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**Testimony of Peter Mott, Esq.
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SUPPORTING

Senate Bill No. 1047

**"AN ACT CONCERNING THE CONNECTICUT UNIFORM TRANSFERS TO
MINORS ACT"**

Judiciary Committee
March 19, 2007

Senator McDonald, Representative Lawlor, members of the Judiciary Committee, thank you for the opportunity to appear before the Judiciary Committee to comment on Raised Bill No. 1047, "An Act Concerning the Connecticut Uniform Transfers to Minors Act".

My name is Peter T. Mott. I am a partner at Brody, Wilkinson & Ober, P.C. in Southport. I am also a fellow in the American College of Trust and Estate Counsel (ACTEC), and am Secretary of the Estates and Probate Section of the Connecticut Bar Association (CBA) and co-chair of the CBA's Charitable Giving Subcommittee. On behalf of the Estates and Probate Section of the Connecticut Bar Association, I respectfully request that the Judiciary Committee **act favorably on Raised Bill No. 1047, An Act Concerning the Connecticut Uniform Transfers to Minors Act.**

This bill would amend the Connecticut Uniform Transfers to Minors Act (the "UTMA"). That Act, codified as C.G.S. Sections 45a-557 to 45a-560b, allows a person to transfer property, during lifetime or at death, to a custodian for the benefit of a minor (defined in Section 45a-557 as a person under age 21). The custodian manages the property for the minor, who is the owner of the property, and may make distributions to or for the benefit of the minor. When the minor turns 21, the custodian is required to transfer the custodial property to the now-adult owner.

While some 21 year olds are responsible, others are not, and most have little or no experience handling substantial assets. In many cases, it is not in the newly minted adult owner's best interests to receive the custodial property at age 21. Under the UTMA, the custodian has no choice.

The bill ameliorates the problem by amending the UTMA to permit the transfer of custodial property to a trust established for the minor's benefit known as a "2503(c)" trust, which is authorized by Section 2503(c) of the Internal Revenue Code. The custodian is so authorized whether or not the instrument creating the custodial property expressly authorizes the custodian to transfer the property to the 2503(c) trust. This provides a reasonable alternative to mandatory distribution at the age of 21.

A Section 2503(c) trust, as with a custodial account, must be created for the sole benefit of a beneficiary during his or her lifetime. Upon attaining the age of 21, the beneficiary either must be given all of the trust's accumulated income and principal, or must be given the unrestricted right to withdraw the assets of the trust for a reasonable period of time (typically 30 days). If the assets are not withdrawn within the applicable period of time, the beneficiary's right of withdrawal lapses and the assets remain in the trust until the age specified in the trust instrument. After the right of withdrawal lapses, the beneficiary will continue to benefit from the trust assets because the trustee typically will be authorized to make discretionary payments to or for the benefit of the beneficiary from the income and principal of the trust for his or her health, education, and other purposes. The beneficiary also can be given a general testamentary power of appointment providing him or her with the ability to appoint the trust assets to whomever he or she desires upon death.

The change would apply to all existing custodial accounts, as well as future ones. The following states have already amended their UTMA's in a similar manner: Illinois, Florida, Maryland, Arizona, Colorado, Kansas, Missouri, Nevada, New Mexico, and Ohio.

Thank you again for this opportunity to comment on Raised Senate Bill No. 1047. I would be pleased to answer any questions you might have.