



Legislative Testimony
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Written Testimony Opposing Senate Bill 873, An Act Mitigating Adverse Tax Consequences Resulting from Employees Working Remotely During COVID-19, and Concerning Removal of Liens on the Property of Public Assistance Beneficiaries and a Three-Tiered Grants in Lieu of Taxes Program unless Amended

Senator Fonfara, Representative Scanlon, Ranking Members Martin and Cheeseman, and distinguished members of the Finance, Revenue and Bonding Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in opposition to Senate Bill 873, An Act Mitigating Adverse Tax Consequences Resulting from Employees Working Remotely During COVID-19, and Concerning Removal of Liens on the Property of Public Assistance Beneficiaries and a Three-Tiered Grants in Lieu of Taxes Program unless amended.

We strongly encourage the Committee to amend Section 2 of Senate Bill 873 before supporting this legislation. While this bill includes a number of good proposals, notably the effort to limit recovery of so-called welfare liens, the unintended consequences of the language of Section 2 require us to oppose this bill unless that language is amended.

The ACLU-CT is an organization that demands justice for formerly incarcerated people by removing legal barriers that prevent people from building successful, stable lives after leaving incarceration. One such barrier is carceral liens. Connecticut law permits the state to recover the costs of incarceration from people after their release.¹

¹ Conn. Gen. Stats. § 18-85a (2020).

Although the state can collect against many types of property, it is not permitted to lien certain types of homestead property to recover the costs of incarceration.² Section 2 of this bill, though, changes a recovery statute that has not previously dealt with carceral liens to permit the Commissioner of Administrative Services to accept mortgage notes and mortgage deeds over \$250,000 for repayment of the costs of incarceration. This change is both in conflict with the exemptions currently provided under Connecticut law and deeply immoral.

The state's demand that formerly incarcerated people pay for their imprisonment is almost unbelievably cruel. A person who has been imprisoned spends every day of confinement being punished, sometimes in conditions that amount to literal torture.³ Incarcerated people, disproportionately Black and Latinx people,⁴ are held by the state against their will, many times for offenses that criminalize living in poverty.⁵ During incarceration, people pay every day for their incarceration, in the form of commissary expenses,⁶ fees to stay in touch with loved ones,⁷ healthcare costs,⁸ and vocational and educational programs⁹ that the Department of Correction demands upfront to offset its costs. Connecticut has admitted that incarceration is currently punitive, not rehabilitative,¹⁰ so the fact that the state can ever recover the costs of

² See *id.*; see also Conn. Gen. Stats. § 52-352b(t) (2020) (describing exempt property).

³ "Connecticut prison warning: Prolonged solitary confinement may 'amount to torture,'" UN expert warns." UN News, Feb. 28, 2020, *available at* <https://ne.ws.un.org/en/story/2020/02/1058311>.

⁴ 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." The Sentencing Project (Jun. 14, 2016), *available at* <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

⁵ See, e.g., Peter B. Edelman, "Criminalization of Poverty: Much More to Do." 69 Duke L.J. 114 (Apr. 2020), *available at* https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1077&context=dlj_online.

⁶ See General Population Commissary Order Form, CT Department of Correction, *available at* <https://portal.ct.gov/-/media/DOC/Pdf/CommissaryOrderFormpdf.pdf?la=en>.

⁷ Ella Goldblum & Andrew Kornfeld, "The hidden charge: Connecticut's fight for free prison phone calls." Yale Daily News, Mar. 6, 2020, *available at* <https://yaledailynews.com/blog/2020/03/06/the-hidden-charge-connecticuts-fight-for-free-prison-phone-calls/>.

⁸ Katherine Dwyer, "Inmates Paying the Cost of Their Incarceration." Office of Legislative Research, Nov. 5, 2018, *available at* <https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0269.pdf>.

⁹ *Id.*

¹⁰ The Office of the Child Advocate, in reporting on the conditions of youth incarcerated in Department of Correction facilities, noted "the overall lack of rehabilitative structure and the harmful practices related to isolation and restraint" of the Department of Correction. Office of the Child Advocate, "Conditions of Confinement for Incarcerated Youth Age 15 to 21 at Manson Youth Institution and York Correctional

punishment from the people it incarcerates, as if it were a valuable service provided, would be laughable if it were not so tragic.

Any law that expands the mechanisms for the state to recover these costs is inherently unjust. Connecticut should be removing barriers that prevent incarcerated people from participating fully in society, for the good of individuals,¹¹ communities,¹² and our economy.¹³ If we are truly a second chance 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, we must stop holding back people living with criminal records. Allowing the state to recover the costs of incarceration is one of the most immoral barriers to reentry for formerly incarcerated people; we should not expand opportunities for such “cost recovery” under any circumstances.

Because Section 2 of Senate Bill 873 expands carceral lien recovery, we oppose this section vigorously and must ask this Committee to withhold its support from the bill until this language is changed or removed. We are happy to work with this Committee

Institution.” OCA Report, Nov. 2020, *available at* <https://assets.documentcloud.org/documents/20411182/oca-report-miyici-nov-2020.pdf>.

¹¹ Formerly incarcerated people are almost 10 times more likely to be homeless than other members of the public. Lucius Couloute, “Nowhere to Go: Homelessness among Formerly Incarcerated People.” Prison Policy Initiative (Aug. 2018), *available at* <https://www.prisonpolicy.org/reports/housing.html>. A study by the state found that formerly incarcerated young people in Connecticut were eight times more likely than average to die within a year of leaving prison. Ivan Kuzyk, Kyle Baudoin, & Kendall Bobula, “Mortality among Ex-Prisoners.” CT Office of Policy & Mgmt., Criminal Justice Policy & Planning Division (Mar. 2018), *available at* https://www.ct.gov/opm/lib/opm/cjppd/cjresearch/mainnav/prisoner_mortality_final_03232018.pdf.

¹² When someone who is formerly incarcerated has a fair chance at earning a job, housing, and education, they are less likely to commit another crime. 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. Public Econ. 16 (Mar. 2017), *available at* 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. Department of Housing and Urban Development (Summer 2016), *available at* <https://www.huduser.gov/portal/periodicals/em/summer16/highlight1.html>. Formerly incarcerated people with a college degree have a recidivism rate 41% lower than the rate for formerly incarcerated people with a high school diploma. James McWilliams, “Restoring Prisoners’ Access to Education Reduces Recidivism.” Pacific Standard (Apr. 16, 2019), *available at* <https://psmag.com/education/restoring-prisoners-access-to-education-reduces-recidivism>.

¹³ Barriers to full employment of people with criminal records reduces the U.S. gross national product by an estimated \$78 to \$87 billion per year. Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies,” at 1. Center for Economic and Policy Research (Jun. 2016), *available at* <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>.

to ensure that amendments to Section 2 do not retrench or expand the state's ability to recover the costs of incarceration. If such changes are made, we would no longer oppose Senate Bill 873. Until such time, though, we oppose the bill and ask this Committee to do so as well.