



2074 Park Street  
Suite L  
Hartford, CT 06106  
860-523-9146

**To: Judicial Committee Members**

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

**Written Testimony Opposing  
Raised Bill No. 5503  
An Act Concerning Subpoenas for Property**

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. 5503, An Act Concerning Subpoenas for Property.

This bill presents an opportunity for prosecutors to subpoena private property without necessarily requiring notice and an opportunity to be heard by the owner of the property. By comparison, legislation regarding subpoena powers in the area of financial records, Connecticut General Statute 36a-43, contains provisions that meet the requirements of due process that are missing in this bill: the customer whose records are requested under that statute must be given notice and an opportunity to challenge the subpoena to the financial institution. The provision in this bill relating to medical records also requires notice to the person whose records are subpoenaed. The financial records statute and the medical records provision demonstrate by comparison the due process that is missing for any other type of property in this bill, even though other types of property are equally subject to the requirements of due process. The bill disregards the requirements of due process and will not withstand constitutional scrutiny.

And this bill does not require the state to show probable cause to issue the subpoena for the production of property. Under this proposal, the state only needs to show reasonable suspicion that the property is relevant to the

investigation. The bill disregards the Fourth Amendment of the U.S. Constitution and also Section 7 of Article I of the Connecticut Constitution:

*The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures and no warrant to search any place or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.*

The bill will not withstand scrutiny under constitutional search and seizure principles.

This bill is not necessary. If needed for criminal prosecution, investigatory subpoena power is already available to prosecutors pursuant to our Investigatory Grand Jury Act.

Finally, this bill lacks appropriate judicial oversight and involvement. The current system of judicial involvement in the issuance of subpoenas provides the mechanisms essential for protecting individual freedoms against unwarranted, unreasonable and unrestricted exercise of state power.

The ACLU-CT urges this committee to reject Raised Bill 5503.