute that provides for a pilot truancy clinic under the auspices of the Waterbury Regional Children's Probate Court and add a similar provision for a pilot truancy clinic in New Haven.

The New Haven city administration, the Board of Education and the New Haven Regional Children's Court have worked together over the last nine months or so to pull together and collaborate on that program and this would give it the imprimatur of a statutory authorization.

Sections 10 through 13, lastly, on this bill, would establish a framework by which an individual could designate a successor conservator. We already have framework for individuals in their advanced planning to designate a conservator. This new provision would enable them to have a succession plan in essence, so if the successor who was designated wasn't able to serve or needed to retire while

serving, there would be a successor that could automatically step into that role.

We've had a similar arrangement on the books for guardians of adults with intellectual disability for many years and we recommend adding that to the conservatorship statute as well.

Senate Bill 155, just a couple of provisions to call to your attention, if I might. Sections 1 and 2 deal with adult adoption. That is the legal structure by which an adult person agrees with another unrelated and older person to be adopted. It comes up in many different scenarios, but probably most typical is in a step-parent scenario in which a step-parent may have had a major role in raising the child but for whatever family reasons they choose to wait until the adulthood of the child to seek probate court approval of the legal relationship.

What those two sections are doing is simply trying to clarify an ambiguity under the current statute. Specifically, that ambiguity relates to what happens to the legal relationship between biological parents and an adult adopted person when that adoption occurs.

Current statute has one explicit scenario in which the biological parent/child relationship remains, notwithstanding the adult adoption, and that is when the other biological parent has predeceased and the surviving parent remarries and the adoption is by the spouse of the surviving parent.

It leaves open the question, what about other scenarios? So what we've proposed here is clarifying language that would make it specific that under any circumstance in which a parent joins with the adoptive parent in the adoption,

JUDGE PAUL KNIERIM: Well, I did want to put that principle forward in that. I see it as clarifying an ambiguity in the statute and obviously I have a concern about people's understanding about the ramifications for those adult adoptions that have happened over the past several decades since the enactment of that legislation.

REP. REBIMBAS: And if you just wouldn't mind clarifying what the effect may be if it is made retroactive to those other matters that were already on the (inaudible).

JUDGE PAUL KNIERIM: Thank you very much. So the effect would be that in any circumstance in which a biological parent had joined in the adult adoption process, that parent, the parental rights of that parent would not be terminated as a consequence of the adult adoption.

REP. REBIMBAS: But then in that case for the parent who may be possibly wasn't located, and again, that wasn't a requirement or had no knowledge of it, ultimately then, would their parental rights be terminated as a result of this being retroactive?

JUDGE PAUL KNIERIM: Yes, they would. I think any read of existing law would have the same outcome. I don't see this proposed legislation as having, as making any change with respect to a non-participating biological parent. It would only be to make it clear that a participating biological parent remains in the legal relationship of parent/child.

REP. REBIMBAS: Thank you for that clarification. And I was just wondering if you could elaborate a little bit more regarding the successes of the pilot truancy clinic in Waterbury, seeing

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that we're now expanding it into New Haven as the proposal before us.

JUDGE PAUL KNIERIM: Thank you. I'd be very happy to. That truancy clinic in Waterbury, which was developed by Judge Brunnock, is Waterbury Judge of Probate as well as the Administrative Judge for the Waterbury Children's Court. Beginning in 2008, it's been operating first in two elementary schools and more recently in three.

It is a very collaborative, voluntary process so that parents are invited to engage in the process with elementary-age children to focus very much on the parents and their support in bringing the children to school on time and consistently. So they are invited to be involved in that process.

It is a partnership with the Board of Education and the Department of Children and families so that services are brought to bear when issues are identified and more than anything else it's a problem-solving atmosphere, finding out what the causes are for student attendance problems and helping the family to resolve those issues.

