



STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
60B WESTON STREET, HARTFORD, CT 06120-1551

JAMES D. McGAUGHEY
Executive Director

Phone: 1/860-297-4307
Confidential Fax: 1/860-297-4305

Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Judiciary Committee
February 28, 2007

Submitted by: James D. McGaughey
Executive Director

Thank you for this opportunity to comment on **Raised Bill No. 7235, AN ACT CONCERNING CRIME VICTIMS AND THE AUTHORITY OF THE VICTIM ADVOCATE**. Our Office opposes this bill as it is currently drafted.

Section 2 of this bill would alter current law with respect to the Office of the Victim Advocate's access to confidential records and information. The current statute allows the Victim Advocate to obtain such records when access is "consistent with" the confidentiality provisions of the general statutes. However, the bill would change this to allow access to non-medical treatment records "notwithstanding" any statutory provisions about their confidentiality, and would also authorize the Victim Advocate to subpoena such records and to compel related testimony.

These changes would present a significant problem for our agency. Our Office provides legal services, including advice and representation to people with disabilities. It is essential that communications between our lawyers, lay advocates and their clients be protected from disclosure. It is equally important that any personal or medical information obtained by our office during the course of representation or while we are considering requests for representation from prospective clients (e.g. intake information) be similarly protected. In addition, our Office implements several federal protection and advocacy programs that require us to maintain strict confidentiality of client records, as well as a State mandated abuse/neglect investigation program with similar requirements. These confidentiality requirements recognize that effective protection and advocacy efforts require a high level of trust that information shared with us will be held confidential. This is especially true in conducting abuse investigations, where offering reluctant witnesses an assurance of confidentiality sometimes encourages them to disclose information needed to initiate protective services. If advocates, attorneys or investigators from our Office are required to produce notes from interviews, copies of documents obtained from the records of other agencies, or if they are compelled by an investigative subpoena to provide testimony regarding confidential communications, our ability to effectively fulfill our mandates will be seriously impaired.

Situations where clients of our Office may be accused or suspected of criminal activity, or where they may have knowledge of such activity are relatively rare, but they do occur. If this bill goes forward, I would request that language be inserted exempting our Office from the requirements of Section 2.

Thank you for your attention. If there are any questions regarding our position on this matter, please feel free to contact me.

Sincerely,

James D. McGaughey
Executive Director