

Bill as Introduced

HB 1135 - AS INTRODUCED

2012 SESSION

12-2150

09/10

HOUSE BILL

1135

AN ACT

establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

SPONSORS:

Rep. B. Palmer, Hills 26; Rep. Ohm, Hills 26; Rep. J. Belanger, Hills 5; Rep. Drisko, Hills 5; Rep. McClarren, Hills 21; Sen. Lambert, Dist 13

COMMITTEE:

Judiciary

ANALYSIS

This bill establishes a civil action for certain disruptions of funerals of members or former members of the armed forces.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Military Funerals. Amend RSA by inserting after chapter 119 the following
2 new chapter:

3 CHAPTER 119-A

4 MILITARY FUNERALS

5 119-A:1 Short Title. This chapter may be cited as the "Sanctity of Heroes Rest Act."

6 119-A:2 Purpose. The purpose of this chapter is to protect the dignity of the service of members
7 of the armed forces, by protecting the privacy of their immediate family members and other
8 attendees during funeral services for such members.

9 119-A:3 Prohibition on Disruptions of Funerals of Members or Former Members of the Armed
10 Forces. For any funeral of a member or former member of the armed forces at a cemetery, it shall be
11 unlawful for any person to engage in an activity during the period beginning 120 minutes before and
12 ending 120 minutes after such funeral, any part of which activity:

13 I.(a) Takes place within the boundaries of the location of such funeral or takes place within
14 300 feet of the point of the intersection between:

15 (1) The boundary of the location of such funeral; and

16 (2) A road, pathway, or other route of ingress to or egress from the location of such
17 funeral; and

18 (b) Includes any individual willfully making or assisting in the making of any noise or
19 diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good
20 order of such funeral;

21 II.(a) Is within 500 feet of the boundary of the location of such funeral; and

22 (b) Includes any individual willfully and without proper authorization impeding or
23 tending to impede the access to or egress from such location or disrupting or tending to disrupt a
24 funeral procession; or

25 III. Is within 500 feet of the boundary of the residence, home, or domicile of any surviving
26 member of the deceased person's immediate family and includes any individual willfully making or
27 assisting in the making of any noise or diversion that disturbs or tends to disturb the peace of the
28 persons located at such location.

29 119-A:4 Civil Remedies.

30 I. The superior and district courts shall have jurisdiction:

1 (a) To prevent and restrain violations of this chapter; and

2 (b) For the adjudication of any claims for relief under this chapter.

3 II. The attorney general may institute proceedings under this chapter.

4 III. Any person, including a surviving member of the deceased person's immediate family,
5 who suffers injury as a result of conduct that violates this chapter may:

6 (a) Sue therefor in any appropriate court; and

7 (b) Recover damages and the cost of the suit, including reasonable attorneys' fees.

8 IV.(a) In addition to any penalty imposed by the court, a violator of this chapter is liable in
9 an action for actual or statutory damages.

10 (b) A person bringing an action may elect, at any time before final judgment is rendered,
11 to recover the actual damages suffered by him or her as a result of the violation or, instead of actual
12 damages, an award of statutory damages for each violation involved in the action.

13 (c) The attorney general may recover an award of statutory damages for each violation
14 involved in the action notwithstanding any recovery under subparagraph III(b).

15 (d) A court may award, as the court considers just, statutory damages in a sum of not
16 less than \$10,000 or more than \$25,000 per violation.

17 (e) It shall be a rebuttable presumption that the violation was committed willfully for
18 purposes of determining relief under this section if the violator, or a person acting in concert with the
19 violator, did not have reasonable grounds to believe, either from the attention or publicity sought by
20 the violator or other circumstance, that the conduct of such violator or person would not disturb or
21 tend to disturb the peace or good order of such funeral, impede or tend to impede the access to or
22 egress from such funeral, disrupt or tend to disrupt a funeral procession, or disturb or tend to disturb
23 the peace of any surviving member of the deceased person's immediate family who may be found at
24 the residence, home, or domicile of the deceased person's immediate family on the date of the service
25 or ceremony.

26 2 Effective Date. This act shall take effect upon its passage.

