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Written Testimony Supporting House Bill 5387, An Act Concerning the Circulation of Nominating Petitions

Senator Cassano, Representative Jutila, and members of the Government Administration and Elections Committee. My name is David McGuire, and I am the Legislative and Policy Director for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of House Bill 5387, which would eliminate Connecticut's unconstitutional ban on out-of-state "circulators," individuals who collect signatures on petitions to appear on an election ballot. By removing this ban, House Bill 5387 represents a step forward for free speech in Connecticut.

In Connecticut, some political parties must petition the Secretary of State in order to appear on election ballots. In order to successfully petition and place a candidate on the ballot, these political parties must gather a minimum number of potential voters' signatures. Political parties typically hire professionals, including those from other states, to gather signatures, but Connecticut's law forbids the use of these out-of-state circulators. This ban is an unconstitutional restriction on free speech. Political parties deserve the chance to deliver their messages by hiring signature-gatherers based on their qualifications, not their zip codes.

The ACLU of Connecticut has been requesting that the state eliminate this ban for quite some time. Currently, the ACLU of Connecticut represents the Libertarian Party of Connecticut in a lawsuit challenging the state's ban on out-of-state circulators. In January, U.S. District Court of Connecticut Judge Janet C. Hall sided with the ACLU to issue an injunction in the case, calling the ban a "severe burden" on the Libertarian Party of Connecticut's free speech. As Judge Hall noted, "to the extent that the use of circulators constitutes First Amendment activity, [the Libertarian Party's] First Amendment rights are accordingly chilled" by the out-of-state circulator ban. This is in keeping with rulings in other states. For example, in New York, courts ruled that a similar restriction "severely burdened the core political speech" of political parties. The majority of federal regional appellate courts to address the question have reached the same conclusion and stricken circulator residency requirements. The United States Supreme Court has not disturbed those judgments.

In her decision granting an injunction for the Libertarian Party of Connecticut, Judge Hall suggested that a potential fix to Connecticut's unconstitutional ban on out-of-state circulators could simply involve asking circulators to agree to submit to Connecticut's jurisdiction. By proposing precisely this, and eliminating the ban on out-of-state circulators, H.B. 5387 aligns with Judge Hall's recommendation and, most importantly, protects free speech. We are grateful that the committee recognizes the unconstitutionality of the out-of-state circulator ban, and encourage you to support House Bill 5387.