

CONNECTICUT LEGAL RIGHTS PROJECT

P.O. Box 351, Silver Street, Middletown, CT 06457
Telephone (860) 262-5787 · Fax (860) 262-5035

HUMAN SERVICES COMMITTEE PUBLIC HEARING MARCH 5, 2015

**CLRP testimony regarding Raised Bill No. 1009:
AN ACT CONCERNING PERSONS WITH MENTAL DISABILITIES WHO HAVE
COURT-APPOINTED CONSERVATORS**

Sen. Moore, Rep. Abernathy, Sen. Markey, Rep. Wood and members of the Committee:

Connecticut Legal Rights Project, Inc. (CLRP) is a legal services organization that represents low-income individuals in institutions and in the community throughout the state who live with mental health conditions. We protect our clients' rights under the Patients' Bill of Rights and provide advocacy regarding civil rights, housing and other concerns and we support initiatives that integrate individuals into the community.

CLRP has a particular interest in conservatorship matters because our clients' rights and lives often are affected by conservatorship. Because of that interest, our Legal Director Emeritus, Tom Behrendt, served on the "Killian Committee" that created P.A. 07-116 which clarified the rights of respondents and conserved individuals and requires that conservators take into account the preferences of respondents and conserved individuals, perform their duties in the least restrictive manner possible, and assist conserved individuals to become more independent. Some of that act simply clarified existing rights and some of it was groundbreaking. In addition, CLRP brought the successful appeal of Gross vs. Rell. In that case the Connecticut Supreme Court and the Second Circuit Court of Appeals ruled that the immunity enjoyed by judges does not automatically extend to conservators, court appointed lawyers or nursing homes. Those parties can be sued when their actions harm a conserved individual.

Because of these interests, we are concerned when there is a bill, like this one, planning a "study" directed specifically at people who would be our clients. We are concerned that the hard-won progress being made in Connecticut regarding conservatorships not be lost, or even watered down, by the results of such a committee. We are concerned that law affirming the rights of people who have conservators not be lost to new legislation that might be recommended by such a study. Vague studies are worrisome. "Including but not limited to" is understandable but scary language.

CLRP is very aware of the exploitation of people with disabilities by some unscrupulous conservators and by conservators who are well meaning but unaware of the requirements of some public benefits who unintentionally harm our clients. We have had more than one case where a conservator saved money for a client whose sole income was Supplemental Security Income (SSI). Those clients received only \$720 a month to live on and yet these conservators managed to save more than the \$1600 or \$2000 limit and the clients lost their SSI and Medicaid. One such conservator immediately made good on her error. Another will not speak with us to even discuss next steps.

We are aware of situations where conservators for individuals with very low income take their fees from the income of the conserved individuals instead of submitting paperwork to Probate Court Administration. We are aware of situations where loving family members who are conservators are unable to comply with the requirement that they give their loved one more independence because of their fears for the safety of the family member. We also see less loving family members refuse to consent to well planned placements in the community preferring to keep family members out of sight, or refuse to use funds in trust for the benefit of the conserved individual. Of course, people contact us about their conservators only when there is a problem. I assume the same is true of you in the legislature.

Any study should be fact finding. We all have anecdotes. Gathering facts will be more difficult. According to Probate Court Administration's Biennial Report for fiscal years 2012 and 2013 there were roughly 3600 involuntary conservatorship cases. There were also on average 1800 three year reviews annually. We can estimate that there are roughly 5400 individuals who are conserved today in Connecticut. The report does not break down how many of those people are the "persons with mental disabilities" about whom this raised bill is concerned.

Barriers to public assistance are an issue for people with psychiatric challenges whether or not they have a conservator. The paperwork and appointments challenge everyone. A person should not have to be conserved in order to benefit from a streamlined system.

CLRP has long advocated for mandatory training for people who serve as conservators, including attorneys. The conservators described earlier, who lost their conserved individuals' benefits, were attorneys. I once received a phone call from a family member who was removed as COE because she did not know how to file an accounting with the court--not because she had misappropriated funds, but because she had not been trained what records to keep and how to do that. She wanted to know where to go to be trained to do it properly. There was no such place. Lawyers and lay people may need different training, but we cannot assume that lawyers are well versed in all of the relevant law. CLRP has offered, and continues to offer, to collaborate on such training. Probate court judges report it is difficult to find people to serve as conservators, especially for low income people with psychiatric disabilities. However, conservators must be competent.

Composition of the task force: CLRP admires and respects the work of Connecticut Chapter of the National Alliance for the Mentally Ill (NAMI), but they do not have a specific expertise in conservatorship issues. The knowledge base and concerns of those who advocate for people with psychiatric challenges and those who provide services are not the same. Lawyers who serve as conservators and who represent people in probate have different priorities and concerns from legal advocates who provide civil rights representation. Rather than specify that two members of the task force be members of NAMI, the task force must include members from the advocacy community of people with mental health conditions, and must include people with mental health conditions as well as attorneys with expertise and experience representing them (not as conservators).

Respectfully Submitted, Sally R. Zanger, Staff Attorney