



STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Judiciary Committee
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Good morning Senator McDonald, Representative Lawlor and members of the Committee. Thank you for this opportunity to comment on several bills on your agenda today.

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

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

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

The other bill I want to comment on is **Committee Bill No. 6828, AN ACT CONCERNING THE RECORDING OF PROBATE COURT PROCEEDINGS**. Under existing statutes, if parties to a probate court proceeding agree to have a stenographic record made, the court may obtain the services of a stenographer or reporter and then apportion the cost between the parties as it sees fit. This bill would require probate courts to obtain a qualified stenographer when the parties to a proceeding agree, with the cost of compensating the stenographer being met by the party that requested the hearing.

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

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