Amendments



"Not Adopted"

Amendment to HB 1135

1 Amend RSA 119-A:2 and RSA 119-A:3 as inserted by section 1 of the bill by replacing them with the
2 following:

3
4 119-A:2 Purpose. The purpose of this chapter is to protect the dignity of funeral services of
5 members or former members of the armed forces and the privacy rights of the persons attending.

6 119-A:3 Prohibition on Disruptions of Funerals of Members or Former Members of the Armed
7 Forces. It shall be unlawful for any person to engage in an activity at a cemetery during the period
8 beginning 120 minutes before and ending 120 minutes after a funeral of a member or former
9 member of the armed forces, any part of which activity:

10 I. Takes place within the perimeter of the space occupied by attendees of such funeral or
11 within 300 feet of the point of intersection of such space and any road, pathway, or other route of
12 ingress to or egress from the location of such funeral and includes, as part of such activity, any
13 individual who willfully makes or assists in making any noise or diversion that is not part of such
14 funeral and is intended to disturb the peace or good order thereof;

15 II. Takes place within 500 feet of the boundary of the location of such funeral; and includes
16 any individual who willfully and without proper authorization impedes or attempts to impede
17 ingress to or egress from such location or disrupts or attempts to disrupt a funeral procession; or

18 III. Takes place within 500 feet of the boundary of the abode of any of the deceased
19 member's immediate family and includes any individual who willfully makes or assists in making
20 any noise or diversion intended to disturb the peace of the persons at such abode on account of the
21 deceased's military service.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 1135

BILL TITLE: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

DATE: January 17, 2012

LOB ROOM: 208 **Time Public Hearing Called to Order:** 4:33 pm

Time Adjourned: 5:14 pm

(please circle if present)

Committee Members: Reps. Rowe, Sorg, Souza, Hagan, Silva, Hopper, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Wall, Potter, Weber and Watrous.

Bill Sponsors: Rep. B. Palmer, Hills 26; Rep. Ohm, Hills 26; Rep. J. Belanger, Hills 5; Rep. Drisko, Hills 5; Rep. McClarren, Hills 21; Sen. Lambert, Dist 13

TESTIMONY

- Use asterisk if written testimony and/or amendments are submitted.

Rep. Palmer, sponsor

Introduced the bill. Fashioned to a bill going through Congress, only deals with Federal cemeteries. 2007 Cemetery disruption bill increased the penalty for military funerals. No solace for grief caused by the protesters. Military more significant and should offer civil relief due to disruption. Funeral is sacred time and military funeral sacred ground and ceremony. Just because it's infrequent, does not mean it's not necessary. Free speech is valid, but a boundary can be enforced.

Howard Zibel, New Hampshire Supreme Court, Judicial Branch – informational only
Technical issue –lines 29-30, pg 2 line 1, District Court authority is wrong. Give Superior Court jurisdiction.

***Rep. Baldasaro – supports**

644.26 law on funeral protests Supreme Court decision in Maryland, no law in place. Attorney General says it is against the law to protest funerals in New Hampshire. There is no fine in that bill. This is a misdemeanor.

Claire Ebel, New Hampshire Civil Liberties Union – opposes

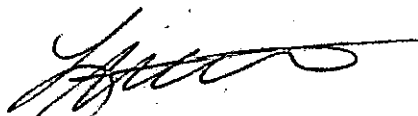
This may fundamentally go against the first amendment. Time frame is significant, up to six hours. Area is significant up to six football fields.

David J. Kenney, CDR, United States Navy – supports

Has been conducting military funerals for 20 years in New Hampshire, Massachusetts and Maine. This bill will help deflate the Phelps family protests. They just don't protest military. They say it's their first amendment right to protest. Decency should be covered under the Constitution.

***Elizabeth Sargent, New Hampshire Funerals Directors and Embalmers Association. – supports
We help the living care for their dead. Funerals are for families to show last respects.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lenette M. Peterson', with a long horizontal flourish extending to the right.

