

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 06-0993.01 Stephen Miller

HOUSE BILL 06-1382

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A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "RIGHT TO REST IN PEACE ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the "Right to Rest in Peace Act". Makes it a class 3 misdemeanor to engage in picketing within 500 feet of a funeral site during the period from one hour before the scheduled commencement of a funeral until one hour after the completion of the funeral. Makes a second or subsequent offense a class 2 misdemeanor.

Authorizes district courts to award damages, including punitive damages, attorney fees, or other appropriate relief, against a person or persons found guilty of engaging in picketing that is prohibited.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 5, 2006

HOUSE
3rd Reading Unamended
April 21, 2006

HOUSE
Amended 2nd Reading
April 20, 2006

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) This act shall be
3 known and may be cited as the "Right to Rest in Peace Act".

4 (2) The general assembly finds and declares that:

5 (a) Families and friends of persons who have died have a
6 substantial interest in organizing and attending funerals for the deceased;

7 (b) Those attending funerals will almost certainly be suffering
8 from extreme emotional distress from the loss of a loved one;

9 (c) Those attending funerals have a right to attend without being
10 subjected to unwanted offensive speech, demonstrations, visual displays,
11 interference, or other actions that contribute to increased and unnecessary
12 additional emotional distress;

13 (d) Funerals themselves are an expression of the freedoms of
14 speech, religion, and assembly protected by the United States and
15 Colorado constitutions, and, therefore, the state has a substantial interest
16 in allowing funerals to be conducted without interference or disruption
17 from violent, abusive, indecent, profane, boisterous, unreasonably loud,
18 or otherwise disorderly conduct; and

19 (e) Any distances less than those described in this act would be
20 insufficient to assure that the grief felt by persons attending the funeral
21 would not be increased by violent, abusive, indecent, profane, boisterous,
22 unreasonably loud, or otherwise disorderly conduct.

23 (3) The general assembly, therefore, determines it is necessary to
24 enact this act in order to:

25 (a) Protect the privacy of grieving families and others who are
26 entering, attending, or leaving a funeral;

1 (b) Preserve the peaceful character of funerals and funeral sites;
2 and

3 (c) Allow for a sufficient distance away from a funeral site so that
4 mourners can be assured that the funeral is not disrupted by violent,
5 abusive, indecent, profane, boisterous, unreasonably loud, or otherwise
6 disorderly conduct.

7 **SECTION 2.** 18-9-101, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
9 read:

10 **18-9-101. Definitions.** As used in this part 1, unless the context
11 otherwise requires:

12 (1.4) "FUNERAL" MEANS THE CEREMONIES, RITUALS, AND
13 MEMORIAL SERVICES HELD AT A FUNERAL SITE IN CONNECTION WITH THE
14 BURIAL, CREMATION, OR MEMORIAL OF A DECEASED PERSON.

15 (1.5) "FUNERAL SITE" MEANS A CHURCH, SYNAGOGUE, MOSQUE,
16 FUNERAL HOME, MORTUARY, CEMETERY, GRAVESITE, MAUSOLEUM, OR
17 OTHER PLACE WHERE A FUNERAL IS CONDUCTED.

18 **SECTION 3.** 18-9-106 (3), Colorado Revised Statutes, is
19 amended to read:

20 **18-9-106. Disorderly conduct.** (3) (a) An offense under
21 ~~subsections (1) (a) to (1) (c)~~ PARAGRAPH (a) OR (c) OF SUBSECTION (1) of
22 this section is a class 1 petty offense; EXCEPT THAT, IF THE OFFENSE IS
23 COMMITTED WITH INTENT TO DISRUPT, IMPAIR, OR INTERFERE WITH A
24 FUNERAL, OR WITH INTENT TO CAUSE SEVERE EMOTIONAL DISTRESS TO A
25 PERSON ATTENDING A FUNERAL, IT IS A CLASS 2 MISDEMEANOR.

26 (b) An offense under ~~subsection (1) (d)~~ PARAGRAPH (d) OF
27 SUBSECTION (1) of this section is a class 3 misdemeanor.

1 (c) An offense under ~~subsection (1) (e) or (1) (f)~~ PARAGRAPH (e)
2 OR (f) OF SUBSECTION (1) of this section is a class 2 misdemeanor.

3 **SECTION 4.** 18-9-107 (3), Colorado Revised Statutes, is
4 amended to read:

5 **18-9-107. Obstructing highway or other passageway.** (3) An
6 offense under this section is a class 3 misdemeanor; EXCEPT THAT
7 KNOWINGLY OBSTRUCTING THE ENTRANCE INTO, OR EXIT FROM, A
8 FUNERAL OR FUNERAL SITE, OR KNOWINGLY OBSTRUCTING A HIGHWAY OR
9 OTHER PASSAGEWAY WHERE A FUNERAL PROCESSION IS TAKING PLACE IS
10 A CLASS 2 MISDEMEANOR.

