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Monday, May 27, 2019

Assembly Public Safety Committee  
1020 N Street (LOB), Room 111  
Sacramento, California 95814

RE: **Opposition to AB 2216 (Chen)**

Dear Committee Members:

The California Civil Liberties Advocacy (CCLA) is writing to express **opposition** to AB 2216 (Chen). The CCLA's platform states that it "supports criminal justice reform policies, such as decreasing mandatory minimum sentences, 'Three Strikes' laws, and rehabilitative and restorative justice programs." One of the hurdles facing people who made mistakes, especially as young people and juveniles, is that once society brands someone a criminal, it stays with them for their entire life. It affects their employment, housing, relationships, and even the right to defend themselves. We feel this bill is just another part of this larger systemic problem. Another issue is that of the language prohibiting possession by "a person who is addicted to any narcotic drug," which we will address below.

AB 2216 will remove nunchaku from the list of generally prohibited weapons and repeal its designation as a "nuisance." While the CCLA has little interest in nunchaku or its use as a weapon, we see AB 2216 as just another bill that perpetuates the draconian view that once someone makes a mistake, they are basically written off by society for the rest of their life. It is far more difficult to obtain a certificate of rehabilitation or expunge one's records than the groups who claim the opposite, and is usually proffered as a strawman intended to detract from the real issue.

Contrary to popular belief, felons have as much right to defend themselves, their homes, and their families as someone who has no criminal record. Many hardworking, reformed individuals have gone to have steady jobs, careers, families, and obtain their college degrees. If nunchaku become legal for everyone but felons, then what happens to the felon who is unaware that felons are prohibited and purchases a pair at the local hardware store while waiting to check out? (This same problem exists for pepper spray, which is freely placed into the stream of commerce with no background checks or restrictions whatsoever, yet felons are prohibited from possessing it.) What happens to a felon who purchases nunchaku for their minor child who is taking classes for self-defense training? This bill fails to offer any exception for such an instance.

*"Indifference to personal liberty is but the precursor of the state's hostility to it."*

*— Justice Kennedy, U.S. Supreme Court*

All in all, felons are not in custody, on parole, or probation, and they have as much right to defend themselves and their families as anyone else.

Finally, the language in Section 5 states that “[a] person addicted to a narcotic drug shall not purchase, possess, or use a nunchaku.” People are addicted to prescription narcotics that they legally own and possess. Just look at the opioid crisis facing the United States. But our problem with this language runs much deeper than and philosophical debate—this language is *prima facie* unconstitutional. In 1962, the United States Supreme Court held unconstitutional a “California statute that] makes it a criminal offense for a person to ‘be addicted to the use of narcotics.’ ” (*Robinson v. California* (1962) 370 U.S. 660.) The Court stated that the statute in question “is not one which punishes a person for the use of narcotics, for their purchase, sale or possession, or for antisocial or disorderly behavior resulting from their administration. Rather, we deal with a statute which makes the ‘status’ of narcotic addiction a criminal offense.” (*Robinson, supra*, at 666.) The Court ultimately held that it is unconstitutional under the Eighth and Fourteenth Amendments to criminalize narcotics addiction because it is a disease, status, or condition, and not a specific act or conduct. (*Robinson, supra*, at 667.)

In sum, the CCLA has little interest in nunchaku or legalizing their possession or use. But as long as this Legislature has an interest in decriminalizing nunchaku, then we see no need to prohibit a felon who is not in custody, on parole, or probation from purchasing or possessing nunchaku; after all, if a felon misuses nunchaku for an illegal purpose, they will be prosecuted anyway. How difficult is it really to cut a stick in half and screw in a chain to each end? A felon (or non-felon) could still commit an assault and battery with that same stick if they don’t cut it in half. A person can be charged with using a deadly weapon which was fashioned from ordinary, everyday objects. If used improperly, a skateboard can be a “deadly weapon.” (*Ezra, Skateboard Used As A Deadly Weapon*, Canyon News (Nov. 24, 2014). <<https://www.canyon-news.com/skateboard-used-as-deadly-weapon/10481>> [as of March 12, 2020].) p. 1.) Furthermore, the bill has no exceptions for felons who purchase or furnish nunchaku for their children while taking self-defense classes, and the bill contains language that is unconstitutional on its face. (*Robinson, supra*.)

For all of the reasons mentioned above, the CCLA strongly urges the committee members to vote no on AB 2216.

Very truly yours,



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