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**Testimony of Michael Miller
Connecticut Bar Association's Children and the Law Committee**

in SUPPORT of HB 6442

**An Act Concerning the Appointment of Counsel and Guardians Ad Litem
and the Appointment of Permanent Guardians**

**Judiciary Committee
February 28, 2011**

When a child has been in the foster care system for over one year, the Department of Children and Families (DCF) is required to submit a permanency plan for that child with the Superior Court for Juvenile Matters. When the child's parents are not able to rehabilitate their issues, when they are not able to raise their own child, then the preferred permanency plan is for the child to be adopted.

For a child to be adopted, his or her parents' parental rights have to be terminated by a court. If there is no agreement, then there must be a trial. These are called Termination of Parental Rights (TPR) trials. They can take a long time to be scheduled, the trials are often complicated and take multiple days, and there is always the possibility to appeal the trial judge's decision. The length of time it takes for the child to be adopted negates the very philosophy of trying to achieve permanency in a timely fashion.

HB 6442 would offer all of the parties to a TPR trial another possible alternative. That alternative is permanent guardianship.

If Connecticut had a permanent guardianship option, the following results will occur:

- For older children, age 12+, who must consent to their own adoption, it will not force them to sever their legal relationship with their parents. This is especially important for older children who have strong bonds with their parents and do not want to be adopted principally out of family loyalty.
- For parents, they can honorably concede that they are not in a position to raise their child on a day-to-day basis yet not suffer the anguish of ending their parental rights.
- It will reduce the number of TPR trials.
- There will be no increased financial impact to the state. In fact, if TPR trials are reduced then there should result a decreased impact due to the costs involved with litigation.
- Permanent Guardianship is recognized under the federal Adoption and Safe Families Act as a viable permanency option. Our current guardianship laws do not meet the federal requirements since a parent can always reopen the case ... it obviates permanency.
- The TPR option will still be available.

Permanent guardianship is going to have a real and immediate consequence for children who are in foster care right now.

Let me tell you about one story. I will use a fictitious name. Shana is an 11 year old client whom our firm represents. Shana was removed from her mother's care almost two years ago. She is now living with a relative. Although mother has been regularly visiting Shana, and there is a good relationship between mother and the relative foster mother, mother has not been able to make the rehabilitative changes so that she can be a responsible day-to-day caregiver for her child. Mother feels that if she just agrees to give up her parental rights...then she will be, in effect, telling her daughter that she has given up on her. Shana, who will turn 12 soon, has very mixed feelings about adoption, as she does not want to be disloyal to her mother. As a result, the matter is now scheduled for a multiple day TPR trial that will result in continuing emotional trauma for the child and parent; a big litigation expense to the state; and, a delay in finding permanency for Shana.

Permanent guardianship would be the appropriate tool to use in Shana's case.

In summary, the creation of a permanent guardianship allows the court and child protection practitioners to have another option available. Having this option for certain cases will likely create a modest cost savings for the State, and is in the best interests of our Connecticut children who are in foster care.