11 **SECTION 5.** 18-9-108 (2), Colorado Revised Statutes, is
12 amended to read:

13 **18-9-108. Disrupting lawful assembly.** (2) Disrupting lawful
14 assembly is a class 3 misdemeanor; EXCEPT THAT, IF THE ACTOR KNOWS
15 THE MEETING, PROCESSION, OR GATHERING IS A FUNERAL, IT IS A CLASS 2
16 MISDEMEANOR.

17 **SECTION 6.** 18-9-117 (1) (c) and (3) (a), Colorado Revised
18 Statutes, are amended, and the said 18-9-117 (3) is further amended BY
19 THE ADDITION OF A NEW PARAGRAPH, to read:

20 **18-9-117. Unlawful conduct on public property.** (1) It is
21 unlawful for any person to enter or remain in any public building or on
22 any public property or to conduct himself or herself in or on the same in
23 violation of any order, rule, or regulation concerning any matter
24 prescribed in this subsection (1), limiting or prohibiting the use or
25 activities or conduct in such public building or on such public property,
26 issued by any officer or agency having the power of control, management,
27 or supervision of the building or property. In addition to any authority

1 granted by any other law, each such officer or agency may adopt such
2 orders, rules, or regulations as are reasonably necessary for the
3 administration, protection, and maintenance of such public buildings and
4 property, specifically, orders, rules, and regulations upon the following
5 matters:

6 (c) Prohibition of activities or conduct within public buildings or
7 on public property which may be reasonably expected to substantially
8 interfere with the use and enjoyment of such places by others or which
9 may constitute a general nuisance OR WHICH MAY INTERFERE WITH,
10 IMPAIR, OR DISRUPT A FUNERAL OR FUNERAL PROCESSION;

11 (3) (a) Except as otherwise provided in ~~paragraph (b)~~
12 PARAGRAPHS (b) AND (c) of this subsection (3), any person who violates
13 subsection (1) of this section is guilty of a class 3 misdemeanor.

14 (c) ANY PERSON WHO VIOLATES ANY ORDER, RULE, OR
15 REGULATION ADOPTED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1)
16 OF THIS SECTION CONCERNING FUNERALS OR FUNERAL PROCESSIONS IS
17 GUILTY OF A CLASS 2 MISDEMEANOR.

18 **SECTION 7.** Part 1 of article 9 of title 18, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
20 read:

21 **18-9-125. Interference with a funeral.** (1) A PERSON COMMITS
22 INTERFERENCE WITH A FUNERAL IF HE OR SHE, KNOWING A FUNERAL IS
23 BEING CONDUCTED:

24 (a) MAKES VERBAL OR NONVERBAL COMMUNICATION THAT
25 KNOWINGLY INVADES THE PRIVACY OF A PERSON ATTENDING THE FUNERAL
26 IN A MANNER THAT WOULD CAUSE A REASONABLE PERSON TO SUFFER
27 EMOTIONAL DISTRESS AND RESULTS IN EMOTIONAL DISTRESS TO THAT

1 PERSON;

2 (b) REFUSES TO LEAVE ANY PRIVATE PROPERTY WITHIN ONE
3 HUNDRED FEET OF THE FUNERAL SITE UPON THE REQUEST OF THE OWNER
4 OF THE PRIVATE PROPERTY OR THE OWNER'S AGENT; OR

5 (c) REFUSES TO LEAVE ANY PUBLIC PROPERTY WITHIN ONE
6 HUNDRED FEET OF THE FUNERAL SITE UPON THE REQUEST A PUBLIC
7 OFFICIAL WITH AUTHORITY OVER THE PROPERTY OR A PEACE OFFICER WHO
8 HAS REASONABLE GROUNDS TO BELIEVE THE PERSON HAS VIOLATED A
9 RULE OR REGULATION APPLICABLE TO THAT PROPERTY OR A STATUTE OR
10 LOCAL ORDINANCE.

11 (2) INTERFERENCE WITH A FUNERAL IS A CLASS 2 MISDEMEANOR.
12 THE MINIMUM FINE PRESCRIBED BY SECTION 18-1.3-501 (1) FOR THE
13 OFFENSE SHALL BE MANDATORY AND MAY NOT BE SUSPENDED IN WHOLE
14 IN OR IN PART.

15 (3) EACH VIOLATION OF SUBSECTION (1) OF THIS SECTION SHALL
16 CONSTITUTE A SEPARATE OFFENSE FOR WHICH AN OFFENDER MAY BE
17 SEPARATELY CONVICTED AND SENTENCED.

18 (4) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION
19 MAY ALSO BE PROCEEDED AGAINST FOR VIOLATION OF ANY OTHER
20 PROVISION OF LAW.

