

Legislative History for Connecticut Act

PA 14-204

SB260

House	6959-6962	4
Senate	806-811, 872-873	8
Judiciary	1713-1715, 1718, 1719- <u>1721, 1781-1784</u>	11
		23

H – 1201

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 21
6912 – 7260**

Those absent and not voting 6

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I move that we immediately transmit to the Senate any items waiting further action.

DEPUTY SPEAKER GODFREY:

Without objection, so ordered.

Representative Aresimowicz, I understand we have another Consent Calendar.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

We are. We are about to list off the bills that will be included in our second Consent Calendar for the evening, sir.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

I move -- I'd to add the following to the Consent Calendar. Calendar 426, Calendar 308, Calendar 438, Calendar 488 --

SB281

SB19

SB182

SB330

DEPUTY SPEAKER GODFREY:

Whoa, whoa, whoa.

REP. ARESIMOWICZ (30th):

I apologize, Mr. Speaker. The first number was
427.

DEPUTY SPEAKER GODFREY:

So 427, thank you, sir. Proceed.

REP. ARESIMOWICZ (30th):

Calendar 476, as amended by Senate "A"; Calendar
445, Calendar 514, Calendar 505, as amended by Senate
"A"; Calendar 455, Calendar 456, as amended by Senate
"A"; Calendar 322, Calendar 536, as amended by Senate
"A" and Senate "B"; Calendar 430, Calendar 520, as
amended by Senate "A" and Senate "B"; Calendar 538, as
amended by Senate "A"; Calendar 424, as amended by
Senate "A"; Calendar 439, as amended by Senate "A";
Calendar 482, as amended by Senate "A"; Calendar 325,
as amended by Senate "A."

Calendar 526, as amended by Senate "A"; Calendar
509, as amended by Senate "A"; Calendar 532, Calendar
502, as amended by Senate "A"; Calendar 421, as
amended by Senate "A"; Calendar 431, as amended by
Senate "A"; and Calendar 539, as amended by Senate
"A."

SB 194
SB 402
SB 324
SB 45
SB 221
SB 257
SB 201
SB 389
SB 418
SB 438
SB 427
SB 260
SB 208
SB 424
SB 241
SB 14
SB 106
SB 322
SB 410
SB 217
SB 477
SB 429

DEPUTY SPEAKER GODFREY:

Is there objection to any of these items being placed on the Consent Calendar? If not, Representative Aresimowicz, would you like to move passage of the Consent Calendar?

REP. ARESIMOWICZ (30th):

Mr. Speaker, I want to remove Calendar 539.

SB429

DEPUTY SPEAKER GODFREY:

Please remove Calendar 539, Mr. Clerk.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I move passage of the bills on the second Consent Calendar of the day.

DEPUTY SPEAKER GODFREY:

The question is on passage of the items on Consent Calendar Number 2.

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

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll on the second Consent Calendar of the day, House Consent 2. Please report to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members
voted?

If all the members have voted, the machine will
be locked.

The Clerk will take a tally.

And the Clerk will announce the tally.

THE CLERK:

Consent Calendar Number 2.

Total Number Voting 147

Necessary for Passage 74

Those voting Yea 147

Those voting Nay 0

Those absent and not voting 4

DEPUTY SPEAKER GODFREY:

The items on the Consent Calendar are passed.

(Speaker Sharkey in the Chair.)

SPEAKER SHARKEY:

The House will please come back to order.

Will the Clerk please call Emergency Certified
Bill 5597.

THE CLERK:

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SENATE**

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SENATE

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THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I move adoption.

THE CHAIR:

On adoption.

Will you remark, sir?

SENATOR WITKOS:

Thank you, Mr. President.

Ladies and gentlemen of the circle, this is an issue that has come to mind most recently this past summer after last year's passage of the comprehensive energy strategy bill where in the State of Connecticut has embarked on a means of providing a clean, efficient fuel changeover for over 300,000 of our residents in the State of Connecticut over a ten year period. And that changeover is going to be from an oil fired furnace to a natural gas delivery system.

