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To: Judicial Committee Members

From: Sandra J. Staub, ACLU-CT Legal Director

**Written Testimony Opposing
Raised Bill No. 5502
An Act Concerning Habeas Corpus Reform**

Good afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Sandra Staub. As the Legal Director for the ACLU of Connecticut, I am here to oppose Raised Bill No. 5502, An Act Concerning Habeas Corpus Reform.

As you know, the remedy of habeas corpus is used to request prison officials to produce an inmate in court so that the court may determine the lawfulness of the inmate's detention. The purpose of the petition is to prevent the government from continuing to imprison the wrongly convicted. The United States Supreme Court has called habeas corpus a "fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." Thomas Jefferson deemed the right of habeas corpus an 'essential principle of our government.'

This bill may have been inspired by an effort to reduce the expense associated with the remedy of habeas corpus but the bill may do more harm than good. By placing limits of one to three years on the time for wrongfully incarcerated prisoners to file habeas petitions, the bill runs the risk of eliminating the right of these prisoners to prove their innocence. Such a risk cannot be justified, especially in light of the extra litigation that can be expected to be generated by the bill.

Although presumably intended to reduce litigation by preventing cases from being filed, it is more likely that this bill would have the opposite effect: The new limits will create an influx of litigation and will create an incentive for inmates to file first and determine the strength of their cases later. Exceptions to the time limits are complex and in places ambiguous and for these reasons will be heavily litigated, thereby costing the state time and money. Section 2 contains a repeal of unspecified statutory and common law causes of action that will likely

result in more litigation. Any resources saved by the bill's new limitations will be spent litigating its "exceptions" provision and its unspecified meanings.

Regardless of the costs, it is never a good idea to restrict the rights of the wrongfully imprisoned. The ACLU of Connecticut urges you to reject these proposed reforms to preserve the essential principle of habeas corpus and to protect the rights of the innocent.