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Testimony of
Human Rights and Responsibility Section
Connecticut Bar Association

Supporting SB1035

Judiciary Committee
March 7, 2011

The Connecticut Bar Association has authorized its Human Rights and Responsibilities Section to take the following position in connection with all bills before the General Assembly concerning the death penalty. It should be noted that the Connecticut Bar Association as a whole has not taken a position on these bills.

The position is the following: "To support abolition of the death penalty in Connecticut for those presently awaiting execution and those who are presently charged or in the future may be charged with capital felonies; and to support a maximum penalty for capital felonies in all cases to be life imprisonment without the possibility of release."

With respect to the bills presently under consideration by the Judiciary Committee, the Section in furtherance of its authorization recommends the following action:

The Section strongly supports Raised Bill No. 1035 as that bill substitutes a maximum sentence of "life imprisonment without the possibility of release" (as defined in an amended Section 53a-35b) for all persons convicted of a capital felony prior to, on, or after the effective date of the bill, as well as anyone sentenced or resentenced for a capital felony on or after the effective date. In addition, Bill No. 1035 commutes the "sentence of any person convicted of a capital felony and sentenced ... to ... death" prior to the effective date of the bill to a "sentence of life imprisonment without the possibility of release." Thus, the ten persons in Connecticut presently awaiting execution would have their sentences commuted as set forth in the bill.

The Section supports Raised Bill No. 6425 insofar as it eliminates the death penalty for capital crimes committed on and after the effective date and substitutes a maximum punishment of "life imprisonment without the possibility of release." However, the Section opposes that portion of Bill No. 6425 that retains the death penalty for capital felonies committed prior to the effective date, including the sentences of death already imposed upon the ten persons awaiting execution.

The Section supports abolition of the death penalty because execution is irreversible and it is always possible that an innocent defendant will be put to death by the state. Since 1973, about 138 people in the United States have been released from death row and with evidence of their

innocence. During the last five years alone in Connecticut, DNA and other scientific evidence has exonerated prisoners James Tillman, Miguel Roman, Kenneth Ireland, George Gould, and Ronald Taylor for crimes of rape and murder; altogether the five had served over 90 years in prison. Many death sentences imposed in Connecticut have been overturned and set down for retrial by appellate courts for such errors as eyewitness misidentification, substandard legal representation, prosecutorial error and misconduct, and forced confessions.

Recent studies show that the death penalty is not a proven deterrent to homicide. A 2009 detailed survey of 79 leading criminologists in this country found that 88% did not believe that the death penalty acts as a deterrent to homicide and 87% did not believe that abolition would have any significant effect on murder rates (99 *Journal of Criminal Law and Criminology* 489 (2009)). While the South has by far the highest number of executions, it also has the highest rates of murder in the United States. The Northeast has by far the lowest rate of executions but also has the lowest murder rate of any area in the country. Connecticut and New Hampshire are now the only states in New England that allow the death penalty. Maine, Vermont, Massachusetts, and Rhode Island have abolished the death penalty. In recent years, New York and New Jersey have also abolished the death penalty.

Other compelling reasons, all based on demonstrable factual evidence include the following:

- the costs of capital felony murder cases are significantly higher than the costs of non-capital felony murder cases. For example, in North Carolina, a comprehensive Duke University study in 1993 found that the death penalty costs \$2.16 million per execution *over* the cost of sentencing murderers to life imprisonment. In Texas, a death penalty case costs \$2.3 million on average, about three times the cost of imprisoning someone in a single cell at the highest security level for 40 years. In this time of budget crisis Connecticut would save substantial staff and court time and untold thousands of dollars every year by adopting this legislation.
- the death penalty disproportionately affects the poor and minorities. Those wealthy enough to afford private defense attorneys rarely are sentenced to death. In Connecticut, seven of the ten on death row are minorities. Since 1976, over 75% of people executed were convicted of killing white victims, although people of color make up about half of all homicide victims in the United States. In 96% of the states where race and the death penalty have been studied, there was a pattern of race-of-victim or race-of-defendant discrimination, or both.
- the United Nations General Assembly has for many years called for abolition of the death penalty, and the vast majority of nations, including all EU members, have done so. The Universal Declaration of Human Rights, adopted by the United Nations and signed by the United States, calls for abolition.

For all of these reasons, the Section respectfully requests that the Judiciary Committee consider adoption of the Section position and approve permanent elimination of the death penalty.