And I happened to have the occasion to attend a function in one of the communities in the state by the Electric Heating and Cooling Contractor's Association. And we were talking about the comprehensive energy strategy plan and they said to me, Senator, we think it's a great plan, it's cleaner and it's cheaper for Connecticut residents. But we do have a problem and we hope that you can help us address that problem. And I asked him, well what's the problem? And they said the problem is that we have an aging workforce and we don't have enough tradesmen that will be able to accommodate the conversions for all the residences that will want to convert -- 300,000 over a ten year period is a lot of conversions. So if you could, we like to see if you could increase the apprentice journeyman ratios for us.

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So, not familiar with the topic, I said okay, I'll do a little research and I proposed a bill and there was a public hearing. And I will tell you that during the public hearing, there was a lot of testimony and it was divided testimony. For me it appeared that the small businessmen and the students that are currently attending our technical high schools were in support of the bill and there were members of some of the local unions that were opposed to the bill.

And the opposition to the bill surrounded the fact that the purpose was to get cheap labor and it would become a safety issue. And honestly, after doing more research, I felt that that was what I believed to be a disingenuous argument because number one, the labor rate set for apprentices is determined by the Department of Labor; and number two, the safety factor is it still remains a one to one ratio. You have one apprentice to one journeyman.

So the bill didn't make it out of committee and then after further discussion, I said well let me offer an amendment and I'll reduce the number of apprentices. So under current Statute right now, we have a one to one ratio for the first two employees. I'm asking for a third employee to be on the one to one ratio. And after the amendment was drafted, as you know some time goes by, a fiscal note appears. And to me, this is the kicker of them all.

This gives you the ultimate reason why you should be supporting this amendment. The amendment says the cost to the State of Connecticut is \$58,000. But in return for \$58,000, we will create between 500 to 600 jobs. Let me reiterate, for \$58,000 we're creating 500 to 600 jobs, when we're used to paying a million dollars a job around this circle. It's a pretty good bargain. And it is the young folk that we're going after. These kids that are in our technical schools, our high schools our secondary education, they're in their craft doing their work but yet they have to come in and they have to sweep a floor because we don't have enough apprentice slots for them.

It doesn't cut down on the amount of time that they need to reach down their journeymen; they still have to do the 8,000 hours of on the job training which

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takes approximately six years to do. But this give them the avenue to get their foot in the door so they can start that training at a young age and maybe we'll stop the brain drain that we always talk about in the circle, from our state.

I can't tell you how many letters I receive from kids that are in high school or in the technical schools, asking for us to push the amendment and the bill forward because they're looking forward to getting a job in a company instead of being on an apprentice wait list.

So ladies and gentlemen of the circle, I ask for your support. I believe this is a good amendment. Nowhere else have we heard discussions in this Chamber or the Chamber below about creating 500 to 600 jobs by the nonpartisan office of fiscal analysis for \$58,000. There is a wait list -- let's get these kids to work and get them into our workforce. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark further on the amendment? Will you remark further on the amendment?

If not, I'll try your minds.

I'm sorry, Senator Musto did you want to come?

If not, I'll try your minds.

All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

THE CHAIR:

Opposed nay.

The ayes have it.

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Senate "B" is adopted.

Will you remark further on the bill as amended?

Senator Musto.

SENATOR MUSTO:

Thank you, Mr. President.

We are -- we did discuss this bill earlier and we would just ask that we have a roll call vote on it at this time.

THE CHAIR:

Thank you, Senator.

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

If not, Mr. Clerk, please announce a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call in the Senate.

THE CHAIR:

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:

Senate Bill Number 348 as amended.

Total Number voting	36
Necessary for adoption	19
Those voting Yea	34
Those voting Nay	2
Those absent and not voting	0

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THE CHAIR:

The bill as amended passes.

Mr. Clerk.

