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**Written Testimony Supporting
Proposed Rule Change to Connecticut Practice Book Section 38-8,
Ten Percent Cash Bail**

Rules Committee of the Connecticut Superior Court:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of the proposed rule change to Connecticut Practice Book Section 38-8, Ten Percent Cash Bail.

As a defender of equal justice under the law, the ACLU-CT supports measures that make Connecticut's bail system more equitable. We therefore support the proposed rule change to Connecticut Practice Book Section 38-8 before the committee, which would allow defendants to deposit 10% of a bond amount with the court on surety bonds that are \$20,000 or under.

Many people believe our bail system penalizes people for being poor. Bail should be based on a person's flight risk or danger to society, not on the money in his or her pocket. Many people being held pretrial on small bond amounts are accused of minor, non-violent crimes, including drug possession. They have not been convicted of a crime and should be treated as innocent until proven guilty, yet they remain in jail because they lack the resources to pay their way free. This flies in the face of our Constitution's promises of equal protection, due process, and freedom from excessive bail. In reality, any bail amount is excessive to someone without the means to pay it, and a bail system that penalizes people for being poor is the modern equivalent of a debtor's prison. As of January 1, 2019, over 3,400 people were being held pretrial in Connecticut correctional facilities, a 7.9% increase from January 1, 2018. Of those, 504 were being held pretrial on a bond of less than \$20,000. This number is up 11% from 2018.

Our Constitution promises equal treatment under the law, but Connecticut's bail system is staggeringly unequal. Connecticut's current bail system is fueled by and exacerbates unconscionable racial inequities. Emerging data shows that people stuck

in Connecticut corrections facilities because they cannot pay bail are disproportionately minorities, and that courts set higher bail amounts for minorities than for their white peers charged with the same crimes. These unfair outcomes are compounded by many judicial assessments which are not truly individualized because Connecticut judges do not have to take a defendant's ability to pay into consideration when setting monetary bail. These inequities leave the state vulnerable to legal challenges.

Although the proposed rule change to the ten percent cash option would not solve the disturbing disparities in our justice system, it would offer one important step toward their remediation. Spending even one day in jail can endanger someone's job, housing, and family connections, even if that person is innocent. The current bail system compounds the challenges and hardships many Connecticut residents face every day when they are already economically disadvantaged.

The proposed rule change would make the ten percent cash bail provision available automatically for defendants when a surety bond of \$20,000 or less is imposed. Though the Practice Book already authorizes the ten percent cash bail option, it is currently only available if a judge grants a defendant's request for it. The proposed change would most likely increase the use of the ten percent cash option, meaning more defendants could escape the harsh consequences of being held pretrial. This is particularly important for people who are indigent, lessening the burden on people who cannot afford to pay bond.

In the interests of equality under the law and justice for all people, we urge you to support the proposed rule change to Connecticut Practice Book Section 38-8.