

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 13, 2006  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB06-1382 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, strike everything below the enacting clause  
2 and substitute the following:

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

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

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

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

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

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

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

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

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

9 (b) Preserve the peaceful character of funerals and funeral sites;  
10 and

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

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

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

20 (1.4) "FUNERAL" MEANS THE CEREMONIES, RITUALS, AND  
21 MEMORIAL SERVICES HELD AT A FUNERAL SITE IN CONNECTION WITH THE  
22 BURIAL, CREMATION, OR MEMORIAL OF A DECEASED PERSON.

23 (1.5) "FUNERAL SITE" MEANS A CHURCH, SYNAGOGUE, MOSQUE,  
24 FUNERAL HOME, MORTUARY, CEMETERY, GRAVESITE, MAUSOLEUM, OR  
25 OTHER PLACE WHERE A FUNERAL IS CONDUCTED.

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

28 **18-9-106. Disorderly conduct.** (3) (a) An offense under  
29 ~~subsections (1)(a) to (1)(c)~~ PARAGRAPH (a) OR (c) OF SUBSECTION (1) of  
30 this section is a class 1 petty offense; EXCEPT THAT, IF THE OFFENSE IS  
31 COMMITTED WITH INTENT TO DISRUPT, IMPAIR, OR INTERFERE WITH A

1 FUNERAL, OR WITH INTENT TO CAUSE EMOTIONAL DISTRESS TO A PERSON  
2 ATTENDING A FUNERAL, IT IS A CLASS 2 MISDEMEANOR.

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

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

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

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

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

17 **18-9-108. Disrupting lawful assembly.** (2) Disrupting lawful  
18 assembly is a class 3 misdemeanor; EXCEPT THAT, IF THE ACTOR KNOWS  
19 THE MEETING, PROCESSION, OR GATHERING IS A FUNERAL, IT IS A CLASS 2  
20 MISDEMEANOR.

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

24 **18-9-117. Unlawful conduct on public property.** (1) It is  
25 unlawful for any person to enter or remain in any public building or on  
26 any public property or to conduct himself or herself in or on the same in  
27 violation of any order, rule, or regulation concerning any matter  
28 prescribed in this subsection (1), limiting or prohibiting the use or  
29 activities or conduct in such public building or on such public property,  
30 issued by any officer or agency having the power of control, management,  
31 or supervision of the building or property. In addition to any authority  
32 granted by any other law, each such officer or agency may adopt such  
33 orders, rules, or regulations as are reasonably necessary for the  
34 administration, protection, and maintenance of such public buildings and

1 property, specifically, orders, rules, and regulations upon the following  
2 matters:

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

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

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

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

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

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

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

29 (c) REFUSES TO LEAVE ANY PUBLIC PROPERTY WITHIN ONE  
30 HUNDRED FEET OF THE FUNERAL SITE UPON THE REQUEST A PUBLIC  
31 OFFICIAL WITH AUTHORITY OVER THE PROPERTY OR A PEACE OFFICER WHO  
32 HAS REASONABLE GROUNDS TO BELIEVE THE PERSON HAS VIOLATED A  
33 RULE OR REGULATION APPLICABLE TO THAT PROPERTY OR A STATUTE OR  
34 LOCAL ORDINANCE.

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

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

8 (4) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION  
9 MAY ALSO BE PROCEEDED AGAINST FOR VIOLATION OF ANY OTHER  
10 PROVISION OF LAW.

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

14 **13-21-125. Funeral picketing - short title - legislative**  
15 **declaration - damages - definitions.** (1) THIS SECTION SHALL BE  
16 KNOWN AND MAY BE CITED AS THE "RIGHT TO REST IN PEACE ACT".

17 (2) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

18 (a) ONE OF THE FUNDAMENTAL REASONS WE HUMANS ORGANIZE  
19 OURSELVES INTO SOCIETIES IS TO RITUALLY ASSIST IN AND RECOGNIZE THE  
20 GRIEVING PROCESS;

21 (b) FUNERAL PICKETING DISRUPTS THAT FUNDAMENTAL GRIEVING  
22 PROCESS;

23 (c) FUNERAL PICKETING INTENTIONALLY INFLICTS SEVERE  
24 EMOTIONAL DISTRESS ON THE MOURNERS; AND

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

28 (3) THE GENERAL ASSEMBLY, THEREFORE, DETERMINES IT IS  
29 NECESSARY TO ENACT THIS SECTION IN ORDER TO:

30 (a) PROTECT THE PRIVACY OF THE MOURNERS DURING THE  
31 FUNERAL; AND

1 (b) PRESERVE A FUNERAL-SITE ATMOSPHERE THAT ENHANCES THE  
2 GRIEVING PROCESS.

3 (4) AS USED IN THIS SECTION:

4 (a) "FUNERAL" MEANS THE CEREMONIES, RITUALS, PROCESSIONS,  
5 AND MEMORIAL SERVICES HELD AT A FUNERAL SITE IN CONNECTION WITH  
6 THE BURIAL, CREMATION, OR MEMORIAL OF A DECEASED PERSON,  
7 INCLUDING THE ASSEMBLY AND DISPERSAL OF THE MOURNERS.

8 (b) "FUNERAL PICKETING" MEANS A PUBLIC DEMONSTRATION AT  
9 A FUNERAL SITE DURING THE FUNERAL THAT IS REASONABLY CALCULATED  
10 TO INFLICT SEVERE EMOTIONAL DISTRESS ON THE MOURNERS.

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

14 (d) "MOURNER" MEANS A MEMBER OF THE DECEDENT'S IMMEDIATE  
15 FAMILY AT THE FUNERAL.

16 (5) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY ENGAGE IN  
17 FUNERAL PICKETING WITHIN ONE HUNDRED FEET OF THE FUNERAL SITE OR  
18 TO ENGAGE IN ELECTRONICALLY AMPLIFIED FUNERAL PICKETING WITHIN  
19 ONE HUNDRED FIFTY FEET OF THE FUNERAL SITE.

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

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

26 (I) VIOLATES SUBSECTION (5) OF THIS SECTION BY ACTING IN  
27 CONCERT WITH ONE OR MORE OTHER PERSONS; OR

28 (II) CONSCIOUSLY CONSPIRES WITH ONE OR MORE OTHER PERSONS  
29 AND DELIBERATELY PURSUES A COMMON PLAN OR DESIGN TO COMMIT A  
30 VIOLATION OF SUBSECTION (5) OF THIS SECTION.

31 (7) THE ATTORNEY GENERAL IS AUTHORIZED TO PROSECUTE AN

1 ACTION UNDER THIS SECTION.

2           **SECTION 9. Severability.** If any provision of this act or the  
3 application thereof to any person or circumstance is held invalid, the  
4 invalidity shall not affect other provisions or applications of this act  
5 which can be given effect without the invalid provision or application,  
6 and to this end the provisions of this act are severable.

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

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

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