Lenette M. Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 1135

BILL TITLE: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

DATE: {Type HEARING DATE here} 1.17.12

LOB ROOM: 208

Time Public Hearing Called to Order:

{Time} 4:33

Time Adjourned:

{Time} 5:14

(please circle if present)

Committee Members: Reps. Rowe, Sora, Souza, Hagan, Silva, Hopper, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Wall, Potter, Weber and Watrous

Bill Sponsors: Rep. B. Palmer, Hills 26; Rep. Ohm, Hills 26; Rep. J. Belanger, Hills 5; Rep. Drisko, Hills 5; Rep. McClarren, Hills 21; Sen. Lambert, Dist 13

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Palmer - fashioned to a bill going through Congress, only deals with Federal cemeteries. 2007 Cemetery disruption bill. Increased penalty for military funerals, no solace for grief caused by protesters. Military more significant & should offer civil relief due to disruption. Funeral is sacred time and Military funeral sacred ground & ceremony. Just because its is frequent, doesn't mean its not necessary. Free Speech is valid, but a boundry can be enforced.

Respectfully submitted,

Lenette M. Peterson, Clerk

Howard Zibel - (info) tech. issue - lines 29-30, pg 2 line 2, Dist Court authority is wrong, ~~Parker~~ Give superior court jurisdiction

*Rep. Baldasaro - (sup) G 44. ²⁶ law on funeral protests
Sup. Court decision in MD ^{not law in place} Att. General says it is against
the law to protest funerals; there is no fine in that bill
This is a misdemeanor.

Claire Ebel - (opp) This may fundamentally go against the
NHCHU 1st amendment. Time frame is
significant, up to 6 hrs. Area is significant
up to 6 football fields.

*DRD Dave Kenney - (sup) conducts military funerals 20 yrs NH, MA
+ ME. This bill will help defate the Phelps family protests.
They just don't protest military. They say its their 1st Amended Right
to protest. Decency should be covered under Constitution

*Elizabeth Sargent - (sup) we help the living care for their dead
NH Funerals Dir. funerals we for families to show last
respects.

Sub-Committee Actions

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE A WORK SESSION ON HOUSE BILL 1135

BILL TITLE: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

DATE: January 26, 2012

Subcommittee Members: Reps. Giuda, Palmer, Souza, LaCasse, Hopper, Sorg, Potter and Weber

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. LaCasse

Seconded by Rep. Weber

Vote: 6-1

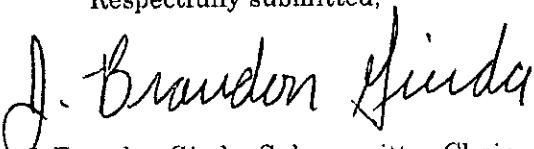
Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,


Rep. J. Brandon Giuda, Subcommittee Chair

Testimony

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

83 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL



May 31, 2011

The Honorable Alfred P. Baldasaro, Chairman
State-Federal Relations and Veterans Affairs
Legislative Office Building, Room 203
Concord, NH 03301

Dear Representative Baldasaro:

Thank you for your inquiry regarding the constitutionality of New Hampshire's funeral protest law (RSA 6:442-b) in light of the United States Supreme Court opinion in *Snyder v. Phelps*, 131 S.Ct. 1207 (2011). As per regulations of the Office of the Attorney General, we cannot provide a formal opinion of this issue; however, we will provide you with an informal analysis of the issue presented.

In *Snyder* the Supreme Court dealt with the issue of tort liability in regards to the protests that the Westboro Baptist Church held at the funeral of Marine Lance Corporal Lance Snyder. The protest was held 1000 feet away from the church where the funeral was taking place, and followed all local regulations. The court held that in light of content, form, and context, the speech of the church members who picketed was of public concern and entitled to special protection under the first amendment.

At the time of the allegations taking place, Maryland did not have a funeral protest statute on file, and the court declined to address this issue. However, the Court did state that "content neutral statutes" which impose "time, place and manner" restrictions on free speech are constitutionally permissible. *Snyder*, 131 S.Ct. at 1218. While the Supreme Court has not been presented with this issue yet, lower federal courts have already addressed this issue, and provide us with some guidance as to the constitutionality of funeral protest statutes.

Presently, there is a circuit court split about the constitutionality of funeral protest statutes. The Sixth Circuit has held funeral protest statutes to be constitutionally permissible, while the Eighth Circuit has held them to be unconstitutional. The First Circuit has not addressed the issue yet, neither has the Supreme Court of the United States.