THE CLERK:

On Page 23, Calendar 522, Substitute for House Bill
Number 5312, AN ACT REQUIRING AN ONLINE EXPLANATION BY
THE DEPARTMENT OF ADMINISTRATIVE SERVICES OF ANY
CONTRACT EXTENDED WITHOUT USING COMPETITIVE BIDDING.
Favorable report of the Committee on Government
Administration and Elections and we have amendments.
THE CHAIR:

Senator Musto:

Thank you, Mr. President.

I move the joint committee's favorable report and
passage of the bill.

THE CHAIR:

On acceptance and passage.

Will you remark, sir?

SENATOR MUSTO:

Yes, Mr. President. The explanation or the title
rather, is pretty much the entire explanation of the
bill. It amends current law to require -- and I can
read the entire change -- if any contract is extended
pursuant to this Section without complying with
competitive bidding requirements of Section A of
Section 4a-57, the Commissioner of Administrative
Services shall post an explanation of the reasons for
such noncompliance on the DAS internet website. That
is the entirety of the bill. It just amends Section
4a-59A of the General Statutes. It did pass committee
and the House unanimously and I would urge this
Chamber's adoption as well and passage.

THE CHAIR:

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Thank you, Senator.

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

SENATOR MUSTO:

Yes, Mr. President, I'm sorry.

THE CHAIR:

Yes, Senator Musto. :

SENATOR MUSTO:

Although I was done explaining the bill, we do have two amendments, one of which I would ask the Clerk to call. It's LCO 5465.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 5465, Senate "A" offered by Senator Musto and Representative Jutila.

THE CHAIR:

Senator Musto.

SENATOR MUSTO:

Thank you, Mr. President.

Mr. President, this amendment is essentially the language of Bill Number 248 with the amendments that were previously passed by this Chamber. For various technical reasons, we're appending this bill and sending it back down to the House. We've already discussed that language and amendments and again, the amendments were, I believe, all voice votes and passed and the underlying bill was supported by the committee. I would ask the Chamber's adoption of this amendment.

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Opposed. Reconsideration is passed.

SENATOR LOONEY:

Right now since the matter is before us again, Madam President, I would move to mark it passed temporarily.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Now if the Clerk would call those Consent Calendar items so that we might move to a vote on the Consent Calendar, and then we might proceed to the items that were marked go.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 2 Calendar 166, Senate Bill 427.

Page 4 Calendar 300 Senate Bill 417.

Page 6, Calendar 331, House Bill 5248.

Page 7, Calendar 340, House bill 5273.

On page 10, Calendar 416, House Bill 5407. Calendar 415, House Bill 5518. Calendar 396, Senate Bill 114.

On page 11, Calendar 419, House Bill 5477.

Page 12, Calendar 426, House Bill 5023.

On page 18, Calendar 489, House Bill 5227. Calendar 470, House Bill 5506. Calendar 490, House Bill 5113.

On page 19, Calendar 494, House Bill 5573.

Page 20, Calendar 498, House Bill 5467. Calendar 499, House Bill 5419.

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And on page 22 Calendar 513, House Bill 5353.
Calendar 515, House Bill 5361.

And on page 24, Calendar 526, House Bill 5556.
Calendar 524, House Bill 5219.

Page 25, Calendar 4 -- sorry, Calendar 530, House Bill 5368,
page 27, Calendar 546, House Bill 5061.
Calendar 543, House Bill 5037.

On page 28, Calendar 550, House Bill 5514.

Page 29, Calendar 554, House Bill 5148.

Page 30, Calendar 563, House Bill 5554.

Page 31, Calendar 567, House Bill 5229. Calendar 565,
House Bill 5028.

And on page 42, Calendar 384, Senate Bill 442.

THE CHAIR:

Senator Looney, do you have any more good news for us?

SENATOR LOONEY:

Yes, thank you, Madam President. One additional item
to add before we call for the actual vote on the
Consent Calendar, and that is item an Calendar page
33, Calendar 575, House Bill 5359. With that one
addition it would call for a vote on the Consent
Calendar.

