

CONNECTICUT LEGAL RIGHTS PROJECT

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**Testimony of Susan Aranoff, J.D. Staff Attorney
Connecticut Legal Rights Project, Inc.
Before the Judiciary Committee**

Good afternoon distinguished members of the Judiciary Committee. I am Susan Aranoff, Staff Attorney at Connecticut Legal Rights Project and I am here today to speak in opposition to **H.B. 5675, An Act Concerning The Duration of Psychiatric Evaluations.**

Connecticut Legal Rights Project, Inc. is a non-profit legal services agency that provides individual and systemic legal services to indigent adults who have, or are perceived as having, psychiatric disabilities and who receive, or are eligible to receive, services from the Department of Mental Health and Addiction Services.

Connecticut Legal Rights Project maintains offices at all DMHAS operated in-patient and out-patient facilities in the state. Our offices are staffed by attorneys and paralegal advocates. I provide legal services to individual clients and I supervise four paralegal advocates. My testimony today is informed by my expertise in the area of patients' rights, in general, and my direct experiences in Connecticut.

Connecticut Legal Rights Project, Inc. OPPOSES H.B. 5675.

H.B. 5675 proposes to change the length of time an individual can be held against their will in a psychiatric facility, without judicial review, from 30 days to 45 days. That would be a giant step backward. In deed it would be a 30 year step backward. Prior to 1971, the length of time between an emergency admission and a court adjudication was 60 days. In 1971, this legislature cut that length of confinement to 45 days. And in 1977, thirty years ago, this legislature cut the time again to what it is presently a maximum of 30 days- comprised of 15 days on the emergency certificate and another 15 days for the completion of the probate proceeding. H.B. 5675 is an entirely unnecessary, regressive infringement on the fundamental right to liberty enjoyed by all citizens, including citizens with disabilities.

Involuntary civil commitment to a mental institution has been recognized as “a massive curtailment of liberty,” Vitek v. Jones, 445 U.S. 480, 491-92, 100 S.Ct. 1254, 1262-63, 63 L.Ed.2d 552 (1980); Humphrey v. Cady, 405 U.S. 504, 509, 92 S.Ct. 1048, 1052, 31 L.Ed.2d 394 (1972), which, because it may entail indefinite confinement, could be a more intrusive exercise of state power than incarceration following a criminal conviction. See Colyar v. Third Judicial District Court, 469 F.Supp. 424, 429 (D.Utah 1979) (citing Humphrey v. Cady, 405 U.S. at 509, 92 S.Ct. at 1052). Civil commitment for any purpose requires due process protection. See Vitek, 445 U.S. at 491-92, 100 S.Ct. at 1262-63; Addington v. Texas, 441 U.S. 418, 425, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323 (1979); O'Connor v. Donaldson, 422 U.S. 563, 580, 95 S.Ct. 2486, 2496, 45 L.Ed.2d 396 (1975) (Burger, C.J., concurring). Indeed, “[t]here can be no doubt that involuntary commitment to a mental hospital, like involuntary confinement of an individual for any reason, is a deprivation of liberty which the State cannot accomplish without due process of law.” O'Connor, 422 U.S. at 580, 95 S.Ct. at 2496 (Burger, C.J.,

concurring). Whether the state purports to act pursuant to a *parens patriae* interest in promoting the welfare of the mentally ill, see Rogers v. Okin, 634 F.2d 650, 657-59 (1st Cir.1980), *vacated and remanded sub nom. Mills v. Rogers*, 457 U.S. 291, 102 S.Ct. 2442, 2447, 73 L.Ed.2d 16 (1982), or pursuant to its police power interest in preventing violence and maintaining order, 634 F.2d at 654-57; 102 S.Ct. at 2447, the state, in so acting, may not curtail or deny Fourteenth Amendment substantive or procedural due process protections in exercising such powers. See O'Connor, 442 U.S. at 580, 95 S.Ct. at 2496; Specht v. Patterson, 386 U.S. 605, 608, 87 S.Ct. 1209, 1211, 18 L.Ed.2d 326 (1967).

With the exception of some people with tuberculosis, I know if no other group of people who can be locked up on account of an illness or disability. And at least in the case of T.B., there are definitive tests that can establish the condition. In the case of mental illness, there are no blood tests, x-rays or M.R.I.s that can establish the existence of mental illness. The determination that some one suffers from a mental illness or is gravely disabled by a mental illness- the standard in the law- is entirely subjective. Prompt court review is utterly essential. H.B. 5675 delays that court review and can delay justice. In the words of the late, great Justice Thurgood Marshall, justice delayed is justice denied.