In *Phelps-Roper v. Strickland*, 539 F.3d 356 (6th Cir. 2008), the Court of Appeals addressed the constitutionality of Ohio's funeral protest law (Ohio Rev. Code § 3767.30) which states in pertinent part that "[N]o person shall picket or engage in ... protest activities to occur,

within three hundred feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of an actual funeral or burial service at that place.” The Westboro Baptist Church sought to have this law declared unconstitutional so that they could begin protesting in Ohio.

The court stated that to determine if the statute was content neutral then “The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” *Id.* at 361. The court determined that the statute was content neutral based on three factors. First, the statute “is not a regulation of speech but rather a regulation where some speech may occur. *Id.* Second, the court found that the statute applied to everyone regardless of viewpoint and content of the speech. *Id.* Finally the court determined that Ohio’s purpose in passing the statute was to protect its citizens from disruptions during a funeral service and was unrelated to a funeral protester’s speech. *Id.*

After determining that the statute was content neutral, the court moved on to analyze the “time, place, and manner” restrictions on the statute. The court determined that the applicable standard of review was intermediate scrutiny and stated that the state “may impose reasonable content-neutral restrictions on the time, place, or manner of protected speech, provided the restrictions: (1) “serve a significant governmental interest;” (2) are “narrowly tailored;” and (3) “leave open ample alternative channels for communication of the information.” *Id.* at 362. In analyzing these factors the court first determined that the government had an important interest in protecting funeral mourners from unwanted communication because the funeral mourners constituted a “captive audience” which were captive to the message of the protesters and could not escape it if they wished to participate in the funeral. The court stated that “[individuals] mourning the loss of a loved one share a privacy right similar to individuals in their homes or individuals entering a medical facility. *Id.* at 364. Similar to *Snyder*, the court cited to *Frisby v. Schultz*, 487 U.S. 474 (1988), and *Madsen v. Women’s Health Center, Inc.*, 512 U.S. 763 (1994) for support of this proposition. In *Frisby* the Court upheld a statute banning residential picketing and in *Madsen* the Court upheld a statute banning picketing in front of an abortion clinic.

Second, the court determined that the goals of the statute were “narrowly tailored” because the statute did not place an absolute limitation on speech, instead, the statute banned only picketing and protest activity directed at the funeral itself. The Ohio statute only restricted the time and place of speech directed at a funeral service. This was considered “narrowly tailored” and survived intermediate scrutiny.

Lastly, the court determined that the statute provided ample alternative channels of communication for the message of the protester. The only time the protesters could not disseminate their message was during the proscribed period in the statute. The Court suggested that the protesters could still send their message through the mail, go door-to-door, or use other media alternatives to spread their message. Therefore the Westboro Baptist church had alternative channels of communication open to them, and the funeral protest statute was constitutional.

In contrast, in *Phelps-Roper v. Nixon*, 545 F.3d 685 (8th Cir. 2008) the court granted the Westboro Church a preliminary injunction against the enforcement of a Missouri funeral protest statute. While the court found the statute to be “content-neutral,” the court found it likely that the Westboro Baptist Church’s First Amendment interests would outweigh those of the government in protecting funeral attendees’ privacy. This would fail the government’s significant interest test under intermediate scrutiny. Citing *Olmer v. Lincoln*, 192 F.3d 1176, 1182 the court stated that “[allowing] other locations, even churches, to claim the same level of constitutionally protected privacy [as the home] would, we think, permit government to prohibit too much speech and other communication.” As a result the court determined that the Westboro Baptist Church was likely to prove that any interest in protecting mourners was outweighed by the First Amendment and the language of the Constitution itself. After stating that the statute failed to create a significant government interest, the court did not do a rigorous analysis in determining whether the statute was “narrowly tailored” and whether it “leaves open ample alternative channels for communication of the information.”

This reasoning contradicts the Sixth Circuit’s regarding significant government interest. In *Strickland*, the court’s reasoning for finding “significant government interest” was that “[individuals] mourning the loss of a loved one share a privacy right similar to individuals in their homes or individuals entering a medical facility.” Mourners cannot easily avoid the unwanted speech, beyond choosing not to go to the funeral services, nor can they simply “avert their eyes.” The court found that the mere presence of picketers was sufficient to inflict harm, and that the government had a significant interest in protecting mourners from such harm. The opposing views on what constitutes a “significant government interest” have created the circuit split on the constitutionality of funeral protest statutes.