THE CHAIR:

Mr. Clerk, please call for a vote on the Consent
Calendar, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call on the second Consent Calendar
today has been ordered in the Senate.

THE CHAIR:

**JOINT
STANDING
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HEARINGS**

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PART 4
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2014

statute, we were trying to relieve the farmer in that case from a liability when someone actually handed the fruit off to someone else or they actually picked it, so we wanted to relieve them of that liability. So I think they're similar.

REP. G. FOX: Thank you.

Are there other questions for Representative Miner?

No. Thank you, and thanks for bringing this to our attention, and we'll be sure to talk about it some more.

REP. MINER: Thank you, Mr. Chairman. Anything I can get you in the -- you know, between now and the time the committee ends, I'd be happy to try and provide it.

REP. G. FOX: Thanks. Thanks, Craig.

Next I will turn to the public sign-up sheet, and the first name on there is Daniela Giordano. Okay. Then I'll go to the next name, it's Richard Holmes.

Good morning.

SB 260

RICHARD HOLMES: Good morning. Good morning to Representative Fox, Senator Kissel, Representative Rebinbas and the rest of the distinguished guests this morning, and members of the Judiciary Committee. My name is Richard Holmes. And I am a funeral director with the Holmes and Watkins Funeral Homes in Manchester, Connecticut. I am here today representing the Connecticut Funeral Directors Association, which represents over 220 funeral homes in Connecticut. I serve on their legislative committee, and I am also a past president. And

I am grateful for this opportunity to provide you testimony in regards to -- in supporting Senate Bill 260, AN ACT CONCERNING THE DUTIES OF CONSERVATOR AND OTHER PERSONS AUTHORIZING TO MAKE DECISIONS RELATING TO THE CARE AND DISPOSITION OF A DECEASED PERSON'S BODY.

This legislation is a result of a collaborative effort of the Probate Court Administration and the Connecticut Funeral Directors Association.

Senate Bill 260 would permit a conservator or a conservator with the permission of the probate court to make funeral disposition arrangements on behalf of their ward in advance of their passing. This power is particularly important where the ward has little or no family and would help avoid situations where a ward passes away in a nursing home, and there are no directions as to who should be in charge of his or her disposition. This legislation would also allow an agent with power of attorney to make funeral disposition arrangements in advance on behalf of their principal.

In addition, CFDA also supports the provision in the legislation that would permit majority rule to make disposition arrangements when there are multiple people with equal disposition rights, for example, multiple children in a family, the majority of the children would direct the disposition of their parent.

In conclusion, the Connecticut Funeral Directors Association believes that this legislation closes gaps in the law regarding disposition, especially regarding conserved persons who may not have surviving relatives or relatives who do not wish to participate. This legislation establishes a clear method in regards to disposition where families are

spread out over the country or cannot be located or have no interest in being part of the disposition process.

I thank the committee for your attention in allowing me to speak with you this morning, and I would be happy to answer any questions you may have.

REP. G. FOX: Thank you, Mr. Holmes, thanks for being here today.

Are there any questions?

I don't see any, so thank you.

RICHARD HOLMES: Thank you very much.

REP. G. FOX: Next is Henry Talmage.

HENRY TALMAGE: Good morning, Representative Fox, members of the committee. My name is Henry Talmage. I'm the executive director of the Connecticut Farm Bureau. We represent 5,000 farming families in Connecticut of all types of agriculture, large, small and every type of commodity.

I come before you today in support of Raised Bill 5340, AN ACT CONCERNING THE LIABILITY OF A LANDOWNER WHO PERMITS MAPLE-SUGARING ACTIVITIES ON THE LAND.

