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March 15, 2015

Senator Eric Coleman, Co-Chair  
Representative William Tong, Co-Chair  
Judiciary Committee  
Room 2500, Legislative Office Building,  
Hartford, CT 06106

**Re: Testimony in opposition to Proposed Bill 651 - AN ACT CONCERNING A  
TEMPORARY HOLD FOR CERTAIN FAMILY VIOLENCE ARRESTEES.**

Dear Senator Coleman, Representative Tong and Committee Members:

The CCDLA is a not-for-profit organization of approximately three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, the CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

The CCDLA urges this committee to proceed with *great caution* when considering **Proposed Bill 651**. The CCDLA understands, recognizes and is supportive of the considerations underlying the proposed bill - that people who are victims of or exposed to threats and violence in emotionally charged domestic situations should have the ability to reasonably secure their safety. The CCDLA, however, is concerned that the proposal as it currently stands, would violate Article 1 Section 8 of the Connecticut Constitution.

Article 1, Section 8 of our constitution provides that "[i]n all criminal prosecutions, the accused shall have a right ... to be released on bail upon sufficient security, except in capital offenses, where the proof is evident or the presumption great...." Our supreme court has concluded that this provision guarantees bail in a reasonable amount in "all cases, even capital cases not falling within the exception." State v. Menillo, 159 Conn. 264, 269 (1970); State v. Aillon, 164 Conn. 661(1972). A person arrested in Connecticut

for any crime has a fundamental constitutional right to bail pending trial in all but certain capital offenses. This legislature may certainly attach conditions to release on bail, such as non-financial conditions attached to a written promise to appear, but the guarantee to be released on bail cannot be infringed upon. State v. Ayala, 222 Conn. 331 (1992).

The Federal Courts system permits pre-trial detention without bail, see 18 U.S.C. § 3142, in very limited circumstances. This, however, has been held to be constitutional under the Federal Constitution because this occurs only after an adversarial hearing at which there are procedural safeguards. United States v. Salerno, 481 U.S. 739, 755 (1987).

Finally, while not squarely within the focus of this proposal, our supreme court in State v. McCahill, 261 Conn. 492 (2002), held that this legislature's enactment of a statute that denied appellate bond to defendants convicted of of an offense involving the use, attempted use, or threatened use of physical force violated the separation of powers doctrine.

This proposed bill does restrict the setting of bail for a brief period of 12 hours and sets out limited circumstances in which this may occur. The CCDLA is nevertheless concerned that any language that categorically denies the setting of bail for any arrestee would run afoul of our constitution. There are other ways to achieve what the legislature is seeking to do without infringing on our constitutional guarantee of bail and this organization is happy to meet with legislators to discuss those options.

The CCDLA, as an organization dedicated to protecting the constitutional rights of all the citizens of Connecticut, is also very concerned about the slippery slope if this proposal were to become law.

For the reasons stated above, the CCDLA urges this committee to reject this bill and reformulate this proposal so as to avoid running afoul of the Constitutional guarantee of bail to all Connecticut citizens in nearly all cases.

Respectfully submitted,  
Tejas Bhatt  
Executive Board Member  
CCDLA