In regards to RSA 644:2-b, no court has held that funeral protest statutes are not “content neutral.” The Supreme Court has previously held laws restricting protests outside of residences and medical facilities to be content-neutral, despite the fact that they were primarily enacted to restrict abortion protesting. In addition, both the Sixth and Eighth Circuits found that the funeral protest statutes in question were “content neutral.”

A federal court could find that RSA 644:2-b is constitutional given the substantial privacy interests of the mourners and the significant government interest in protecting them. A court could also find this interest analogous to the privacy interests of residential homeowners and medical patients using the “captive audience” doctrine for support of this proposition.

However, the Court in *Snyder* stated that the speech at a military funeral is to be afforded the full protection of the First Amendment. While the Court did not specifically address funeral protest statutes, the Court granting full protection of funeral protest speech could provide a difficult challenge to prove that the interests of the state outweighs the interest of the protestors.

Even given this difficulty, a federal court could find RSA 644-2:b constitutional since *Snyder* did not deal with a funeral protest statute, and the facts of the case do not provide a good background since Mr. Snyder did not see the signs at the funeral and the protesters were 1000 feet away. The challenge is finding that there is a “significant government interest” in RSA

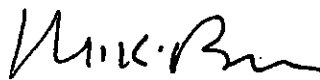
644:2-b and given the Sixth Circuit's decision, and analogous lower court decisions in the residential and medical picketing contexts a court should find RSA 644:2-b constitutional.

In regard to the New Hampshire State Constitution, the right of free speech is also "subject to reasonable time, place and manner regulations that are content-neutral, narrowly serve a significant governmental interest, and allow other opportunities for expression" *Opinion of the Justices*, 128 N.H. 46, 50 (1986). In *State v. Conley* 130 N.H. 688 (1988) the court addressed the constitutionality of RSA 644:2. While this case dealt with disorderly conduct, the court held that RSA 644:2 was constitutionally permissible as written and said that "[i]n generally prohibiting disorderly conduct, the statute only prohibits that speech whose exercise, as distinct from its contents, interferes with the government's interest in preserving order in its business." *Id.* at 691. Extrapolating this principle to an analysis of RSA 644:2-b, and applying the principles from *Strickland*, RSA 644:2-b should be constitutional since the government has a significant interest in protecting the privacy rights of its citizens.

In conclusion, there is currently a circuit split as to the constitutionality of funeral protest statutes. However, no court has found a funeral protest statute not to be "content neutral." In light of the *Snyder* case, it may be more difficult to uphold the constitutionality of funeral protest statutes because the Court gave funeral protestors full first amendment rights. It is important to note however that *Snyder* did not address a funeral protest statute. Therefore, the circuit split between what constitutes a "significant government interest" is at the heart of the constitutionality of funeral protest statutes. Given the Sixth Circuit's reasoning in *Strickland* and analogous citizen privacy concerns in *Clark* and *Madsen*, the statute creates a "significant government interest" and a court should find it constitutional.

I hope that this analysis sufficiently addresses your concerns. If you have any additional questions please feel free to contact us.

Very Truly Yours,



Michael K. Brown
Senior Assistant Attorney General
Civil Bureau

#616137

Testimony on HB1135: Relative to establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

Mr. Chairman, and distinguished members of the Judiciary committee, thank you for allowing me this time to come before the committee today and provide testimony in support of HB1135.

While I come before this committee to express my personal support for this legislation, I do so with some relevant experience to the subject of military funerals. I am a Commander in the U.S. Navy and in that capacity, I have the privilege to be the Officer in Charge of the Navy Funeral Honor Guard here in New Hampshire and have performed military funerals for 11 years in New Hampshire, Mass. and Vermont.