As Representative Miner pointed out, many of the -- the issues facing this segment of agriculture industry, but, in particular, what this bill does is -- is -- it attempts to provide some limits and liability for the landowners that make their land available to the maple-sugaring -- maple-sugaring activities. One of the -- one of the challenges with this, and as you, you know, I

land is still good and still productive. And the good part is now it's kind of cool to be a farmer again, you know, so there are people who want to engage their land, but if they're -- they're getting advised that they have some risk profile that would -- that would keep them from doing it, I think that's a -- that's a reason to look at this a little differently, but we'll find out what the other states are doing, especially other maple syrup states.

REP. REBIMBAS: Thank you, again, for your response and your testimony.

REP. G. FOX: Thank you.

Are there other questions?

Well, thank you very much.

HENRY TALMAGE: Thank you.

REP. G. FOX: Sally Zanger. Good morning. If you could hit the red button in front of you, because that way --

SALLY ZANGER: Okay. Working now.

REP. G. FOX: Now we can hear you.

SALLY ZANGER: Good morning, again. I'm here to testify on two different bills. The first is in support of Raised Bill Number 5367, the one that Commissioner Rehmer testified about.

SB 385
SB 260

I'm a staff attorney with the Connecticut Legal Rights Project, which is a legal services organization that advocates for low-income individuals who are in institutions and in the community and who have or who are perceived to have psychiatric disabilities. So this bill is very simple. Connecticut General Statute 46a-

58 protects against the deprivation of rights, privileges and immunities based on religion, national origin, alien, age, color, race, sex, gender identity or expression, sexual orientation, blindness or physical disability, it did not include mental disability -- it does not include mental disability. And so this bill simply adds "mental disability" to the list of people with mental disability -- people who are protected by the bill.

It's not clear to me why it wasn't in place already. It was an omission that left my clients unprotected against discrimination that doesn't fall squarely within one of the other antidiscrimination statutes, so it just -- it solve that problem, and I urge you to pass the bill. The changes are fair, and they make good sense.

I notice that there's also a comprehensive bill from the Commissioner on Human Rights and Opportunities, Number 385, that's not before you today but has similar corrections of the statute. Hopefully it will happen.

REP. G. FOX: Thank you.

Are there questions?

I don't see any, but thank -- thanks you for your testimony.

SALLY ZANGER: Okay. So the -- the other bill is SB 260, the one that was just testified about that -- our organization also has an interest in -- in probate and conservatorship. We were involved -- one of our staff was involved in the changes of the conservatorship law in 2007 and our clients are frequently conserved. And in addition, we've been working with the Department of Mental Health and Addiction

Services to promote the use of advanced directives for healthcare. So the bill that gives conservators the right to sign a document to make decisions about disposing of the remains of a conserved individual came -- came to my attention. It makes good sense what everybody testified -- said before this, someone dies, doesn't have family, conservators technically really doesn't have an authority unless it's given to the conservator, and certainly, it needs to be taken care of. My only issue about the bill is that it -- it talks about following an advanced statement by a conserved individual about how they want their body disposed of pursuant to one particular statute but not pursuant to the advanced directive for healthcare statute. And the advanced directives for healthcare that our client's draft typically include some information about that or about anatomical gifts, organ donation, so I would -- I just put in some suggestions on how to make sure that all of those possible ways that a person could be making a directive about how they wanted their remains disposed of would be taken into account and come within this bill. So it's not -- it's not a con or a pro, it's a fine bill it's just -- it needs -- we think it needs a little bit of tweaking in order to -- to come, you know, to protect the clients who made a previous decision to make sure that it's honored.

REP. G. FOX: Okay. Well, thank you.

Are there questions on -- on that bill?

No, I don't see any, but --

SALLY ZANGER: I put in some --

REP. G. FOX: -- yeah, so we seem to have your written testimony. Thank you.

Next is Lewis Chimes.

LEWIS CHIMES: Representative Fox, members of the Judiciary, I'm Louis Chimes. I'm here on behalf of the Connecticut Trial Lawyers. I'm the head of the Employment Committee on the bill, Raised Bill 263, for the enhanced whistleblower protections.

I also have with me a former client, Lanelle Evans, who has -- who was a whistleblower. And I thought it important for the committee to hear a little bit from her before I sort of address some of the provisions in the bill.

