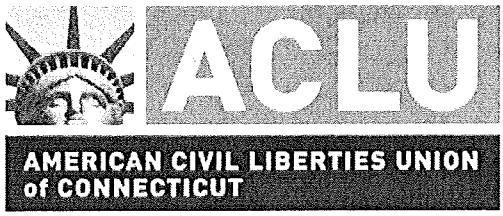

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To: Education Committee Members

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

Written Testimony Opposing Raised Bill No. 1138

An Act Concerning the Strengthening of School Bullying Laws

Good afternoon Senator Stillman, Representative Fleishmann and members of the Education Committee. My name is Sandra Staub. As the Legal Director for the ACLU of Connecticut, I am here to oppose Raised Bill No. 1138 An Act Concerning the Strengthening of School Bullying Laws.

The ACLU of Connecticut is as concerned as anyone with the equal protection of all students, including those who are bullied and harassed in school on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity or disabilities. While schools need to take steps to address in-school conduct that amounts to harassment via the internet, this bill unnecessarily and perhaps unintentionally runs afoul of the Constitutional rights of parents and children.

A parent's right to make child rearing decisions is fundamental. The United States Supreme Court has long protected the integrity of the family unit from governmental interference. Parents have knowledge of and authority over their children, uniquely qualifying them to discipline and educate their own children in their own homes.

Simply plugging the phrase "cyberbullying" into the current statute on bullying policies will encourage and allow schools to regulate children's speech and conduct while they are in their own homes. This bill suggests that schools have the authority to invade the family circle to replace the individualized disciplinary choices of the parents with the institutionalized punishments of the school. This invasion of the family unit infringes on parents' due process right to raise their children.

The First Amendment provides children as well as adults with free speech rights. Children benefit from exposure to and participation in the marketplace of

ideas. In order to serve their educational purpose, schools are given a limited ability to regulate students' speech in school, in school sponsored activities or when the student speech is part of school sponsored speech but only if the speech fits within very narrowly defined circumstances. However, schools may not act to control what children say in their own homes without infringing on the free speech rights of the children and cutting them off from the vital educational benefits of participating in the marketplace of ideas.

Schools do not need this bill and the power to reach into the family home to deal with cyberbullying. Schools already have a much more effective tool: education. By encouraging an atmosphere of respect and by teaching children to deal with conflicts appropriately, schools can prevent bullying problems before they arise. By providing counselors to speak with troubled children, schools can help address the problems that lead to bullying, by helping victims and by addressing the issues that lead children to engage in bullying behaviors. By working with social networking websites, schools can work to address cyber-bullying problems at their source, and by meeting with parents to discuss any problems that arise with their children, schools can address any bullying issues that arise by collaborating with parents in order to come up with solutions to prevent bullying.

It is true that cyberbullying is a problem. But it is a societal problem, not an educational one, and to turn schools into internet police simply because of their proximity to children merely distracts from the duty of schools to teach children better ways of dealing with conflict.

As for those situations that require more serious intervention, our legal system already provides for that intervention. Criminal laws forbid speech that harasses or threatens imminent bodily harm. Civil rights laws mandate that schools take action to prevent discrimination and harassment. Civilly, injunctions and damages are available to address libelous or defamatory speech. These laws are as applicable to children as to adults. Against this background, schools do not need to violate the rights of students and parents to deal effectively with cyber-bullying.