21 **SECTION 8.** Part 1 of article 21 of title 13, Colorado Revised
22 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
23 read:

24 **13-21-125. Funeral picketing - legislative declaration -**
25 **definitions - damages.** (1) THE GENERAL ASSEMBLY FINDS AND
26 DECLARES THAT:

27 (a) ONE OF THE FUNDAMENTAL REASONS WE HUMANS ORGANIZE

1 OURSELVES INTO SOCIETIES IS TO RITUALLY ASSIST IN AND RECOGNIZE THE
2 GRIEVING PROCESS;

3 (b) FUNERAL PICKETING DISRUPTS THAT FUNDAMENTAL GRIEVING
4 PROCESS;

5 (c) FUNERAL PICKETING INTENTIONALLY INFLECTS SEVERE
6 EMOTIONAL DISTRESS ON THE MOURNERS; AND

7 (d) FULL OPPORTUNITY EXISTS UNDER THE TERMS AND PROVISIONS
8 OF THIS SECTION FOR THE EXERCISE OF FREEDOM OF SPEECH AND OTHER
9 CONSTITUTIONAL RIGHTS OTHER THAN AT AND DURING THE FUNERAL.

10 (2) THE GENERAL ASSEMBLY, THEREFORE, DETERMINES IT IS
11 NECESSARY TO ENACT THIS SECTION IN ORDER TO:

12 (a) PROTECT THE PRIVACY OF THE MOURNERS DURING THE
13 FUNERAL; AND

14 (b) PRESERVE A FUNERAL-SITE ATMOSPHERE THAT ENHANCES THE
15 GRIEVING PROCESS.

16 (3) AS USED IN THIS SECTION:

17 (a) "FUNERAL" MEANS THE CEREMONIES, RITUALS, PROCESSIONS,
18 AND MEMORIAL SERVICES HELD IN CONNECTION WITH THE BURIAL,
19 CREMATION, OR MEMORIAL OF A DECEASED PERSON, INCLUDING THE
20 ASSEMBLY AND DISPERSAL OF THE MOURNERS.

21 (b) "FUNERAL PICKETING" MEANS A PUBLIC DEMONSTRATION AT
22 A FUNERAL SITE DURING THE FUNERAL THAT IS REASONABLY CALCULATED
23 TO INFLECT SEVERE EMOTIONAL DISTRESS ON THE MOURNERS.

24 (c) "FUNERAL SITE" MEANS A CHURCH, SYNAGOGUE, MOSQUE,
25 FUNERAL HOME, MORTUARY, GRAVESITE, MAUSOLEUM, OR OTHER PLACE
26 WHERE A FUNERAL IS BEING CONDUCTED.

27 (d) "MOURNER" MEANS A MEMBER OF THE DECEDENT'S IMMEDIATE

1 FAMILY AT THE FUNERAL.

2 (4) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY ENGAGE IN
3 FUNERAL PICKETING WITHIN ONE HUNDRED FEET OF THE FUNERAL SITE OR
4 TO ENGAGE IN ELECTRONICALLY AMPLIFIED FUNERAL PICKETING WITHIN
5 ONE HUNDRED FIFTY FEET OF THE FUNERAL SITE.

6 (5) (a) EACH MOURNER SHALL BE ENTITLED TO RECOVER
7 REASONABLE DAMAGES, BUT NOT LESS THAN ONE THOUSAND DOLLARS,
8 TOGETHER WITH REASONABLE ATTORNEY FEES AND COSTS FROM EACH
9 PERSON WHO VIOLATES SUBSECTION (4) OF THIS SECTION.

10 (b) THE COURT SHALL IMPOSE JOINT AND SEVERAL LIABILITY ON
11 ANY PERSON WHO:

12 (I) VIOLATES SUBSECTION (4) OF THIS SECTION BY ACTING IN
13 CONCERT WITH ONE OR MORE OTHER PERSONS; OR

14 (II) CONSCIOUSLY CONSPIRES WITH ONE OR MORE OTHER PERSONS
15 AND DELIBERATELY PURSUES A COMMON PLAN OR DESIGN TO COMMIT A
16 VIOLATION OF SUBSECTION (4) OF THIS SECTION.

17 **SECTION 9. Severability.** If any provision of this act or the
18 application thereof to any person or circumstance is held invalid, the
19 invalidity shall not affect other provisions or applications of this act
20 which can be given effect without the invalid provision or application,
21 and to this end the provisions of this act are severable.

22 **SECTION 10. Effective date - applicability.** This act shall
23 take effect upon passage and shall apply to offenses committed on or
24 after the effective date of this act.

25 **SECTION 11. Safety clause.** The general assembly hereby
26 finds, determines, and declares that this act is necessary for the
27 immediate preservation of the public peace, health, and safety.