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TESTIMONY OF
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BEFORE THE JUDICIARY COMMITTEE
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I appreciate the opportunity to support Senate Bill 1479, An Act Concerning Judicial Branch Openness.

This legislation establishes a clear directive: the public's right to know includes the courts. The Judicial Branch may be separate but it must be open.

Ended forever should be a raft of unfortunate practices -- super sealing, docket sealing, selected secret proceedings, and the like.

These significant recommendations incorporate basic tenets of openness and accountability. Adopting these steps -- which I strongly support -- would mean sweeping, significant overdue overhaul of judicial practices. Most meetings of Judicial Branch committees would be open to the public, with exceptions similar to existing provisions of the Freedom of Information Act. The Chief Court Administrator would review complaints about a judge and refer such complaints to the Judicial Review Council or issue an admonishment. Most criminal docket information and arrest and conviction information would be available to the public on the Judicial Branch website. Media access to all Appellate and Supreme Court proceedings would be mandatory, in the absence of persuasive good cause. Child protection proceedings would be open unless the court determines that a witness or the child may be harmed. The Judicial Review Council could disclose the existence of an investigation prior to finding probable cause, if the public interest warrants. Court records that include tax appeal information or bank proceedings would no longer be sealed.

Even with all the good intentions and initiatives from the Judicial Branch's present leaders, this legislation is vitally necessary. I commend Acting Chief Justice David Borden for his vision and courage in championing many sensible and significant measures to open Judicial Branch procedures -- measures that would have been unthinkable only a short time ago.

A crisis in confidence provided both the need and opportunity for such measures, which the Judicial Branch is moving to implement administratively. Laudable as these steps may be, we cannot rely only on administrative rules to achieve open and accountable government. What is done administratively can be undone -- just as readily -- by judicial fiat. Openness and accountability must be made a legal mandate.

Sustaining and enhancing public confidence in the courts -- not merely addressing the immediate crisis in confidence -- requires legal guarantees that are contained in this legislation. The guarantees must go beyond the crisis -- opening child protection proceedings, for example, and unsealing records.

Trust and credibility require accountability and transparency. What the public can't see, they suspect -- and their suspicion spreads like a contagion undermining credibility and public confidence. Connecticut has long recognized this principle. It was one of the first states to pass a Freedom of Information act and create an independent commission to enforce our open government statutes.

This principle must apply with equal force to Connecticut courts. Many functions of the Judicial Branch have been excluded from the provisions of the Connecticut Freedom of Information Act. As a result, our court system routinely conducts hearings that are closed to the public. Cases have been sealed so their very existence is kept secret. The public cannot know, and the media cannot adequately report, whether and how justice is served in the courts. Secrecy has been a judicial prerogative -- often standard operating procedure by judicial order.

Opening child protection cases is profoundly important. With admirable purposes -- but unintended consequences -- all records and all proceedings involving child abuse and neglect have been kept confidential. The goal is to protect the child's privacy interests. But the consequence of secrecy is that many people question the efficacy of child protection proceedings. During the past 10 years, I have worked closely with state agencies and legislators to open more child protection records to the public.

Court proceedings must be open to public scrutiny so the public and even legislators can have a greater awareness of the alarming world that more than 40 attorneys in my office encounter every day. Painful and heartbreaking, child abuse and neglect has a searing, enduring impact on children and their families. Our law should enable more prompt, less damaging foster care and adoption proceedings. Disclosure will lead to greater resources to prevent and adequately address child abuse and neglect.

Other measures, such as opening the Judicial Review Council process, also are important in assuring public awareness and confidence in discipline applied to judges. Further, there should be no question about public access to the criminal court docket. What appears on the court docket is essential to open trial and proceedings, since it provides basic information about court schedules, changes in charges, and other facts especially important for victims to know.

I urge the committee's favorable consideration of Senate Bill 1479.