

SA2005RF0055

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Promoting the Fundamental Liberty Rights & Privileges of Families

January 25, 2005

Honorable Bill Lockyer
Attorney General of California
1300 I Street, Suite 125
Sacramento, CA 94244

Attention: **Trisha Knight**
Initiative Coordinator
HAND DELIVERED

Dear Attorney General Lockyer:

This is a formal request to your office for a title and summary of the attached proposed initiative, which is supported by the American Family Rights Association.

It is our intention to place the initiative on the first available ballot – hopefully for a general election to be called in November of this year.

This proposed initiative would:

- Re-establish and affirm basic rights to the family unit – the parent and child.
- Provide parents the authority to object to and prevent mental health screening and evaluation of their children in public schools without informed consent.
- Prohibit Child Welfare Services or judicial officers from removing a child from the custody of their parent or guardian by virtue of a refusal of the parent to permit psychiatric drugging or treatment of their child.

There are no financial implications of this proposed initiative. It will not require any State funds to administer or implement. Rather, it affirms parental rights and prohibits the exercise of unlawful authority by state authorities.

Thank you for your prompt attention to this request.

Sincerely,

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

William Tower
California Director,
American Family Rights Association
Proponent

PARENT AND CHILD RIGHTS ACT

Section 1. Title

This Act shall be known and may be cited as the “Parent and Child Rights Act.”

Section 2. Findings and Declarations

The People of the State of California hereby find and declare all of the following:

1. The Universal Declaration of Human Rights, the United Nations Convention on the Rights of the Child, the United States Constitution and the California Constitution, each establish and acknowledge the existence of basic human rights and civil rights guaranteed to all persons in our society. Among these are, as stated in the Convention on the Rights of the Child, that:

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

2. However, the State of California, through acts by state school officials in screening and evaluating children for purported “mental disorders,” by state and local Child Welfare Services employees by evaluating children for purported “mental disorders,” and by state and local family courts, has stripped away and denied basic rights to many citizens. Worse, through the pretense of “protection” of children with psychological and psychiatric evaluation and treatment, these entities have denied basic rights to the most vulnerable persons in our society – our children.

3. Violations of the civil rights and human rights of children and their parents in California have caused considerable destruction to the basic building block of our society, illegally removing children from their parents’ homes and their parents’ care and nurturing, destroying families, and destroying futures of our children. Children removed to foster care or institutions are many times more likely to be abused and assaulted than those in the care of their own parents. Many children removed to foster care and institutional care are automatically labeled with purported psychiatric disorders and treated with psychiatric drugs.

4. Yet, the practice of psychiatry concedes that it is theoretical, that the purported “mental disorders” listed in psychiatric texts and manuals are purely subjective

evaluations. Psychiatric texts such as the Diagnostic and Statistical Manual of Mental Disorders, and purported psychiatric experts creating the parameters for mental disorders, concede that the existence of any actual mental illness cannot be proven with any medical or objective test. Thus, the designation of hundreds of supposed mental illnesses, including and especially those describing supposed conditions of children such as Attention Deficit Hyperactivity Disorder, are essentially a matter of belief and theory, but are not genuine science. Yet, psychiatric belief and theory has been adopted by California Child Welfare Service agencies, their employees and some courts as the only appropriate philosophy for child rearing. As a result, many parents with philosophical, ethical, religious and common-sense views of life and child rearing which conflict with the beliefs of psychiatry with its emphasis upon psychotropic drugs, have been targeted and they and their children punished for asserting beliefs disparate from psychiatric treatment and psychiatric drugging of our children.

5. However, the psychiatric model may be detrimental and dangerous to the welfare and even the life of the child. Many psychiatric drugs have been shown not only to be ineffective, but, according to the U.S. Food and Drug Administration and numerous studies and reports, a source of a host of deleterious physical and mental side effects including violence, hostility, suicidal and homicidal thoughts and aggressive behavior, drug dependence, and many physical illnesses.

6. Acting outside of any legitimate governmental authority, and in direct contravention of the Bill of Rights guaranteed by the United States Constitution, and international treaties, child protection services and social services employees in California, acting independently and in some cases, in concert with family courts, have removed thousands of children from their homes because their parents disagreed with the provision of dangerous psychiatric drugs to their children. California authorities, viewing parents' beliefs of child rearing antagonistic to psychiatric theory and to constitute a "threat" to the child, have removed thousands of children from the loving care of their parents and siblings solely because of their parents' disagreement with psychiatric practice and the mental illness model theorized by psychiatry.

7. Acting outside of any legitimate governmental authority, and in direct contravention of the Bill of Rights guaranteed by the United States Constitution, and international treaties, employees of public school have implemented psychological and psychiatric screening and evaluation, often without parental consent and typically without genuine informed consent. Such subjective screening and evaluation of children has caused many children to acquire denigrating and damaging labels of mental illness they carry with them for a lifetime, and causing them to receive unnecessary and dangerous psychiatric drugs and treatments.

Section 3. Purpose and Intent.

Section 304.8 of the Welfare and Institutions Code is added as follows:

Parent and Child Rights Act

The People of the State of California hereby declare their purpose and intent in enacting this Act to be as follows:

1. To preserve for children and parents of California, basic human rights, and civil rights guaranteed to all persons in our society.
2. To proclaim that the theory and philosophy of modern psychiatry is not senior to the rights of parents to have and rear children and to do so within the context of their own peaceful philosophic, religious and common-sense mores.
3. To provide full and complete due process of law for parents and children within our state.

