

WASHINGTON DEFENDER ASSOCIATION
WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

April 23, 2021

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

Re: Veto Request ESSB 5038

Dear Governor Inslee,

We are writing on behalf of the Washington Defender Association and the Washington Association of Criminal Defense Lawyers urging you to veto **ESSB 5038: Prohibiting the open carry of certain weapons at public demonstrations and the state capitol.**

We have concerns with Section 2 and believe it should be narrowed to cover the building interiors of buildings on the Capitol campus, as it fits with the existing statute prohibiting guns in courthouses or jails. The areas outside the buildings have traditionally served as places for public forum and First Amendment gatherings.

However, we have deeper concerns with Section 1 and oppose it in its entirety. **We strongly urge you to veto Section 1.** It prohibits the possession of a firearm (or other weapons which would include knives and presumably other protest tools like umbrellas) during and at traditional First Amendment-protected activities. The second subsection widens the prohibition to 250 feet of a demonstration. In addition to being a potential restriction on the right to assemble under the First Amendment and Art. I §4 and §5, this would be a restriction of the right to bear arms under the Second Amendment and Art. I §24.

A statute exists preventing the display of a weapon under circumstances where the possessor intends to menace other people, RCW 9.41.270. The part of RCW 9.41.270 that makes the display criminal under this statute is if the display “is in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.”

In other words, if the carrying of weapons or firearms at a demonstration was done with the intent to intimidate others, the existing statute covers and prohibits that action, nullifying the need for a new statute with significant constitutional problems.

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WDA is a non-profit organization created in 1983 to promote, assist, and encourage public defense systems which ensure that all accused persons in every court receive effective assistance of counsel

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WACDL is a non-profit organization working to improve the quality & administration of justice by protecting & insuring by rule of law those individual rights guaranteed by the Washington and Federal Constitutions

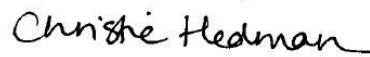
Conversely, if the display of weapons at a demonstration was not done with the intent to intimidate, then the public policy basis for such a law evaporates and it more clearly becomes an unconstitutional infringement on the right to peaceably assemble.

Additionally, we remain deeply concerned that increased criminalization disproportionately impacts Black, Indigenous, and people of color (BIPOC) communities. This newly-created crime is no exception.

Sincerely,



Amy Hirotaka
Executive Director, WACDL



Christie Hedman
Executive Director, WDA