CONNECTICUT LEGAL RIGHTS PROJECT

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JUDICIARY COMMITTEE March 9, 2009
Testimony of Sally R. Zanger, Staff Attorney, in support of HB-6629, HB-6626,SB-126, SB-141, H.B.-6385 and SJ-63, in opposition to SB-576, SB-6027 and HB-5848 and attaching substitute language for SB-576.

Sen. MacDonald, Rep. Lawlor, 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. We promote initiatives that integrate clients into the community. While we do not represent our clients in probate court proceedings where they have court-appointed counsel, frequently we do assist them and their counsel and we represent them on appeals of conservatorship proceedings. We certainly hear about the problems and try to help people correct them. Tom Behrendt, our legal director emeritus, who has also submitted testimony today, worked with a diverse group of lawyers two years ago on the "Killian Committee" that drafted P.A.07-116 which repaired the conservatorship statutes in several ways. I am testifying today in support of and in opposition to several bills. In summary I am here to protect and defend P.A. 07-116 which seems to be at great risk from many of the proposals before you today.

PA 07-116 came into being in part as a response to several terrible cases of overreaching by probate courts which conserved individuals over whom they had no jurisdiction. The act had several important aspects: First, it clarified and made very explicit already existing due process protections, for example, the right to counsel, including counsel of one's choice; the right to notice, including a clear explanation of terms like "involuntary representation;" the right to retain rights not explicitly delegated to conservators. Second, P.A.07-116 simplified the complex idiosyncratic probate appeal procedure to a simpler one that parallels the appeal process for administrative hearings. Finally, it modernized key aspects of the conservatorship statute by changing the definitions of incapacity, the standards for imposing conservatorship and the duties of conservators. The definitions now address a person's ability to make decisions and express preferences and to function with assistance. The standard now requires that less restrictive alternatives to conservatorship be exhausted prior to the imposition of a conservatorship and forbid the imposition of a conservatorship if a person is able to manage with assistance. Conservators are now required to promote the independence of the conserved person and to make decisions on their behalf only when required and with reference to their expressed preferences, past decisions and lifestyle choices. **The result is Connecticut has a statute considered a model, state of the art conservatorship statute.**

At the public hearings for that bill, there was talk about the need for culture change to make the aspirations of P.A. 07-116 a reality. There has been some such change—I have been to excellent workshops, trainings and presentations given by probate court judges for the lawyers and conservators that they appoint and for their constituents. I have observed hearings where the judges have carefully adhered to the new standards, have been scrupulous about explaining the process to the respondent and have developed their own orders to avoid using the boilerplate forms that do not do justice to the statute. But I have also seen far too many reports of court

appointed counsel that fail to even attempt to make their clients' cases, and far too many conservatorship orders that are boilerplate, and do not take into consideration each of the duties that should or should not be delegated to a conservator. Under these circumstances, it is not surprising that there are many bills before you that affect probate and PA 07-116 in particular.

There are several bills today that I support, and that CLRP supports that we ask you to enact. These are aimed at solving some of the technical deficiencies of PA 07-116 and dealing with the need for change in the probate court system. **We support:**

1. **HB-6629 An Act Concerning Guardians ad Litem and Conservatorships. Please see separate written testimony submitted on that bill.**
2. **HB-6626 An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court.**
3. **SB-126 An Act Requiring Probate Judges to be Attorneys**
4. **SB-141 An Act Concerning Review of G.A.L. and Expenses**
5. **H.B. -6385 An Act Concerning Reform of the Probate Court System**
6. **SJ-63 Resolution proposing an Amendment to the Constitution of the state to eliminate the Probate Courts.**

There are several bills today that will cut the heart out of the reforms of PA-07-116 and **we oppose them:**

1. **SB-576-An Act Concerning the Uniform Adult Guardianship and Protection Jurisdiction Act. (I attach proposed substitute language for this bill.)**
2. **HB-6027-An Act Concerning Probate Court Reforms**
3. **HB-5848 An Act Permitting Retired Probate Judges to Perform Certain Functions**

