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Testimony of Alfred R. Casella
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**In Support of Raised Bill No. 705
An Act Concerning the Execution of Wills and Codicils**

**Judiciary Committee
March 19, 2008**

Senator McDonald, Representative Lawlor, Senator Kissel, Representative O'Neill and the other members of the Judiciary Committee, thank you for allowing me the opportunity to appear before you to support Raised Bill No. 705, An Act Concerning the Execution of Wills and Codicils. I am Alfred R. Casella, of the law firm of Drew & Mersereau, P.C., located in Avon, Connecticut. I am appearing today in my capacity as a member of the Executive Committee of the Connecticut Bar Association's Estates & Probate Section. On the behalf of the Connecticut Bar Association's Estates & Probate Section, I respectfully request that the Judiciary Committee approve Raised Bill No. 705, An Act Concerning the Execution of Wills and Codicils.

The Connecticut Bar Association supports Raised Bill No. 705, An Act Concerning the Execution of Wills and Codicils, because current Connecticut law, apparently unintentionally, prevents those who are physically unable to sign a will from executing a valid will in Connecticut. Currently, C.G.S. Sec. 45a-251 requires that a will be in writing, subscribed by the testator and attested by two witnesses, each of whom must subscribe in the testator's presence. If an individual is unable to subscribe the will, such as by physical disability, the individual cannot create a valid will under Connecticut law. For those who are paralyzed, double amputees or suffering from various serious degenerative medical conditions, there is no ability to make a valid will in Connecticut. The only recourse is to title property jointly or to rely on the laws of intestacy. Raised Bill No. 705, An Act Concerning the Execution of Wills and Codicils, would correct this disparity by allowing those who are physically disabled the ability to validly execute a will in Connecticut. Raised Bill No. 705 would authorize another individual to subscribe an individual's respective will on their behalf.

Many other states and the Uniform Probate Code authorize another individual to execute a will on the testator's behalf. As with Raised Bill No. 705, other jurisdictions and the Uniform Probate Code prevent fraud by requiring that the testator direct another to subscribe the will and require that that authorized individual sign the will in the conscious presence of the testator.

Connecticut law currently allows an authorized individual to do the following on the behalf of a testator:

1. Revoke a valid will or codicil (C.G.S. Sec. 45a-257); and
2. Execute an International will (C.G.S. Sec. 50a-3(d)).

If our statutes allows another to revoke a valid will, or another the ability to execute a will that will be valid internationally, it appears reasonable to allow for testators to select another individual to execute their respective will that will be valid to pass the testator's property under the jurisdiction of a Connecticut probate court.

Raised Bill No. 705 would allow a testator to direct another to execute the will on the testator's behalf even if the testator was not physically disabled. Although I cannot comprehend why someone might want to do this, there does not appear to be any harm done if this occurs. The procedural formalities and safeguards of will execution remain the same. C.G.S. Sec. 45a-250 requires that the testator be of sound mind and at least eighteen years of age. Raised Bill No. 705 continues to require two witnesses to attest the will. These witnesses would attest that the testator directed another individual to subscribe the will on the testator's behalf.

To maintain consistency with the proposed revision to C.G.S. Sec. 45a-251, the Connecticut Bar Association supports amending C.G.S. Sec. 45a-258. Currently, C.G.S. Sec. 45a-258 provides that unless a witness is an heir-at-law of the testator, any devise or bequest to the witness is void. The proposed revision to C.G.S. Sec. 45a-258 would provide additional safeguards by providing that, unless the directed subscriber is an heir-at-law of the testator, any devise or bequest to the directed subscriber is void.

As the proposed revisions to C.G.S. Secs. 45a-251 and 45a-258 would allow physically disabled individuals who are otherwise capable of creating wills the ability to create and execute a valid will in Connecticut, I respectfully request that the Judiciary Committee support Raised Bill No. 705. Such a change would bring Connecticut into parity with many other states, the Uniform Probate Code and allow disabled individual's the opportunity to pass their property to those of their choosing.

Thank you for your time and your consideration. I would be pleased provide answers to questions that the members of the Judiciary Committee have regarding Raised Bill No. 705.