I don't have precise statistics at my fingertips but Judge Brunnock has carefully monitored the changes in attendance and they are remarkably strong. You see the number of unexcused absences and tardy attendance dropped by very significant numbers, approaching 50 percent.

REP. REBIMBAS: I want to thank you for your testimony and I want to also thank you for the probate court's leadership in this type of clinic and hopefully we'll certainly see that continuing to expand throughout the state. Thank you. Thank you, Mr. Chairman.

confidential and only releasable under certain circumstances.

Care should be taken to make sure that this bill authorizes agencies to share their data that the Legislature requires in Section 1(c).

In closing, both Chief Montminy and my experience has been that the partnership amongst the school system, law enforcement and community agencies is one of the most powerful agents of change we have ever experienced in either of our careers. It has brought about a completely different atmosphere in Manchester and we are confident that other communities with school resource officers can benefit from a similar partnership and we support this legislation.

Thank you for your time and attention and I'm happy to answer any questions you may have.

SENATOR COLEMAN: Thank you very much, Captain. Are there questions for the Captain Davis? There apparently are none. Thank you for your presence and your time.

Judge John Keys. Jean Aranha.

JEAN MILLS ARANHA: Good afternoon, Senator Coleman
--

SENATOR COLEMAN: Good afternoon.

JEAN MILLS ARANHA: -- Representative Fox, and members of the Judiciary Committee. My name is Jean Mills Aranha. I'm an attorney at Connecticut Legal Services and I'm submitting this testimony on Senate Bill 154 PROBATE COURT OPERATIONS on behalf of the legal service organizations in Connecticut, the Connecticut Legal Rights Project and the low-income individuals we serve.

And I would like to say before I start that we have met with Probate Court Administration and we greatly appreciate the opportunity to have had that meeting. We had a lot of our questions and concerns answered about the bill and there were many. There were some areas we were able to work things out with Probate Court Administration.

Most of my testimony is in support of the sections I'm commenting on. Section 4 we do have some concerns with. When we met with Probate Court Administration, the draft bill that we had before us proposed to repeal Section 4a-17 of the statutes and during that meeting, we were presented with some new language that was going to be submitted instead, and I'm studying that.

We do have some concerns with it, so I'm going to devote my testimony to that and one other small point, but I did want to just again emphasize how much we appreciated the opportunity to work out most of our issues before we had to come here and have you listen to them.

Section 4a-17 provides for due process protection for individuals confined to psychiatric institutions to assure that people who are confined have actual notice of civil actions to which they are parties, or in which their property interests are affected.

And unfortunately, right now there's no penalty for failure to comply with the statute, but if a court finds it hasn't been complied with, it can at least order compliance.

While we prefer to see that section strengthened, at a minimum we don't want the protections that do exist now to be weakened,

and we feel that the current language before you does do that.

Section 4 of 154 changes the statute to provide notice only where a person is a party, removing protections for a person whose property interests may be affected. Further, it removes the requirements that mailing to the confined person at the institution be done by registered or certified mail and that the superintendent of the institution deliver a copy of the process to the confined individual, so there's no longer any guarantee that the individual actually receives the notice.

And finally, the requirement of sending copies to the Commissioner of Administrative Services has been deleted, which means that property belonging to an individual who has received public benefits from the state may be lost in a lawsuit without the opportunity for the Commissioner to protect the state's interest.

All of these changes reduce the likelihood that some very vulnerable citizens will receive actual notice of a lawsuit. We don't feel that the certified or registered mailing of an extra set of papers is an undue burden on someone pursuing a lawsuit and we don't feel that requiring a superintendent to make certain that the confined person actually receives the papers is an onerous responsibility, especially when weighed against the possibility that a disabled person may miss the opportunity to defend himself or his property interest because he's confined to a psychiatric institution.

Could I have 30 second for one other point?
Thank you.

Section 14 right of transfer conservatorship file, we support the change to the statute, which is proposed requiring the transfer of a

file once the probate court has determined that the transfer is the preference of the person. However, we do believe that this right should also extend to individuals who are no longer under conservatorship but who have outstanding proceedings to be conducted, and we feel that could be done with the addition of a couple of words.

