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Testimony by Royal J. Stark, Esq. in Opposition to Raised Bill 452

Sen. Coleman, Rep. Fox and members of the Judiciary Committee. My name is Royal Stark. I am an attorney with Conn. Legal Services. I am testifying as a representative of all of the legal services programs in Connecticut in opposition to S.B. No. 452 (Raised), An Act Concerning The Care And Treatment Of Persons With Psychiatric Disabilities.

Passage of this bill would be a step backward by the State of Connecticut in what has been recently a progression forward towards ever greater protection for the civil liberties of persons at risk for a loss of liberty by involuntary commitment or involuntary conservatorship. This forward progress has been led by the General Assembly, but the courts have also been part of the evolution of our understanding that being mentally ill, or being incapable because of medical issues and problems does not require the stripping away of the protections accorded the general population the citizens of the state. An example of this can be found in the recent decision by the Connecticut Supreme Court in the case of Gross v. Rell, where the high court moved further away from its prior statements that had equated involuntary conserved individuals with legally incompetent children. The court, like the General Assembly in 2007 with the enactment of P.A. 07-116, has progressively moved away from a best interest standard when dealing with adults, even those adjudicated incapable by a probate court, who are presumed competent under the law. The state of the evolved law is still tenuous however. In practice some courts and professionals and members of the public have not yet embraced and fully implemented the evolved law. Enactment of S.B. 452 would be a step backward.

The good intentions of the proponents and supporters of the bill do not change this fact. Despite the respect and regard that those of us in legal services who have worked and served with Judge Bob Killian have for him, we are diametrically opposed to nearly all of the proposals by Judge Killian that have been set forth in S.B. 452. I am proud to have worked with Judge Killian on the Conservatorship Revision Committee and to have shared the speaker's podium with him when testifying before this committee five years ago in support of what became P.A. 07-116. My colleague Pat Kaplan who is the Exec. Dir. of New Haven Legal Assistance currently serves on the Probate Practice Book Advisory Committee, and I can tell you that her regard for Judge Killian is high. Nonetheless, the fact remains that we believe that the proposals in S.B. 452 that would allow forced medication in the community (potentially with the assistance of the police or EMTs), that would reduce the rights of psychiatric patients to privacy, and would weaken the current procedural protections contained in our civil commitment statutes are wrongheaded and will send a wrong and confusing message to the courts and the public regarding the rights and civil liberties of mentally ill and/or incapable persons.

The most troublesome aspects of S.B. 452 are those that deal with forced medication outside of a psychiatric hospital. They are troubling from a civil liberties standpoint but also because they are at odds with the official approach to mental health treatment of this state, as embodied in the mission and practice of the Department of Mental Health and Addiction Services. As mental health treatment providers and consumers will tell you, forcibly medicating someone is counter-productive and it damages individuals, both personally and in terms of their relationship to their treatment and their treating professionals. Furthermore, there are very good and valid reasons why a legally competent person might choose to avoid certain medications whose efficacies may be fleeting and whose side effects may be considerable. S.B. 452 will create as many problems as it purports to fix.