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**Written Testimony Opposing House Bill 5454, An Act Concerning the  
Department of Administrative Services and Criminal Background Checks**

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting written testimony in opposition to House Bill 5454, An Act Concerning the Department of Administrative Services and Criminal Background Checks.

The ACLU-CT believes in a society where all people, including those who have been convicted or accused of a crime, have equal opportunity to contribute to society and build successful and fulfilling lives. One of the biggest injustices faced by people living with a criminal record are the myriad of collateral consequences of that criminal record which persist for years, even lifetimes, after a person finishes the punishment they were sentenced to. Collateral consequences turn any sentence into a life sentence. In Connecticut, people living with a criminal record face over 550 legal barriers to full societal participation.<sup>1</sup> These barriers prevent people from obtaining employment, housing, education, and services. Collateral consequences are not just bad for the people who experience them, they are also bad for children, families, and communities as well. Keeping people with criminal records from accessing many types of employment reduces the U.S. gross national product by between \$78 billion

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<sup>1</sup> National Inventory of Collateral Consequences of Conviction, *available at* [https://niccc.csjusticecenter.org/database/results/?jurisdiction=260&consequence\\_category=&narrow\\_category=&triggering\\_offense\\_category=&consequence\\_type=&duration\\_category=&page\\_number=1](https://niccc.csjusticecenter.org/database/results/?jurisdiction=260&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1); see also Kelan Lyons, *Council Begins Study of Discrimination Against People with Criminal Records*, CT MIRROR (Aug. 22, 2019), *available at* <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

and \$87 billion per year.<sup>2</sup> On the other hand, when a formerly incarcerated person has a fair chance to earn a job and access housing, that person is less likely to commit another crime.<sup>3</sup> And we should always remember that these collateral consequences do not fall equally on everyone in this state. Instead, because of racial disparities in Connecticut's criminal legal system,<sup>4</sup> the harmful effects of collateral consequences also disproportionately fall on Black and Latinx people in the state.

Despite repeated efforts by this Committee and other elected officials, Connecticut has failed to eliminate employment barriers altogether. But there is a way forward. One single employment anti-discrimination statute, Section 46a-80 provides that the state, when acting as an employer, cannot preemptively ban all people with a criminal record from seeking a specific position.<sup>5</sup> Rather, the state is required to start from a place of non-discrimination and may only bar a person on the basis of their criminal history if a very specific individualized assessment is conducted. That individualized assessment asks the state, acting as the employer, to consider (1) the nature of the crime and its relationship to the job, (2) the degree of rehabilitation, and (3) the time elapsed since either conviction or release. An employer is only justified in denying a person a job if the answers to this individualized assessment show a clear, particularized reason why the applicant's criminal record makes them a poor fit for the specific job. The Commission on Human Rights and Opportunities (CHRO) has

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<sup>2</sup> Cherrie Bucknor & Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, CTR. FOR ECON. AND POLY. RES., at 1 (Jun. 2016), available at <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>.

<sup>3</sup> The availability of suitable jobs in the labor market a person reenters when leaving incarceration "significantly reduces the risk of returning to prison." Crystal S. Yang, *Local Labor Markets and Criminal Recidivism*, 147 J. PUB. ECON. 16 (Mar. 2017), available at [https://scholar.harvard.edu/files/cyang/files/labor\\_recidivism\\_may2016.pdf](https://scholar.harvard.edu/files/cyang/files/labor_recidivism_may2016.pdf). Stable housing "can reduce recidivism and its associated social costs and improve public safety for the receiving community." *Housing, Inclusion, and Public Safety*, U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT (Summer 2016), available at <https://www.huduser.gov/portal/periodicals/em/summer16/highlight1.html>.

<sup>4</sup> According to the Sentencing Project, Connecticut is the fifth-worst state for Black men, with 1 in 19 incarcerated, making them 9.4 times likelier to be incarcerated than white men. Latino men in Connecticut are 3.9 times more likely to be incarcerated than white men. Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (June 14, 2016), available at <https://www.sentencingproject.org/publications/color-of-justice-racial-andethnic-disparity-in-state-prisons/>.

<sup>5</sup> Conn. Gen. Stat. § 46a-80 (2019).

and does take complaints about employment discrimination by the state under Section 46a-80.<sup>6</sup> The protections offered by Section 46a-80 is an excellent model for helping to break down the barriers faced by people living with a criminal record.

Connecticut is making strides toward eliminating collateral consequences of criminal records, but to achieve this goal, the state cannot continue to impose new collateral consequences on people trying to build satisfying and stable lives. Unfortunately, this is exactly the effect of legislation that requires needless background checks or erects unnecessary barriers to entry for people living with criminal records. House Bill 5454, unfortunately, falls into this trap. By mandating more frequent background checks by agencies and the Department of Administrative Services, this bill creates a new collateral consequence. This Committee would be well-served by incorporating an individualized assessment using the substantial nexus from Section 46a-80. As such, the ACLU-CT urges this Committee to oppose House Bill 5454 unless amended.

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<sup>6</sup> *Who Is Protected*, Commission on Human Rights and Opportunities, available at <https://www.ct.gov/chro/cwp/view.asp?a=2524&q=315896>.