I. We strenuously oppose SB-576 the Uniform Adult Guardianship and Protection Jurisdiction Act. This bill, which has been promoted heavily for urgent passage, is not urgent at all and is one that eviscerates P.A. 07-116. While apparently keeping some of the language of the due process protections and the statutory notice sections of P.A. 07-116, this bill provides a host of ways to avoid all of those protections and requirements, gives broad discretion where there is none now (and should not be) and even expands the subject matter jurisdiction of our limited jurisdiction probate courts. While P.A. 07-116 was enacted in part in reaction to the jurisdictional over-reaching of Connecticut Probate courts, this act inserts options to overreach. Connecticut statutes had forbidden taking jurisdiction of people who were not Connecticut residents or domiciliaries, and then P.A.07-116 included an exception (for people located in the state, with detailed directions for returning such people to their homes. This bill sweeps those safeguards away, and permits instead, ex parte phone conversations between judges from different states to decide who should take jurisdiction. There is no understanding of in rem jurisdiction at all in this proposal. Instead there is an assumption that at least one state and maybe more will have jurisdiction and that the goal is to be sure that a person is put under the authority of a conservator. That is not the goal of our statute in Connecticut, and the basic goals of our legislative scheme should not be reversed in this manner—in a hurry and for the dubious purpose of promoting uniformity in state laws. (If there is no jurisdiction, no Connecticut judge should be making any phone calls. He or she should be dismissing the case.) If a person from another state if located in Connecticut and needs the assistance of the court, there is already a robust provision of the law requiring attempts be made to return the person home, and failing that, that a temporary conservatorship be instituted. That is what our statute says and this

legislature enacted PA-07-116 to clarify that is the law here. SB 576 turns that on its head completely.

I attach substitute language for SB 576 that we suggest to improve that aspect of the current statute without "throwing out the baby with the bathwater." The substitute language moves the provisions dealing with people located but not residing in Connecticut to the "temporary" conservatorship provision in the current statute.

HB 576 encourages forum shopping and granny snatching. As other witnesses have pointed out, or will point out, the Uniform Adult Guardianship Protection and Procedure Act was devised by professional associations of guardians and conservators without consultation with disability rights advocates. The perspective of a conserved person, or a person who is at risk of being conserved, is not considered in this act. Every person in this room should consider that this act may affect your parent this year, and it may affect you soon enough. We are all one auto accident, one stroke, or a certain number of years away from being a possible candidate for conservatorship.

This proposal is advanced as desirable solely because it is a uniform law. But uniformity is not a necessary good. In Connecticut we have a model advanced conservatorship statute. This proposed bill, even if it were uniform (and it is worth noting that only a few states have enacted it so far) would be a giant step backward. It is not called a model act, but a uniform act. Having uniformly bad laws is not an advantage.

There is no rush, there is no urgency. This measure, as drafted has major problems and many drafting defects. SB 576 it cuts the heart out of PA 07-116 and the Connecticut conservatorship statute. It is a quagmire of contradictions and confusion. If it is enacted it will keep lawyers and appellate courts busy for a long time arguing about which passage, which procedure and which definition applies to what proceeding. It will encourage forum shopping and granny snatching. It creates confusing and conflicting standards.:

- It is internally inconsistent and confusing in its terminology. It uses both our Connecticut definitions and terms and the different definitions and terms of the uniform act. Guardianship in the uniform act is the word for conservator of the person. Conservator is the word for Conservator of the estate. Unless that is the opposite. But they are not exact equivalents. Conservator "includes" conservator of the estate. What exactly is it, then? What else does it include?
- Rules in the uniform act apply to proceedings and status not addressed in our statute.
- It introduces parallel but not identical sets of definitions in addition to our Connecticut definitions. It refers to guardianship orders and guardianship proceedings, but does not explain whether we have them in Connecticut at all. It has a new status, a new definition: "incapacitated person. Protected person. We don't have those terms. If such a protected person arrives in Connecticut, there is no mechanism for that person to dissolve that protection or guardianship. It appears that if this bill is passed, a person in Connecticut can attain those titles here.
- Sec. 6 ("In a guardianship proceeding or protective proceeding in this state, a court of probate my request the appropriate court of another state to do any of the following....") "The following" includes actions that a probate court in Connecticut could not take him or herself:
  - order an investigation into a person,
  - order an evaluation,
  - authorize the release of protected information.
- Section 7(b) expands the jurisdiction of the court of probate for the limited purpose of complying with these kinds of requests.

- Section 7(c) seems to risk submission of documentary evidence that cannot be authenticated.
- **Section 9 repeals PA07-116 in its entirety, and substitutes the uniform act, which is not a good act.** If that is the intention, it is not good for the people of Connecticut. If that is not the intention, then it creates a big mess.
- SB 576 does not have any standards to determine whether a person should be conserved, or how to terminate such a conservatorship (or guardianship or protection, or whatever they call it.)
- SB 576 injects a new definition, "Emergency" for a temporary conservator (they don't seem to have a temporary guardian, or what we would call a conservator of the person). That standard for temporary or emergency intervention is not the same standard that we use in Connecticut for such a drastic move. This bill would then give us two conflicting standards, or worse, repeal our current standard and substitute this vague "all purpose" standard for Connecticut's clear and limited standard.
- Sec. 11 of SB 576 says, "A court of probate lacking jurisdiction under section 10 (which is a much looser jurisdiction than PA 07-116 provides) has special jurisdiction to do any of the following:"
  - Appoint a guardian or a temporary conservator (like a conservator of the estate) for 90 days!!! When it lacks jurisdiction!! Without jurisdiction the conservator could be selling a person's home, putting him or her in a nursing home, moving him or her around the country.
- This bill authorizes dismissal of a conservatorship at the request of a foreign court, but not at the request of the respondent.
- Sec.13 expands the limited jurisdiction of the probate court and has the bizarre result of saying that if the court declines to exercise jurisdiction (it does not contemplate a simple absence of jurisdiction) it still exercises its jurisdiction and "may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order to be filed promptly in another state." So without jurisdiction a Connecticut probate court can order a protective order to occur in another state. NO WAY!!!
- Sec. 14 provides that if the court determines that that it acquired jurisdiction "by unjustifiable conduct" (which is not defined) it may (not must) decline to exercise jurisdiction. But then again, it can go right ahead and make orders affecting a person's freedom and property--carry on as if everything is fine. It may (but not must) assess costs against the party who engaged in this conduct. Contrast that to our fine or imprisonment for making a false statement in connection with such a proceeding.
- Sec. 5 permits a probate judge to have a conversation with a court in another state, or country and record only that a conversation occurred, not the substance of the conversation.

- **This Bill does not recognize the nature of conservatorship in Connecticut. IT does not incorporate and cannot incorporate the PA07-116 definitions or the least restrictive intervention requirements. Instead, it introduces the "best interest" standard, which is not the standard for conservatorship in Connecticut. This bill assumes from the first line to the last that a person who is the subject of a so-called "protective proceeding" per se needs that intervention and will receive it. The bill presumes someone should have jurisdiction and does not contemplate simply dismissing a case where there is no jurisdiction. It does not contemplate that a proceeding could or would result in no appointment.**

- When we go to court to try to figure out the meaning and intent of this very poorly put together bill, they have inserted a clause, Sec. 22 "In applying and construing [this act] consideration shall be given to the need to promote uniformity of the la with respect to its subject matter among sates that enact such uniform provisions." Not the rights of citizens, but the uniformity of laws, is the consideration.