And I have one other point, which is addressed in my written testimony and I'll let you read that since I'm over my time. Thank you very much.

SENATOR COLEMAN: You know, generally for everyone's information, we've generally been allowing people who are addressing the Committee today to go beyond, 30 seconds beyond, or when you hear the bill just proceed to summarize if you have a substantial balance of remarks.

JEAN MILLS ARANHA: Okay.

SENATOR COLEMAN: But you said you have one more point?

JEAN MILLS ARANHA: I just have one point I can summarize it very quickly.

SENATOR COLEMAN: Let's hear it.

JEAN MILLS ARANHA: And again, this is just a comment. On Sections 1 and 3 of the bill, which address the admissibility of medical records in commitment proceedings and release of commitment proceedings, the bill adds a paragraph to each of those statutes, 17a-498 and 17a-510 to make it clear that the rules of evidence apply in such hearings and we're completely in support of that.

Our concern was that in the words missing of that change, a sentence was taken out of each of those statutes concerning the admission of

confidential hospital records, and that sentence was, nothing shall prevent the timely objection to the admissibility of evidence.

We were concerned because there are often valid objections of hearsay irrelevance that could be made to the admission of medical records and we were assured in our discussions again, which were so helpful with Probate Court Administration that that was not the intent of the statute and that all objections would be allowable under the rules of evidence.

So we just wanted to make that clarification of intent part of the record here.

SENATOR COLEMAN: Thank you. Are there questions? Any members with questions? Seeing none, we appreciate your testimony.

JEAN MILLS ARANHA: Thank you for your time.

SENATOR COLEMAN: Barry Horowitz is next.

BARRY HOROWITZ: Good afternoon, honorable Committee members. I'm a Connecticut attorney practicing for 28 years. I'm a member of the Estate Planning and Probate Section of the Bar as well as the Elder Law Section and the Ethics Committee.

I'm also a founding member of the Hartford law firm of Nirenstein, Horowitz and Associates, a law firm that does exclusively estate planning law.

I'm before you today to express my concerns regarding the Connecticut Uniform Power of Attorney Act, Raised Bill Number 5215.

The act is an attempt to provide a national power of attorney with accompanying laws. However, the act has proved to be controversial, burdening parties to powers of



STATE OF CONNECTICUT

OFFICE OF THE
PROBATE COURT ADMINISTRATOR

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To: Senate Co-Chair Eric Coleman
House Co-Chair Gerald Fox
Senate Ranking Member John Kissel
House Ranking Member Rosa Rebimbas
Honorable Members of the Judiciary Committee

From: Paul J. Knierim
Probate Court Administrator

Re: RB 154 An Act Concerning Probate Court Operations

Date: February 24, 2014

Thank you for the opportunity to testify in support of Raised Bill 154, which the Connecticut Probate Assembly and the Office of the Probate Court Administrator jointly support. The bill is part of our ongoing effort to streamline Probate Court procedures and update obsolete provisions in the statutes relating to probate law. This testimony will summarize the major provisions of the bill.

Sections 1 and 3 change the jurisdiction for commitment review hearings, at which the court determines whether a patient who has been involuntarily hospitalized for an extended period should be released. The bill provides that review hearings be held at the court where the hospital is located, rather than the court that originally committed the patient, to permit easier participation by the patient and hospital staff.

Sections 1, 3, 5 and 6 all incorporate clarifying language into statutes that require the application of rules of evidence in probate hearings. The new language is intended to make it clear that the entire body of evidentiary rules used in civil matters in the Superior Court, including the Connecticut Code of Evidence, statutory provisions and the common law, also applies in probate matters.