Section 4. Definitions

Section 304.9 of the Welfare and Institutions Code is added as follows:

For the purposes of Parent and Child Rights Act:

“Due process” includes all rights, privileges, immunities and procedures guaranteed to all citizens in accordance with the United States Constitution, the California Constitution, the California Code of Civil Procedure and the California Code of Criminal Procedure, including, but not limited to, a full and fair noticed hearing, cross-examination of witnesses, discovery, habeas corpus, rights against warrantless search and seizure and expedited appeal.

“Child Welfare Services” means all agencies and employees of California state or county or local agencies that perform child protective services or child welfare service, whether designated as that name or not, and social welfare agencies with child protection functions.

“Psychiatric drugs” is defined as any prescription medication intended to affect mental, rather than physical functioning. The definition includes any prescription substance employed to control, manage or in any way affect a

purported mental health condition, disorder and/or syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders and/or the Mental Health Disorders section of the International Classification of Diseases. This specifically includes but is not limited to the drug classes known as Selective Serotonin Reuptake Inhibitor (SSRI) antidepressants, neuroleptic or anti-psychotic drugs and psychiatric stimulants.

Section 5. Limitations of Child Welfare Services and Other Social Welfare Agencies' Activities

1. Section 300 of the Welfare and Institutions Code describes the several categories of children who fall within the jurisdiction of the juvenile court for the purpose of being adjudged to be a dependant of the Court. One such category, set forth in Section 300(c) of the Welfare and Institutions Code, now states:

“The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No child shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available”

Section 300(c) is amended to delete the first sentence, and to amend the second sentence as follows:

No child shall be found to be a person described by this subdivision if the alleged willful failure of the parent or guardian to provide adequate mental health treatment is based upon the refusal of the parent or guardian to give the child psychiatric medication, or to permit mental health treatment of the child.

2. Section 300(l) of the Welfare and Institutions Code, is added as follows:

No Child Welfare Services employee may institute any formal action or proceeding against a parent and/or guardian as defined in Section 300 of the Welfare and Institutions Code for the refusal of the parent or guardian to give the child psychiatric medication or refusal to permit psychological or psychiatric screening, evaluation or treatment.

2. Section 300(m) of the Welfare and Institutions Code, is added as follows:

Violation of Section 300(l) by any Child Welfare Service official or employee shall be a misdemeanor, conviction of which shall be subject to a fine for each violation of no less than \$500 and no more than \$5,000, and imprisonment for a period of 15 to 30 days.

Section 6. Limitations of Public Educational Facilities and Employees

Section 285 is added to Article 12, Chapter 2, Part 1, Division 1 of Title 1 of the Education Code as follows:

285(a). No public educational facility or employee thereof may require any child enrolled in the school or facility to receive mental health, psychological or psychiatric screening, evaluation or treatment, without informed written consent of both parents or guardians of the child.

285(b) "Informed written consent" for mental health screening, evaluation or treatment, means written consent only after full written disclosure including, but limited to the nature, details, scope and purpose of any screening, evaluation or treatment, including identification of the person or persons who would perform such screening or evaluation, the proponent of the screening or evaluation procedure, to whom the child could be referred as a result of the screening, and the sources of funds for the screening or evaluation.

285(c) Violation of Section 285(a) or (b) by any public school official or employee shall be a misdemeanor, conviction of which shall be subject to a fine for each violation of no less than \$500 and no more than \$5,000, and imprisonment for a period of 15 to 30 days.

Section 7. Limitations of Orders by Judicial Authorities

Section 304.7 (d) is added to the Welfare and Institutions Code as follows:

(1) No court or judicial officer may order the removal of a parent or legal guardian from custody and control of a child based upon a refusal of the parent or guardian to give psychiatric drugs to the child.

(2) No court or judicial officer may remove a parent or legal guardian from custody and control of a child based upon a refusal of the

parent or guardian to permit psychological or psychiatric screening, evaluation or treatment.

(3) No court or judicial officer may remove a parent or legal guardian from custody and control of a child without full and fair due process of law, including, if the parent chooses, a public proceeding.

Section 8. Conflicts of Law

To the extent any part of this Act contravenes or conflicts with any other law respecting the rights of parents to control upbringing of their child, the purported need for psychiatric treatment or medication, the authority of Child Welfare Services, or involuntary commitment laws affecting children, this Act controls.

Section 9. Amendment or Supplementation

This Act shall be broadly construed to accomplish its purposes. The provisions of this Act may be amended by a two-thirds vote of the Legislature so long as such amendments are consistent with and further the intent of this Act. The Legislature may by majority vote add provisions to clarify procedures and terms including the procedures herein, location of the statutes in the California Code, and pass specific statutes to effectuate the purposes stated herein.

Section 10. Constitutionality

If any provision of this Act is held to be unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the validity of any other provision.

Section 11. Retroactivity

The rights guaranteed herein shall be retroactive with respect to any pending action or proceeding. The penalties for violations of this Act shall not be retroactive.

Section 12. Effective date

The provisions of this Act shall be effective immediately upon passage thereof by the people.