Connecticut does not need to be the fourth state to enact this law, only to have to undo the damage next year or the year after. We have provisions to provide full faith and credit to the decisions of courts in other states that merit it. Other states have such provisions. Enacting this statute and destroying the protections of our own statute for the sake of "uniformity of laws" is a mistake. Please don't allow it to happen.

II. We ask you to enact instead the attached substitute language for SB 576 which would solve some technical problems with temporary conservators. ?). This would resolve that drafting problem from 07-116 without all of the other serious dangers of SB 576.

III. We oppose HB-6027-An Act Concerning Probate Court Reforms which has similar serious problems.

I am a practitioner and will not spend much time on the budgetary issues, which I am sure others will address. (It does seem clear, however, that in a time of great fiscal crisis and when I walk into this building and see a sign with the budget deficit growing by the second, a bill which requires five million dollars to balance the budget just for now, without requiring any consolidation of the 117 probate courts is not going to save the state any money.)

My concern is the effect of provisions of this bill on my clients who are in danger of being conserved or committed. HB 6027 repeals the appeal procedure set out in PA07-116. The appeal procedure enacted two years ago simplified the ancient and arcane procedure that required an appellant to request permission of the probate court to appeal. The current procedure mirrors the appeal procedure from an administrative hearing. This bill contemplates a probate appellate court, thereby sending aggrieved parties right back to the probate court system which (it was agreed two years ago) needs major culture change. The saving grace of that system has been that aggrieved persons were entitled to appeal to the Superior Court, although the appellant could choose a probate court three-judge panel. This proposal, HB 6027 allows the superior court judge to "dump" a case back to a probate court panel. The aggrieved party can object to that, if they manage to do that within the very limited time period allowed, but there is no standard for granting or denying the objection, so it seems clear that there is no recourse if the matter is sent to probate court. This proposal removes a critical safeguard of the probate court system and we therefore strongly oppose it.

And now to the positive notes!

IV. We strongly support the HB-6629 An Act Concerning Guardians ad Litem and Conservatorships. This bill is designed to reduce the double dipping and depletion of the estates of conserved people, or people at risk of being conserved, while preserving the use of Guardians ad Litem in cases involving children. This bill is supported by the Legal Services Elder Law Work Group, composed of Lawyers from New Haven Legal Assistance, Connecticut

Legal Services and Greater Hartford Legal Aid. This is important because at Connecticut Legal Rights Project, our focus is on the rights of people with disabilities, and the Elder Law Group was able to consider this language and its affect, if any on their clients. This does not apply to children, or to people without conservators involved in litigation other than a conservatorship proceeding, so it preserves the protection and assistance that might be required in those situations. This solely removes a source of difficulty, an unnecessary expense to either the conserved person, the respondent or the courts in the case of an indigent person. I have included separate more detailed written testimony about this bill.

V. We strongly support HB-6626 An Act to Transfer Jurisdiction Over All Contested Probate Cases to the Superior Court. There are a number of different probate reform packages in front of you today, including two comprehensive and very different proposals from the probate court administration and the Governor. One proposes considering and discussing consolidation for two years and offering some incentives. One abolishes and consolidates a number of the probate courts. There is another, perhaps the simplest of all, that proposes a constitutional amendment to abolish the probate courts altogether. We support that proposal, too but recognize that it might not pass this year. We support and draw your attention to a bill that begins to address the fiscal issues and the need for culture change in the probate courts. **HB-6626** transfers contested matters to Superior court, where there is an open court, oversight and uniform rules of practice. This would leave with the probate court matters which do not require a high level of due process protection. This bill would reduce the caseload in probate court without dramatically reducing its revenue and therefore likely make it unnecessary to provide additional funding to the probate court. The reduction in case load would make consolidation, which is coming, one way or another, simpler and such consolidation would also reduce the cost of the probate courts. Those savings could be put toward adding personnel as necessary in the superior court.