Section 2 streamlines the process by which Probate Courts report psychiatric commitments to the federal National Instant Background Check System (NICS), which is used to determine eligibility to purchase firearms. Under federal and state law, commitment for treatment of mental illness is among the grounds for ineligibility. Using federal grant funds, the Superior Court, DMHAS, DESPP and OPM and my office developed a single Connecticut database for all matters to be reported to NICS and automated the transmission of information to the state database. The system obviates the existing paper intensive reporting process and ensures that the database is updated nightly with accurate information. In light of these technological improvements, the bill would delete the requirement that Probate Courts fax commitment paperwork to DMHAS.

Section 4 simplifies C.G.S. section 4a-17, which establishes procedures to provide notice of a court proceeding to a patient in a psychiatric facility. The proposal seeks to synchronize section 4a-17 with other statutory notice provisions by directing that any notice requirement other than personal service may be satisfied by mailing the notice to the patient at the facility and to the superintendent of the facility. The superintendent, in turn, is required to provide a copy to the patient as a means of ensuring that the patient receives the notice. If a statute or rule requires personal service, the notice must be mailed to the superintendent, in addition to being personally served on the patient at the facility.

Sections 7 and 8 correct an oversight in last year's budget implementing legislation. The biennial budget adopted in 2013 transferred funding for the Kinship Fund and Grandparents and Relatives Respite Fund programs from DSS to the Probate Courts. Sections 6 and 7 complete the transition by transferring the responsibility for administering the grants from DSS to Probate Court Administration.

JFS Request – in line 384, add “Administrator” after “Probate Court”

Section 9 amends C.G.S. section 45a-8c to permit the New Haven Regional Children's Probate Court to establish a clinic to address student attendance problems. The clinic, which is modeled after a highly successful program established by the Waterbury Regional Children's Probate Court in 2008, is a collaboration among the court, the New Haven Public Schools and DCF.

JFS Request – in line 460, delete “the district of” before “New Haven”

Sections 10-13 permit the court to appoint a successor conservator when appointing a primary conservator and similarly permit an individual to make an advance designation of a successor conservator. The arrangement ensures that a conservator is immediately available to act if the primary conservator is no longer able.

Section 14 amends C.G.S. 45a-661, which deals with the transfer of a conservatorship matter from one Connecticut Probate Court to another. Under the proposal, the court may grant a transfer request only if it finds that it represents the conserved person's preference. The change is intended to permit the court to scrutinize the reasons for a transfer request and elevate the preferences of the conserved person over those of other parties to the matter.

Section 15 repeals the requirement that the Probate Court Budget Committee make an annual report to the Governor and the General Assembly. The budget committee was established in 2009 and charged with establishing a uniform compensation and benefits plan for court employees, staffing levels, and court office budgets. While the report provided a useful mechanism to document the progress of the Probate Court system during restructuring, it is not a productive use of resources now that the transition complete.

Section 16 repeals C.G.S. 45a-113 resolving a redundancy between two statutes dealing with use of credit cards to pay probate fees.

On behalf of the Probate Court system, I respectfully request that the committee act favorably on the bill. Thank you for your consideration.

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**Testimony of Jean Mills Aranha, Connecticut Legal Services, Inc.
 In Opposition to Section 4 of SB 154
 and Commenting on Sections 1, 3 and 14:
 An Act Concerning Probate Court Operations
 February 21, 2014**

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

My name is Jean Mills Aranha; I am an attorney working in the
 Elder Law and Public Benefits Units of Connecticut Legal Services in
 Stamford. I submit this testimony in opposition to the provisions of
 Section 4 and to comment upon Sections 1, 3 and 14 of Senate Bill
154, on behalf of the legal services programs in Connecticut, the
 Connecticut Legal Rights Project and the low income individuals we
 serve.

**Section 4: Revision of Section 4a-17 of the General Statutes Should
 Not Weaken Due Process Protections for Persons Confined to
 Psychiatric Institutions**

Section 4 of this bill makes changes to Section 4a-17 of the general
 statutes. This statute currently provides due process protections
 for persons confined to psychiatric institutions when they are
 involved in or have property affected by a civil lawsuit. While the
 protections in the current statute are not as strong as we would
 like to see, the changes proposed in this bill weaken them further,
 and we are opposed to those changes.

