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Good afternoon Senator McDonald and Representative Lawlor and members of the Judiciary Committee. My name is Andrew Schneider, I am Executive Director of the ACLU of Connecticut and I am here before you today to express our view that Senate Bill 320, An Act Concerning Time Limitations on the Filing of Appeals and Habeas Corpus Applications in Capital Felony Cases, places in jeopardy the right to a fair trial for individuals whose liberty *and* life are at stake.

Habeas Corpus is a procedural tool that ensures the state adheres to basic constitutional standards like the right to competent counsel, a jury that is fairly composed, and that the state does not engage in conduct intended to conceal evidence or witnesses from the accused. Unfortunately, errors of constitutional magnitude affecting the fundamental fairness of the trial do occur, particularly in death penalty cases. By cutting short the time limit for the filing of habeas petitions after the imposition of a death sentence, the state would be denying death-sentenced inmates a reasonable and realistic opportunity to seek habeas relief. The result would not only deprive defendants of their constitutional rights but could also deprive them of their lives.

Compared to non-capital cases, death penalty cases are extraordinarily complex, requiring a specialized understanding of Eighth Amendment law and procedure. Because it is such a highly complex area of the law very few defense lawyers, prosecutors and judges have a good working knowledge of capital jurisprudence resulting in a significant rate of constitutional error. Moreover, public and press attention often run high in death penalty cases further threatening the fairness of the proceedings. It is the finality imposed by a death penalty sentence which requires the courts to assure a death-sentenced inmate is both guilty and fairly convicted.

Without a meaningful habeas remedy, innocent people may be executed. Although it is commonly believed that wrongful executions are rare, innocent people have and continue to be wrongly convicted, sentenced to death and executed in this country. Since the death penalty was reinstated in this country, well over 100 people have been released from death row after their innocence was determined – after many years on death row.

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Mistakes in capital cases are not easily remedied and are rarely discovered until long after an individual has exhausted all avenues of appeal. Yet misconduct by the police and prosecutors, perjury by witnesses and honest mistakes can and do occur. Weighed against the possibility of sending an innocent person to death, the arguments of those who advocate a rush to the gallows ring hollow.

Cutting short the habeas appeal process would have a disproportionate effect on minorities. Recent research has revealed a remarkably consistent pattern of sentencing in capital cases which can only be explained by race. Just last month a Connecticut Superior Court judge ruled that seven death row inmate could pursue their claim that Connecticut's death penalty is racially biased. Making it harder to file habeas appeals will only serve to prevent the habeas courts from confronting the institutional racism that exists in state death penalty proceedings

Finally, it is sometimes argued that there is too much delay in death penalty proceedings. However, death penalty litigation is actually on a pace that is consistent with other complex cases. Surely a society that is comfortable with committing the resources of the courts for years at a time to consideration of complex antitrust or securities matters or cases like that of the Exxon Valdez must be willing to commit adequate time and resources to habeas petitions – where the stake is life rather than money. Unlike countries such as China, where death sentenced prisoners are given only a matter of days to appeal, the values of fairness and certainty take precedence over swiftness in the American constitutional system. Thus, the ACLU of Connecticut urges rejection of Senate Bill 230.