VI. We Support H.B. -6385 An Act Concerning Reform of the Probate Court System This is the Governor's Probate Reform Bill and contains many measures which will improve the operation of the probate courts.

VII. We Support SB-141 An Act Concerning Review of G.A.L. and Expenses but urge that it be amended to include reviews of expenses of conservators and their attorneys. The amount of money a conserved person is forced to expend on guardians, lawyers, conservators and lawyers for the guardians and conservators should the conserved person challenge the actions of any one of these or seek to have one of them removed is staggering. It bears scrutiny.

VII. We support SB-126 An Act Requiring Probate Judges to be Attorneys.

Thank you for your time and your attention to these important matters.

SUBSTITUTE LANGUAGE FOR SB 576

Purpose: To limit the probate courts' authority to conserve nondomiciliaries to temporary and emergency circumstances.

Section 1. Section 45a-648 of the general statutes is repealed and the following is substituted in lieu thereof:

Application for involuntary representation of resident or [~~non~~]domiciliary. Fraudulent or malicious application or false testimony: Class D felony

(a) An application for involuntary representation may be filed by any person alleging that a respondent is incapable of managing his or her affairs or incapable of caring for himself or herself and stating the reasons for the alleged incapability. The application shall be filed in the court of probate in the district in which the respondent resides[,] or is domiciled [or is located] at the time of the filing of the application.

[(b) An application for involuntary representation for a nondomiciliary of the state made pursuant to subsection (a) of this section shall not be granted unless the court finds the (1) respondent is presently located in the probate district in which the application is filed; (2) applicant has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the respondent; (3) respondent has been provided an opportunity to return to the respondent's place of domicile, and has been provided the financial means to return to the respondent's place of domicile within the respondent's resources, and has declined to return, or the applicant has made reasonable but unsuccessful efforts to return the respondent to such respondent's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met.

(c) If, after the appointment of a conservator for a nondomiciliary of the state the nondomiciliary becomes domiciled in this state, the provisions of this section regarding involuntary representation of a nondomiciliary shall no longer apply.

(d) The court shall review any involuntary representation of a nondomiciliary ordered by the court pursuant to subsection (b) of this section every sixty days. Such involuntary representation shall expire sixty days after the date such involuntary representation was ordered by the court or sixty days after the most recent review ordered by the court, whichever is later, unless the court finds the (1) conserved person is presently located in the state; (2) conservator has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the conserved person; (3) conserved person has been provided an opportunity to return to the conserved person's place of domicile and has been provided the financial means to return to the conserved person's place of domicile within the conserved person's resources, and has declined to return, or the conservator has made reasonable but unsuccessful efforts to return the conserved person to the conserved person's place of domicile; and (4) requirements of this chapter for the appointment of a conservator pursuant to an application for involuntary representation have been met. As part of its review under this subsection, the court shall receive and consider reports from the conservator and from the attorney for the conserved person regarding the requirements of this subsection.]

[(e)](b) A person is guilty of fraudulent or malicious application or false testimony when such person (1) wilfully files a fraudulent or malicious application for involuntary representation or appointment of a temporary conservator, (2) conspires with another person to file or cause to be filed such an application, or (3) wilfully testifies either in court or by report to the court falsely to the incapacity of any person in any proceeding provided for in sections 45a-644 to 45a-663, inclusive. Fraudulent or malicious application or false testimony is a class D felony.

Section 2. Section 45a-654 of the general statutes is repealed and the following is substituted in lieu thereof:

Appointment of temporary conservator. Duties.