Section 4a-17 provides for additional mailings of service of process
 for individuals confined to psychiatric institutions, to assure that
 persons so confined have actual notice of civil actions to which

they are parties, or in which their property interests are affected. Unfortunately, there is no penalty for failure to comply with the statute, but if a court finds it has not been complied with, the court must order compliance. We would prefer to see this portion of Section 4a-17 strengthened; at a minimum, the protections of the statute which do exist now should not be weakened as proposed in Section 4 of SB 154.

Section 4 changes the statute to provide notice only where a person is a party, removing the protections for a person whose property interests may be affected by a lawsuit. Further, it removes the requirements that the mailing to the confined person at the institution be done by registered or certified mail and that the superintendent of the institution deliver a copy of the process to the confined individual, so there is no longer any guarantee that the individual will actually receive the notice.

Finally, the requirement of sending copies to the Commissioner of Administrative Services has been deleted. This means property belonging to an individual who has received public benefits from the State may be lost in a lawsuit without any opportunity for the Commissioner to protect the State's interest in recovery from that property.

All of these changes reduce the likelihood that some very vulnerable citizens will receive actual notice of a lawsuit in which they are vitally interested – an eviction, for example. When we met with Probate Court Administration to discuss this bill, we understood that it wanted to clarify a confusing statute. These changes do far more than that. To simplify the statute in the way proposed in Section 4 would have the unfortunate result of needlessly limiting the due process rights of individuals confined to psychiatric institutions. Furthermore, this is not a Probate Court statute. It was last amended in 2007 in P.A. 07-148, An Act Concerning the Department of Mental Health and Addiction Services, without any of these limiting changes. The certified or registered mailing of an extra set of papers is not an undue burden on someone pursuing a lawsuit, nor is requiring the superintendent to make certain that the confined person actually receives the papers an onerous responsibility, especially when weighed against the possibility

that a disabled person may miss the opportunity to defend himself or his property interests because he is confined to a psychiatric institution.

If revision to Section 4a-17 is needed, we suggest alternate amended language which is attached to my testimony.

Section 14: Right of Transfer of Conservatorship Files Should be Extended to Formerly Conserved Persons

Section 14 of the SB 154 bill revises Section 45a-661 of the general statutes, concerning the transfer of conservatorship files when a person under conservatorship has moved to another probate district. This is of particular concern to our clients, as they have limited resources to travel long distances to attend hearings.

We support the change to the statute which requires the transfer of a file once the Probate Court has determined that the requested transfer is the preference of the person who is the subject of a conservatorship.

We believe, however, that this right should extend to individuals who are no longer under conservatorship, but who have outstanding proceedings to be conducted. Individuals are frequently conserved while in the hospital, which may not be located in the district of their residence. They may recover and have the conservatorship terminated. If they have moved back home or to a new residence, they should have the option of having the accounting proceedings, for example, heard in their home district.

Probate Court Administration has expressed to us that this is an unusual situation, but the inclusion of these cases could be accomplished with the simple insertion of a few words. We propose that where Section 45a-661 refers to "any person under voluntary or involuntary representation" or "the person under conservatorship" be changed to read "any person now or formerly under voluntary or involuntary representation" and "the person now or formerly under conservatorship."

Sections 1 and 3: Admissibility of Medical Records Is Subject to Objection under the Rules of Evidence

Section 1 revises Section 17a-498 of the general statutes, concerning hearings on commitment proceedings. Paragraph (h) is added, to make it clear that the rules of evidence apply in such hearings. As a result of the addition of paragraph (h), subparagraph (b) (2) is being amended in part as follows:

Notwithstanding the provision of sections 52-146d to 52-146i, inclusive, and subject to the rules of evidence as provided in subsection (h) of this section, all such hospital records directly relating to the [patient] hospitalized respondent shall be admissible at the request of any party of the [Court of] Probate Court in any proceeding relating to confinement to or release from a hospital for psychiatric disabilities. [Nothing herein shall prevent timely objection to the admissibility of evidence in accordance with the rules of evidence.]