Miss Evans is a former employer at a coffee shop. She was making no benefits, \$8.50 an hour. She was a single mother with three young children. At the time, Miss Evans, among other things, suffered from asthma. The shop had some repairs going on in the roof which had been left uncovered while she was working and it was sort of -- because the air conditioning was on in the summer, it was pushing dust and whatever else was up there into -- into the room and she -- she complained about it to her supervisors, to no avail --

REP. G. FOX: Attorney Chimes, if you want to make -- may be the best way to -- if you want to -- she can pull up a seat right next to you and then the two of you can proceed. We don't have a long sign up list today so we can (inaudible).

LEWIS CHIMES: So she -- she had -- she then went to the Department of Public Health in New Haven, who then came in and did an inspection, cited the restaurant and she was fired the next day.

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

P.O. Box 351, Silver Street, Middletown, CT 06457
Telephone (860) 262- 5030 · Fax (860) 262-5035
JUDICIARY COMMITTEE March 5, 2014

Testimony of Sally R. Zanger, Staff Attorney, Suggesting Changes to SB 260.

Senator Coleman, Representative Fox, distinguished members of the committee, I am a staff attorney with the Connecticut Legal Rights Project (CLRP), which is a legal services organization that advocates for low-income individuals in institutions and in the community who have, or are perceived to have, psychiatric disabilities. Tom Behrendt, our legal director emeritus, worked on the "Killian Committee" that drafted P.A.07-116 which reformed the conservatorship statutes. Our clients have an interest in the rights of conserved individuals. In addition, CLRP has been working with the Department of Mental Health and Addiction Services to promote the use of Advance Directives for Health Care by our clients. Many of those advance directives include instructions about organ donation and donation of remains. Our concern about this bill is that it needs to be drafted in a way that preserves the decisions made by individuals about the disposal of their remains. It does not address all of those decisions as it is currently drafted.

SB 260 allows a conservator of the person to execute a document to designate someone to take custody and dispose of remains or a deceased conserved individual's body. The conservator should have to abide by any decisions or designations in a document previously executed by the conserved individual. The bill as drafted covers this only if the document is executed by the conserved individual while he or she had capacity **and if it is executed pursuant to 45a-318**. This problem can be dealt with by including a reference to the advance directive statute in the new statute—so that it would read "in documents executed by 1-52(14) **and 19a-575a et seq.**" (which references the advance directive for health care and health care representative statute).

A conservator of the person could execute such a document, and then the conservatorship could be terminated. In that case, is the document invalidated automatically? Is there an action that the conservator must take? The statute should require that the document state that it is invalid if the individual is not under a conservatorship of the person at the time of the individual's death, or that it expires with the termination of the conservatorship. The instruction of the conservator should end with the conservatorship. These suggestions do not change the basic intent of the proposed bill; they make it comply with other provisions of the statutes. I have attached suggested language. (Our proposed changes are underlined bolded and highlighted.)

Sec. 2. Section 45a-318 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) (1) Any person eighteen years of age or older, and of sound mind, may execute in advance of such person's death a written document, subscribed by such person and attested by two witnesses, either: [(1)] (A) Directing the disposition of such person's body upon the death of such person, which document may also designate an individual to have custody and control of such person's body and to act as agent to carry out such directions; or [(2)] (B) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such person's body upon the death of such person. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under [subdivision (1) or (2) of this subsection] subparagraph (A) or (B) of this subdivision.

(2) Any conservator of the person authorized pursuant to subdivision (5) of subsection (a) of section 45a-656, as amended by this act, to act on behalf of a conserved person, or any agent authorized pursuant to subdivision (14) of section 1-52, as amended by this act, to act on behalf of a principal may execute in advance of such conserved person's or principal's death a written document, subscribed by such conservator or agent and attested by two witnesses, either: (A) Directing the disposition of such conserved person's or principal's body upon the death of such conserved person or principal, which document may also designate an individual to have custody and control of such conserved person's or principal's body and to act as agent to carry out such directions; or (B) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such conserved person's or principal's body upon the death of such conserved person or principal. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment and cryogenic preservation. Any such document may designate an alternate to an individual designated under subparagraph (A) or (B) of this subdivision. Any such document shall state that it will expire or terminate with the termination of the conservatorship and will not be valid if the individual is not conserved at the time of his or her death.