(a) [Upon written application for appointment of a temporary conservator brought] An application for the appointment of a temporary conservator may be filed by any person considered by the court to have sufficient interest in the welfare of the respondent, including, but not limited to, the spouse or any relative of the respondent, the first selectman, chief executive officer or head of the department of welfare of the town of residence, [or] domicile or location of any respondent, the Commissioner of Social Services, the board of directors of any charitable organization, as defined in section 21a-190a, or the chief administrative officer of any nonprofit hospital or such officer's designee. The application shall be signed under oath and penalty of perjury and shall contain detailed allegations regarding the respondent's inability to manage his or her affairs or the inability of caring for himself or herself and stating the reasons for the alleged incapability. The applicant must disclose any actual or potential conflict of interests with the respondent. The application shall be filed in the court of probate in the district in which the respondent resides, is domiciled or is located at the time of the filing of the application.

(b)[, t] The Court of Probate may appoint a temporary conservator if the court finds by clear and convincing evidence that: (1) The respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, (2) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed, and (3) appointment of a temporary conservator is the least restrictive means of intervention available to prevent such harm. The court shall require the temporary conservator to give a probate bond. The court shall limit the duties and authority of the temporary conservator to the circumstances that gave rise to the application and shall make specific findings, by clear and convincing evidence, of the immediate and irreparable harm that will be prevented by the appointment of a temporary conservator and that support the appointment of a temporary conservator. In making such specific findings, the court shall consider the present and previously expressed wishes of the respondent, the abilities of the respondent, any prior appointment of an attorney-in-fact, health care representative, trustee or other fiduciary acting on behalf of the respondent, any support service otherwise available to the respondent and any other relevant evidence. In appointing a temporary conservator pursuant to this section, the court shall set forth each duty or authority of the temporary conservator. The temporary conservator shall have charge of the property or of the person of the conserved person, or both, for such period or for such specific occasion as the court finds to be necessary, provided a temporary appointment shall not be valid for more than thirty days [, unless at any time while the appointment of a temporary conservator is in effect, an application is filed for appointment of a conservator of the person or estate under section 45a-650]. The court may (A) extend the appointment of the temporary conservator [until the disposition of such application under section 45a-650, or] for a period of no more than [additional] thirty days[, whichever occurs first,] or (B) terminate the appointment of a temporary conservator upon a showing that the circumstances that gave rise to the application for appointment of a temporary conservator no longer exist. No appointment of a temporary conservator under this section may be in effect for more than sixty days from the date of the initial appointment.

[(b)](c) Unless the court waives the medical evidence requirement pursuant to subsection (e) of this section, an appointment of a temporary conservator shall not be made unless a report is filed with the application for appointment of a temporary conservator, signed by a physician licensed to practice medicine or surgery in this state, stating: (1) That the physician has examined the respondent and the date of such examination, which shall not be more than three days prior to the date of presentation to the judge; (2) that it is the opinion of the physician that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself; and (3) the reasons for such opinion. Any physician's report filed with the court pursuant to this subsection shall be confidential. The court shall provide for the disclosure of the medical information required pursuant to this subsection to the respondent on the respondent's request, the respondent's attorney and to any other party considered appropriate by the court.

[(c)](d) Upon receipt of an application for the appointment of a temporary conservator,

the court shall issue notice to the respondent, appoint counsel for the respondent and conduct a hearing on the application in the manner set forth in sections 45a-649, 45a-649a and 45a-650, except that (1) notice to the respondent shall be given not less than five days before the hearing, which shall be conducted not later than seven days after the application is filed, excluding Saturdays, Sundays and holidays, or (2) where an application has been made ex parte for the appointment of a temporary conservator, notice shall be given to the respondent not more than forty-eight hours after the ex parte appointment of a temporary conservator, with the hearing on such ex parte appointment to be conducted not later than three days after the ex parte appointment, excluding Saturdays, Sundays and holidays. Service on the respondent of the notice of the application for the appointment of a temporary conservator shall be in hand and shall be made by a state marshal, constable or an indifferent person. Notice shall include (A) a copy of the application for appointment of a temporary conservator and any physician's report filed with the application pursuant to subsection (b) of this section, (B) a copy of an ex parte order, if any, appointing a temporary conservator, and (C) the date, time and place of the hearing on the application for the appointment of a temporary conservator. The court may not appoint a temporary conservator until the court has made the findings required in this section and held a hearing on the application, except as provided in subsection (d) of this section. If notice is provided to the next of kin with respect to an application filed under this section, the physician's report shall not be disclosed to the next of kin except by order of the court.

