



Greater Hartford Legal Aid

**Testimony of Marilyn Denny before the Judiciary Committee Concerning:**

- S.B. 951, AAC the Appointment of a Guardian Ad Litem for a Person Who is Subject to a Conservatorship Proceeding or a Proceeding Concerning Administration of Treatment for a Psychiatric Disability and**
- S.B. 1053, AAC the Connecticut Uniform Adult Protective Proceedings Jurisdiction Act.**

**February 28, 2011**

My name is Marilyn Denny and I am a staff attorney at Greater Hartford Legal Aid, Inc. I am here this morning to speak regarding S.B. 951 and SB 1053. I have represented elderly clients since 1988. During the last 10 years, I have represented numerous clients in conservatorship proceedings in Probate court. I am here to speak in favor of two bills to: S.B. 951, Concerning the Appointment of a Guardian Ad Litem for a Person Who is Subject to a Conservatorship Proceeding or a Proceeding Concerning Administration of Treatment for a Psychiatric Disability and S.B. 1053, An Act Concerning the Connecticut Uniform Adult Protective Proceedings Jurisdiction Act.

**S.B. 951.** This legislation was raised last year and revised so that it finally obtained consensus and endorsement from a broad spectrum of interested parties or addressed their concerns: the Department of Mental Health and Addiction Services, The State of Connecticut Council on Development Disabilities, The Connecticut Legal Rights Project, the Probate Court Administrator. This legislation applies only to adults and not to children.

Connecticut General Statutes, Section 45a-132 authorizes a court of probate or a superior court to appoint a guardian ad litem (GAL) for "any minor or incompetent, undetermined or unborn person." This is a discretionary appointment, without prerequisites or notice. This proposed legislation sets out criteria for appointing a GAL in a limited type of case: those that involve an ADULT who is represented by a lawyer AND either is (1) a respondent in a conservatorship proceeding or (2) already has a conservator. I support this legislation because I have been involved in a number of cases in which probate courts have appointed GALs who have then hired attorneys to represent them, and who have disagreed with both the person's conservator and court appointed attorney and have attempted to place a person in an institution.

This legislation will limit the appointment of a GAL prior to a person being found incapable (in which case such appointment is usually inappropriate because the person is deemed to be incompetent before the case is heard). It will also limit the appointment of a G.A.L after the person has been conserved because such an appointment is for the most part, unnecessary at this point. Furthermore the proposal (a) preserves the ability to appoint a GAL in certain situations but (b) limits and provides guidance for what the GAL shall do. Therefore, it eliminates waste of the respondents/conserved individuals' and (in the case of the indigent) taxpayer's money.

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**S.B. 1053** reflects a tremendous amount of discussion and compromise by various interested parties, including CBA, the Probate Administration and Legal Services. As originally proposed, some parties (including Legal Services) felt that it conflicted with improvements made when the legislature revised our conservatorship law (PA 07-116). In the interim however, we have worked collaboratively to adopt the Uniform Adult Guardianship and Protective Procedure Jurisdiction Act, while protecting Connecticut's PA 07-116.

Our goal was to preserve the rights set out explicitly in our conservatorship statute. Together, we negotiated every word. For example, to protect Connecticut's conservatorship statute, we retained Connecticut terminology. We continue to work with LCO to resolve drafting questions in Section 11 but anticipate that a resolution will be forthcoming.

Our difference appears slight, and we remain convinced that the language we all agreed to avoids confusion. We propose that if an application for the appointment of a temporary conservator of the person or estate is brought in this state in an emergency (and not in the person's home state) that the court shall dismiss the proceeding in this state at the request of the court of the home state. However, our draft preserves the right of the temporarily conserved person to have a hearing before a court of probate that conforms to Connecticut's hearing requirements. It says: "a respondent or temporarily conserved person shall, upon written or oral request, have a hearing before the court of probate that conforms to the hearing requirements under section 45a-654 of the general statutes, as amended by this act." The LCO draft provides that "a person shall have a hearing with all of the rights our statute affords." We believe that our draft is preferable because it allows the person to have a hearing in our state, instead of imposing our due process protections on courts of another state. With this one small, but important exception, we endorse SB 1053.