We have no objection to the express reference to the rules of evidence. We were concerned that the deletion of the sentence concerning timely objection to the admissibility of hospital medical records could be interpreted to mean that such records would be admissible without objection. In fact, there are many valid objections which can be made to the admission of hospital records, including hearsay and relevance objections. Section 3 of SB 154 contains parallel language in revising Section 17a-510 of the general statutes, concerning release from commitment.

When we discussed these Sections with Probate Court Administration, we were assured that that there was no intent to limit objections to the admission of hospital records; rather these are technical revisions proposed to make clear that the rules of evidence apply to these statutes. The phrase "and subject to the rules of evidence as provided in subsection (h) of this section" was added to each section to alleviate our concern and make clear that objections would not be prevented or limited by these revisions. We appreciate this clarification of intent by Probate Court Administration and wanted to make it part of the record here.

Thank you for your time and attention.

Attachment to Testimony of Jean Mills Aranha on SB 154

**Suggested Amendment to Section 4a-17 by Connecticut Legal Services, Inc.
and the Connecticut Legal Rights Project**

Section 4a-17 of the general statutes is repealed and the following is substituted in lieu thereof: (Language from the current statute which SB154 removes but which we would retain is shown in ALL CAPITALS; our further additions are shown in bold.)

(a) IN any action or proceeding in any court TO WHICH ANY PERSON confined by order of any court, or as provided by section 17a-502 or 17a-506 in any institution for persons with psychiatric disabilities in this state IS A PARTY OR WHICH AFFECTS OR RELATES TO THE PROPERTY RIGHTS OF ANY SUCH PERSON, a copy of all process, notices and documents required to be served upon such confined person [either personally or at such confined person's abode or by mail] by means other than personal service shall be sent BY REGISTERED OR CERTIFIED MAIL to such confined person at the institution where such person is confined and to THE COMMISSIONER OF ADMINISTRATIVE SERVICES AT HARTFORD. [] ANOTHER COPY THEREOF SHALL BE SO MAILED TO THE SUPERINTENDENT OF THE INSTITUTION WHERE SUCH PERSON IS CONFINED OR LEFT WITH THE SUPERINTENDENT OR THE SUPERINTENDENT'S REPRESENTATIVE AT HIS OR HER OFFICE, AND ANOTHER COPY THEREOF SO MAILED TO [SERVED UPON] THE SUPERINTENDENT OF SUCH INSTITUTION OR THE SUPERINTENDENT'S REPRESENTATIVE, FOR SUCH CONFINED PERSON, AND AS SOON THEREAFTER AS PRACTICAL AND REASONABLE, SUCH SUPERINTENDENT OR SUCH SUPERINTENDENT'S REPRESENTATIVE SHALL DELIVER SUCH COPY TO SUCH CONFINED PERSON. Whenever service or notice is required by publication only, two copies thereof shall be sent to the superintendent of the institution by registered or certified mail, and one copy shall also be so mailed to the Commissioner of Administrative Services at Hartford; and such superintendent or such superintendent's representative shall deliver one copy thereof to the confined person as soon as practical and reasonable. Such mailing along with proof of delivery shall satisfy and be deemed equivalent to any requirement under law for service of such process, notices or documents by means other than personal service. A copy of all process, notices or documents that are required to be served personally on such confined person shall be sent by first class mail to the superintendent of the institution where such person is confined, in addition to being served personally on such confined person.

(b) No action or proceeding shall abate because of any failure to comply with the provisions of this section, but the court before whom any such action or proceeding is pending shall, upon finding noncompliance with any of said provision, order immediate compliance with said provisions.