[(d)](e) (1) If the court determines that the delay resulting from giving notice and appointing an attorney to represent the respondent as required in subsection (c) of this section would cause immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent, the court may, ex parte and without prior notice to the respondent, appoint a temporary conservator upon receiving evidence and making the findings required in subsection (a) of this section, provided the court makes a specific finding in any decree issued on the application stating the immediate or irreparable harm that formed the basis for the court's determination and why such hearing and appointment was not required before making an ex parte appointment. If an ex parte order of appointment of a temporary conservator is made, a hearing on the application for appointment of a temporary conservator shall be commenced not later than three days after the ex parte order was issued, excluding Saturdays, Sundays and holidays. An ex parte order shall expire not later than three days after the order was issued unless a hearing on the order that commenced prior to the expiration of the three-day period has been continued for good cause.

(2) After a hearing held under this subsection, the court may appoint a temporary conservator or may confirm or revoke the ex parte appointment of the temporary conservator or may modify the duties and authority assigned under such appointment.

[(e)](f) The court may waive the medical evidence requirement under subsection (b) of this section if the court finds that the evidence is impossible to obtain because of the refusal of the respondent to be examined by a physician. In any such case the court may, in lieu of medical evidence, accept other competent evidence. In any case in which the court waives the medical evidence requirement as provided in this

subsection, the court may not appoint a temporary conservator unless the court finds, by clear and convincing evidence, that (1) the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, and (2) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed pursuant to this section. In any case in which the court waives the requirement of medical evidence as provided in this subsection, the court shall make a specific finding in any decree issued on the application stating why medical evidence was not required.

NEW (g) An application for a temporary conservator of a nondomiciliary of the state made pursuant to subsection (a) of this section shall not be granted unless the court finds the (1) respondent is presently located in the probate district in which the application is filed; (2) applicant has made reasonable efforts to provide notice to individuals and applicable agencies listed in subsection (a) of section 45a-649 concerning the respondent; and (3) respondent has been provided an opportunity to return to the respondent's place of domicile, and has been provided the financial means to return to the respondent's place of domicile within the respondent's resources, and has declined to return, or the applicant has made reasonable but unsuccessful efforts to return the respondent to such respondent's place of domicile.

NEW (h) The court shall review any involuntary representation of a nondomicialry ordered by the court of probate pursuant to subsection (b) of this section every sixty days, including whether there continues to be a risk of immediate and irreparable harm to the conserved individual. The temporary conservatorship of a nondomicialry of the state shall expire sixty days after the date the initial appointment as provided in subsection (b) of this section, unless the court finds, after due notice and a hearing, that (1) the conserved person is still located in the probate district; (2) the conserved person remains incapable of managing his or her affairs or incapable of caring for himself or herself, even with appropriate assistance, (3) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the conserved individual will result if the temporary conservatorship is terminated, (4) the continued appointment of a temporary conservator is the least restrictive means of intervention available to prevent such harm; (5) the temporary conservator has made reasonable efforts to engage the assistance of individuals and applicable agencies listed in subsection (a) of section 45a-649 to return to his or her residence or place of domicile; and (6) the conserved person has been provided an opportunity to return to the conserved person's place of domicile and has been provided the financial means to return to the conserved person's place of domicile within the conserved person's resources, and has declined to return, or the temporary conservator has made reasonable but unsuccessful efforts to return the conserved person to the conserved person's residence or place of domicile.

[(f)] (i) Upon the termination of the temporary conservatorship, the temporary conservator shall file a written report with the court and, if applicable, a final accounting as directed by the court, of his or her actions as temporary conservator.