



# NARPA

NATIONAL ASSOCIATION FOR RIGHTS PROTECTION AND ADVOCACY

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March 15, 2020

Hon. Governor Jay Inslee  
Office of the Governor  
PO Box 40002  
Olympia, WA 98504-0002

**Re. Veto Request -- SB 5720**

Dear Governor Inslee:

The National Association for Rights Protection and Advocacy (NARPA) urges Washington Governor Jay Inslee to veto SB 5720 The Involuntary Treatment Act, with the exception of Section 103. This bill, passed by the legislature this year, poses real threats to individuals with psychiatric diagnoses. The bill rolls back rights protections for individuals; and allows involuntary detention under a breathtakingly broad set of circumstances; it also exposes individuals to the harm caused by being detained under conditions that often inflict great trauma, and at the present time, to the dangerous and potentially deadly consequences of the current pandemic, which poses heightened risks in confined institutional settings like psychiatric hospitals. Washington is already ground zero for COVID-19 in the United States and has experienced the deadly risks of its spread within institutional walls. Expanding involuntary institutional confinement, as SB 5720 would do, is a terrible idea.

**Increased Length of Detention**

Among other things, SB 5720 allows a clinician up to 120 hours to file a 14-day detention. This increases the length of time an individual can be held against their will. This shortsighted approach to psychiatric emergencies not only violates individual rights; it also ignores the fact that individual needs vary, and most hospital stays offer medication and not much else. This move does not make things better for a person in a psychiatric crisis, but it does move us backward in time to when warehousing was common and people with a psychiatric diagnosis were routinely considered dangerous. This bill impacts individuals who have not been accused of a crime, but instead have a psychiatric diagnosis. In fact, accused criminals typically have more rapid access to justice than this bill would allow.

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## **Expanding the Application of Involuntary Treatment**

SB 5720 expands the definitions of “gravely disabled,” “violent act,” and “likelihood of serious harm,” in ways that would dramatically lower the bar for subjecting individuals to involuntary treatment. It invites the imposition of forced treatment for entirely arbitrary and subjective reasons. Gravely disabled would now be defined as manifesting “severe deterioration from ‘safe’ behavior,” rather than “severe deterioration from routine functioning “Who defines what is safe? Who decides when each person gets to make personal health-care decisions? Washington is a Death With Dignity state, meaning individuals with certain terminal conditions may request assistance in hastening death. Is that decision a “severe deterioration from ‘safe’ behavior”? Allowing individuals to be locked up on someone else’s determination about what constitutes safe behavior presents serious constitutional problems. Similarly, “substantial likelihood of serious harm” is redefined so that a third party can make decisions based on the third party’s reasonable (or unreasonable) concerns about another’s behavior. Who defines “serious harm”? And who decides to whom this judgment should be applied? Finally, “violent act” allows the use of the word “injury” without definition. Any type of injury may be claimed to have occurred within the past ten years—without any proof of any such injury at all. These changes would allow individuals to be involuntarily detained with little to no actual evidence of serious risk to self or others. If adopted, they would do great damage to individuals’ lives and undermine confidence in the state’s service system. Moreover, they would be highly vulnerable to constitutional challenge.

## **Involuntary Medication as Outpatient**

SB 5720 allows for psychiatric providers to involuntarily medicate individuals on a least restrictive alternative (LRA), living in the community. This is a dangerous proposal that could cause great harm to individuals so medicated. Psychiatric medications have many serious side effects, some of which may be life-threatening. Medicating an individual living in the community, without close medical supervision on the new medication, could result in the death or disability of the person. Additionally, there is virtually no evidence that outpatient commitment, which equates to LRA, is more effective than any other type of treatment, including full outpatient treatment in the community. Despite multiple random-controlled trials (the gold standard), forced services to outpatients simply do not create better outcomes. Every single randomized study has concluded that a court order requiring compliance with outpatient treatment does not improve services. Moreover, forced medication is more likely to create death and disability.

Aside from multiple concerns about unintended consequences arising from many of these measures, this is not the time to be detaining more people in locked conditions, while a global pandemic is ongoing. Governor Inslee, you are urging social distancing during this time and you have banned gatherings of over 250 people. Locked wards are vectors for contagion. In addition to violating the rights of individuals, detentions could lead to much more serious consequences.

### **Section 103**

This section of SB 5720 should be retained. It calls for the appointment of a group of stakeholders from across the state to examine possible changes to RCW 71.05 and RCW 71.34, and to evaluate the challenges and possible solutions in the state's behavioral health system. This group of stakeholders should include the attorneys who work in these courts; providers of services; and most especially, people who use services. We cannot fix a problem unless we have a genuine understanding of its root causes, and a similar understanding of possible solutions.

The National Association of Rights Protection and Advocacy supports people with psychiatric diagnoses to exercise their legal and human rights. NARPA urges you to veto SB 5720, and to take action to create the stakeholder group mentioned in the previous paragraph.

Sincerely,

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Kim Moody  
President, NARPA Board of Directors