



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

**Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
March 26, 2009**

**House Bill 6701, An Act Concerning Court-Appointed Trustees, Nolle
Erasure Procedures and Temporary Detention**

Thank you for the opportunity to testify, on behalf of the Judicial Branch, in support of **House Bill 6701, *An Act Concerning Court-Appointed Trustees, Nolle Erasure Procedures and Temporary Detention***. This bill, which is part of the Judicial Branch's legislative package, addresses issues that have arisen in three areas.

Section 1 of the bill provides indemnification for attorneys who have been appointed by the court to act as trustees pursuant to Practice Book § 2-64. The purpose of these appointments is to protect the clients of attorneys who have been suspended or disbarred, or who are otherwise unable to practice law. Attorneys who are appointed as trustees step in to handle the pending cases that have been left behind by the suspended or disbarred attorney. Many of these cases may have been mishandled, which as you can imagine can result in very unhappy clients. The attorney trustees are acting as agents of the court and, as such, deserve protection against the unfounded lawsuits that can arise from these unfortunate situations. This section would provide them with the same protection, for actions they take in the course of their duties, that state officers and employees currently enjoy.

Section 2 seeks to resolve a long-standing problem. Currently, a nolle is supposed to occur by operation of law in cases that have been continued with no activity, at the request of the prosecutor, for thirteen months. We are unable to comply with this statute because the clerks have no way of knowing which of the cases that

have been inactive for thirteen months were continued at the request of the prosecutor. Requiring a defendant to file a motion would notify the clerk that a nolle is in order and ensure that the nolle is entered. While it does impose an additional requirement on the defendant, it is the only way that we can ensure that, in these types of cases, the nolle is actually entered. I must stress that this provision does not in any way affect the process for the vast majority of nolles, where the prosecutor states in open court that a nolle will enter. Those cases are tracked by the court and the nolle automatically becomes a dismissal after 13 months. This provision will not require defendants in those cases to file a motion or take any additional steps.

Finally, Section 3 of the bill would address an issue that has arisen regarding the release of individuals from Department of Correction (DOC) custody when a DOC physician has issued an emergency certificate pursuant to section 17a-502. Currently, when these individuals are brought to the Superior Court for the purpose of release, the court has no authority to detain them while waiting for a representative of the Department of Mental Health and Addiction Services (DMHAS) to arrive at the court and transport the individual to a DMHAS or private facility. This sets up a potentially dangerous situation, as there is no mechanism to prevent a person who is clearly in need of hospitalization from walking right out the courthouse. Granting the court the authority to temporarily detain these individuals, for a reasonable time, would ensure that they receive proper treatment and would also safeguard the community.

I would urge the Committee to act favorably on this proposal. Thank you.