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Testimony in Support of House Bill 204, An Act Concerning Best Practices for Protecting Senior Citizens from Interacting with Sexual Offenders

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Good afternoon Senator Flexer, Representative Serra and distinguished members of the Aging Committee. My name is David McGuire. I am the staff attorney of the American Civil Liberties Union of Connecticut (ACLU-CT) and I'm here to testify in support of House Bill 204.

I would like to start by thanking Senator Osten for her leadership on this important issue. Senator Osten chaired the Senior Safety Zone Task Force which I served on late last year. The taskforce met several times and heard from a wide range of professionals in disciplines including law enforcement, senior housing management, senior service providers, protective services and a sexual assault crisis service provider. After a thoughtful discussion, the taskforce released a report with four primary recommendations that would keep seniors safe without offending constitutional rights.

The recommendations are:

1. Replicate law enforcement models that do a case-by-case analysis of an offender's criminal history when they move into a town, and provide notification to appropriate officials as necessary. During the analysis by local law enforcement, a scientifically validated risk assessment tool should be used to provide a standardized approach to evaluating risk to the community.
2. Provide education to local law enforcement and probation and parole officers about the role of community and senior centers so law enforcement recognizes the need to notify them when a sex offender has moved into the area. Often schools are notified and a safety plan put in place. We recommend working with senior and community centers, libraries and other public offices in the same way as schools.
3. Explore a modification to the sex offender registry to include a tiered system that may help law enforcement and community members better understand the nature of the offenses and risk (if any) to the public. The current registry includes very little information about the type of crime the person has committed that may lead to misinformation and fear in the public.
4. Encourage senior centers, community centers and congregate housing sites, in collaboration with local law enforcement, Connecticut Sexual Assault Crisis Services, and other victim-oriented

groups to implement a safety plan that includes training and education to appropriate staff to identify and manage risk for all forms of abuse, neglect and exploitation.

The ACLU-CT fully supports the taskforce's recommendations outlined above. However, we are strongly opposed to the language in House Bill 204 that goes beyond these recommendations. Preventing all people convicted on a sexual offense from entering public facilities where senior citizens may live or congregate is unlawful and such a restriction is inconsistent with the well-thought out recommendations, above. The creation of senior "no go zones" which would prohibit registered offenders, including those who are seniors themselves or caretakers or family members of seniors, from entering areas where seniors may live or congregate is not only bad public policy but will inevitably result in a legal challenge.

In 2011, the Massachusetts Supreme Court ruled in *John Doe v. Police Commissioner of Boston* that a law "which prohibits a level three sex offender from establishing living conditions within, moving to, or transferring to a long-term care facility, infringes on the plaintiff sex offender's protected liberty and property interests and violates as applied to him, his right to due process, in that the statute failed to provide for an individualized determination that the public safety benefits of requiring the plaintiff to leave the rest home where he resided outweighed the risks to the plaintiff of such a removal."

Aside from inviting a legal challenge, there is no evidence that a "no go zone" is necessary. Data considered by the Senior Safety Taskforce indicated that between 2009 and 2013, there were 4,364 reports of sexual assault across all age groups. Of those only 1.3% were victims over the age of 60. About half of the Connecticut's registered sex offenders are under supervision of the state's probation or parole agencies, subject to any rules or restrictions deemed appropriate to their offenses as part of their sentences and rehabilitation. According to the Court Support Services Division, "probation officers must investigate and pre-approve sex offenders' residences and proposed relocations." Further, those who remain registered but are no longer under individual supervision are still publicly identified to their neighbors and the police.

Furthermore, contrary to public perception, recidivism is much lower among sex offenders than among people convicted of other kinds of crimes. A study by the state Office of Policy and Management found that only 2.7 percent of the people who were released from Connecticut prisons in 2005 after serving at least a year for a sex offense were convicted of a new sex offense within the next five years. This is consistent with national analysis by the U.S. Department of Justice that have found a far lower rate of recidivism for sex offenses than for other types of crimes.

Please consider the evidence as you evaluate this bill. If you want to protect seniors please consider passing legislation that reflects the Senior Safety Zone taskforce's recommendations, not a "no go zone" which will be ineffective, unconstitutional and counterproductive.