Thank you for the opportunity to provide this written testimony in support of the above-listed Act, which would implement important and useful reforms to Connecticut’s prison practices.

I am Margo Schlanger, the Wade H. and Dores M. McCree Collegiate Professor of Law at the University of Michigan Law School. (My law school title is for identification only; I speak here for myself only.) My experience and expertise related to the subject matter of the bill is extensive. I have been working for over two decades to reduce the use of solitary confinement and improve oversight of American jails and prisons, for example serving as: a member of the Commission on Safety and Abuse in America’s Prisons, chaired by former Attorney General Nicholas Katzenbach and former federal judge John Gibbons 2006-2008); the reporter (principal drafter) of the American Bar Association’s Criminal Justice Standards on the Treatment of Prisoners (2007-Jan. 2010); the presidentially appointed Officer for Civil Rights and Civil Liberties and counsel to the Secretary for the Department of Homeland Security (2010-2013). I am also the lead author of the leading law school casebook related to prisoners’ rights (Incarceration and the Law: Cases and Materials), and I have served as a court-appointed monitor in a statewide prison case addressing appropriate treatment of Deaf and hard-of-hearing prisoners.

The proposed Act would accomplish four vital reforms:

**Sharply limiting solitary confinement.** A decade of initiatives reducing the use of solitary confinement demonstrates conclusively that it is simultaneously damaging to the prisoners subjected to it and unhelpful to prison order and safety. Solitary confinement promotes more rather than less property damage, violence, and maladaptive behavior. For incarcerated people with mental illness, as Judge Thelton Henderson warned in 1995, it is the “mental equivalent of putting an asthmatic in a place with little air to breathe.” Madrid v. Gomez, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995). But even the most resilient prisoners suffer grave mental and physical harm as a result of time in solitary. Humans are social by nature and isolation inflicts grievous pain and physical degradation. Moreover, solitary confinement is far from necessary for prison safety. In fact, over and over again, interventions reducing the use of solitary have *improved* safety, leading to declines in violent incidents.

The proposed Act leaves in place prison authorities’ ability to respond to an emergency situation with short-lived solitary, if an appropriate manager signs off. This is a safety-valve-type
measure, allowing prison staff to take the time needed to assess security and safety needs and implement appropriate non-solitary custodial arrangements.

**Sharply limiting physical restraints.** I do not have first-hand knowledge of Connecticut’s restraint practices, but I have read with shock and dismay that the prison system routinely imposes “in-cell restraints” for 24 or even 72 hours as a sanction for unwanted behavior. This is drastically out-of-sync with practices I have seen in many states’ prisons, and, in my view, highly inappropriate.

The American Bar Association’s Standards on the Treatment of Prisoners\(^1\) provide that prison disciplinary sanctions “should never include: . . . use of restraints, such as handcuffs, chains, irons, straitjackets, or restraint chairs.” Standard 23-4.3(a). In fact, “[R]estraints should not be used except to control a prisoner who presents an immediate risk of self-injury or injury to others, to prevent serious property damage, for health care purposes, or when necessary as a security precaution during transfer or transport.” Standard 23-5.9(a).

When restraints *are* used, not as punishment but to meet an immediate need for control, the same ABA Standard 23-5.9 specifies:

- (b) When restraints are necessary, correctional authorities should use the least restrictive forms of restraints that are appropriate and should use them only as long as the need exists, not for a pre-determined period of time. . . .
- (d) Other than as allowed by subdivision (e) of this Standard, correctional authorities should not use restraints in a prisoner’s cell except immediately preceding an out-of-cell movement or for medical or mental health purposes as authorized by a qualified medical or mental health professional. . . .
- (e) If restraints are used for medical or mental health care purposes, the restrained prisoner should, if possible, be placed in a health care area of the correctional facility, and the decision to use, continue, and discontinue restraints should be made by a qualified health care professional, in accordance with applicable licensing regulations.

Restraint use should, that is, be limited to situations of immediate and significant necessity, never routine. And use should be measured in minutes not many hours.

The relevant provisions of the Act, in my view, would bring Connecticut into the mainstream.

**Decreasing social isolation.** The evidence is clear that individuals reentering their communities from prison are better off if they were able to maintain social ties to family and friends while they were incarcerated. Letters, phone calls, and visits reduce the isolation of people behind bars, acknowledging that their connections to and love for their families are worth nurturing. The proposed Act’s small steps to assist prisoners and their families—a limited number of free letters and phone calls, and an expansion of visitation—seem to me useful reforms.

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\(^1\) The full set of ABA standards are available at [https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/treatment_of_prisoners.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/treatment_of_prisoners.pdf).
Oversight. Finally, the bill’s oversight steps are vital improvements. Prisons are out of the view of most people, including members of the press, and prisoners are a disempowered portion of the polity both de facto and de jure. The very nature of incarceration thus makes prison oversight and public accountability difficult. That is why an oversight system is so important. The Act’s somewhat independent Ombuds office model is one that quite a few jurisdictions have implemented. It is no cureall, but it could provide extremely useful additional eyes and expertise—and the generated reports can assist the state legislature to perform its appropriate oversight role.

I thank you for the opportunity to share these thoughts. If further analysis, sources, or documentation would be useful to you, I would be pleased to provide it. I can be reached most easily by email at mschlan@umich.edu.