(b) No person having the custody and control of the disposition of a deceased person's body shall knowingly provide for a disposition of the body in a manner that is inconsistent with a document executed by a person pursuant to the provisions of subsection (a) of this section, Sec. 1-52(14) or Sec. 19a-575a unless such disposition is approved by the Probate Court.

19a-580 (e) or the CGS is repealed and the following is substituted.

Sec. 19a-580e. Conservator's duty to comply with conserved person's health care instructions or other wishes. Precedence of health care representative's decisions.

Testimony of Sally R. Zanger, CLRP Staff Attorney, March 5, 2014

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Exceptions. (a) Except as authorized by a court of competent jurisdiction, a conservator shall comply with a conserved person's individual health care instructions and other wishes, if any, expressed while the conserved person had capacity and to the extent known to the conservator, and the conservator may not revoke the conserved person's advance health care directive, or directive in accordance with 45a-318 unless the appointing court expressly so authorizes.

(b) Absent a court order to the contrary, a health care decision or a decision regarding the disposition of the body of a deceased person under a conservatorship of a health care representative takes precedence over that of a conservator, except under the following circumstances: (1) When the health care decision concerns a person who is subject to the provisions of section 17a-566, 17a-587, 17a-588 or 54-56d; (2) when a conservator has been appointed for a conserved person who is subject to an order authorized under subsection (e) of section 17a-543, for the duration of the conserved person's hospitalization; or (3) when a conservator has been appointed for a conserved person subject to an order authorized under section 17a-543a.

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LINE 12

Written Testimony of Richard Holmes
Connecticut Funeral Directors Association
Judiciary Committee
Wednesday, March 5, 2014

Senate Bill 260, An Act Concerning the Duties of a Conservator and Other Persons Authorized to Make Decisions Relating to the Care and Disposition of a Deceased Person's Body

Good day Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and the distinguished members of the Judiciary Committee, my name is Richard Holmes and I am a funeral director at the Holmes-Watkins Funeral Home in Manchester. I am here today representing the Connecticut Funeral Directors Association (CFDA), which represents over 220 funeral homes in Connecticut. I serve as a member of CFDA's Legislative Committee, and as a Past-President of our Association. I am grateful for this opportunity to provide you testimony in support of Senate Bill 260, An Act Concerning the Duties of Conservator and Other Persons Authorized to Make Decisions Relating to the Care and Disposition of a Deceased Person's Body. This legislation is the result of a collaborative effort of the Probate Court Administration and the Connecticut Funeral Directors Association.

Senate Bill 260 would permit a conservator, with the permission of the probate court, to make funeral disposition arrangements on behalf of their ward in advance of their death. This power is particularly important where the ward has little or no family and would help avoid the situation where the ward dies at a nursing home, and there are no directions as to who should be in charge of disposition. This legislation would similarly allow an agent with power of attorney to make funeral disposition arrangements in advance on behalf of their principal.

In addition, CFDA supports the provision in the legislation which would permit "majority rule" to make disposition arrangements when there are multiple people with equal disposition rights (for example, two out of three children could direct the disposition of a parent).

In conclusion, the Connecticut Funeral Directors Association believes this legislation closes gaps in the law regarding disposition especially regarding conserved persons who may have no surviving relatives or relatives who wish not to participate in the disposition of the person's remains. This legislation establishes a clear methodology in regards to disposition where families are spread out over the country or cannot be located, or have no interest in being part of the disposition.

I thank the committee for your attention and allowing me this opportunity to speak on this important legislation.

I would be happy to answer any questions.