

CONNECTICUT LEGAL RIGHTS PROJECT

P.O. Box 351, Silver Street, Middletown, CT 06457

Telephone (860) 262-5787 · Fax (860) 262-5035

CLRP is a non-profit 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.

Testimony of Sally R. Zanger, Staff Attorney, Connecticut Legal Rights Project
Judiciary Committee Public Hearing April 8, 2011

Connecticut Legal Rights Project (CLRP)

- **OPPOSES HB 6647, An Act Concerning The Appointment Of Guardians Ad Litem To Assist Disabled Individuals In Court Proceedings because:**
 - **It equates disability with legal incompetence.**
 - **It ignores and undermines the attorney's responsibility under Rule 1.14.**
 - **It is unnecessary. Adequate provisions exist already.**
 - **It is inconsistent with the State's emphasis on recovery and self-determination.**

The bill amends Conn. Gen. Stat. Sec. 45a-132, the provision that permits a judge in court of probate or Superior Court (Including Family Support Magistrate Division) to appoint a guardian ad litem for "any minor or incompetent person, undetermined or unborn person" if it appears to the judge that such individuals "have or may have an interest in the proceedings, and that one or more of them are minors, incompetent persons, persons undetermined or unborn at the time of the proceeding." The bill adds "a person with a disability"¹ to this very limited list of people who are defined as legally incompetent.

The bill may seem benevolent, and supporters may have good intentions. One might assume that it is nice to appoint a guardian ad litem for a person with a disability. **However, the bill presumes that persons with disabilities, as a group, may be incompetent, and gives absolute discretion for a judge to abrogate the right of a person with a disability to speak for him or herself and make decisions about the case. The bill disenfranchises, demeans and stigmatizes people with disabilities when they are involved with the judicial system.**

The appointment of a guardian ad litem means that the person with a disability who has an interest in the case has no legal "say" in the matter anymore: the guardian ad litem speaks and makes decisions on his or her behalf. **This bill means that a person with a disability can be deemed legally incompetent (a legal non person) for the duration of the appointment in the case.**

The bill is not necessary because there are procedures available for the appointment of legal representatives where required. There is no need to expand the system that includes conservatorship, existing law on guardians ad litem and the Rules of Professional Conduct.

The bill conflicts with the policies of the State of Connecticut (to presume competence, to promote full participation in society by people with disabilities) and violates the Americans with Disabilities Act and the Connecticut Constitution's prohibitions against discrimination against people with disabilities. **Singling out people solely on the basis of their disability in this way is discriminatory. There is no need for this bill; it is a vehicle for discrimination.**

¹ For the purposes of this chapter the term "person with a disability" means any person who has a physical, mental, emotional or other disability or disfunction which constitutes a significant obstacle to such person's ability to function normally in society and includes those persons defined as developmentally disabled under Public Law 94-103 and any subsequent amendments thereto. Conn. Gen. Stat. Sec. 46a-8