The main impetus for this legislation, as most are aware, is predicated on the provocative actions of the Phelps family and the Westboro Baptist Church in Topeka, Kansas. Over the last 6 years, they've managed to garner a lot of attention while protesting various military funerals with raucous public behavior while holding signs with statements such as "God Hates Fags", "Thank God for 9/11" and "Thank God for Dead Soldiers". I've included an enclosure an example of a poster they distributed announcing their protest of the Arizona shootings in January of 2011. Ostensibly, they do this to express their intolerant position against homosexuality and cloak themselves under the First Amendment to do so. Last year, the Supreme Court ruled in their favor after hearing arguments relative to a civil case brought forward through the appellate courts by Mr. Albert Snyder. Mr. Snyder had filed suit in Baltimore against the Westboro Baptist Church of Topeka, Kansas for the pain and suffering caused to Mr. Snyder's family during the funeral for their son who was killed in Iraq in 2006. While Mr. Snyder won his jury trial, it was overturned in the appellate court and later upheld by the US Supreme Court. They continue to this day picketing the funerals of Elizabeth Edwards and just recently a soldier's funeral in South Carolina. According to their website, they claim to have protested more than 43,000 funerals in over 20 years. However, in my opinion, even one is one too many.

While we all hold dear the tenets of the First Amendment, even the Supreme Court determined that the First Amendment has reasonable limits, to wit; you can't yell fire in a theater knowing the outcome would likely result in panic and subsequent injury without cause. I do not intend to debate constitutional precedence in this matter, but rather, bring to light the premise of decency which should also have place of protection under the First Amendment.

The Phelps' family's fateful decision to picket military funerals, for whatever contorted reason, has fomented condemnation by hundreds of thousands of Americans, Senators, Congressman, and in fact, was the motivation behind the formation of the Patriot Guard. Their 255,000 + members have a basic missions statement; "to attend the funeral services of fallen American heroes *as invited guests of the family* to show our sincere respect for our fallen heroes, their families, and their communities and shield the mourning family and their friends from interruptions created by any protestor or group of protestors." I am also a member and I can personally attest to the magnificent job they've done in providing an effective shield between these protesters and the grieving families.

I have personally participated in over 750 military funerals. Collectively all our service honor guards in New Hampshire perform over 1500 veteran funerals per year. Our men and women in these honor guards train hard, and take great pride in rendering that final ceremony with dignity. To the families, we represent that aspect of their loved one's lives that was so important to them; service to their country. Our presence acknowledges that service, and we are often thanked for that recognition.

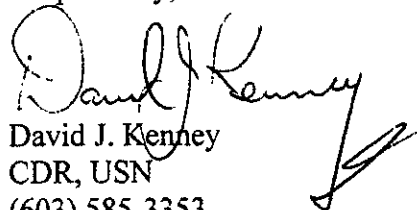
Mourning is personal, it's private. And as such, I believe that any protest within sight of a grieving family is an inherent invasion for that privacy, and therefore also subject to protection under the Constitution. Furthermore, I believe families have a right to expect decency, and the respect of other Americans to allow for this very private process of grieving.

Those who have served, and are serving, have all sworn an oath to uphold and defend our Constitution and the subsequent Bill of Rights. We are keenly aware of how important the tenets of these foundations provide the free society in which we live and thrive. Even though the US Supreme Court's decision to allow these picketers, they have consequently ignored other American's the right to privacy and to be protected from hateful speech which can render such emotional despair to those mourning their loss. As such, many state legislatures such as ours have taken on the challenge of creating legislation such as HB1135 to afford those protections that the US Supreme court has failed to provide. This is why it is imperative that this legislation should pass. In doing so it still guarantees those who see fit to protest military funerals their First Amendment rights to their public expression, not matter how deplorable. But, at the same time it preserves the guaranty of protection from the hateful speech that only compounds the emotional distress that is already felt by the families and friend of the fallen.

In closing let me say that I grew up in a time when decency was presumed to guide the actions of the majority of people in our society. We can no longer make such assumptions, and sadly, it's apparent we have to sometimes legislate it in order to expect its deliverance. I honestly wish this whole process was not necessary, but since it has become so, I urge that this legislation be passed into law so that no other family would be exposed to the indignity and emotional distress that some families have already been subjected by the actions of irreverent demonstrators.

My sincere thanks to this committee for your indulgence with my testimony.

Respectfully,



David J. Kenney
CDR, USN
(603) 585-3353
E: nhroa@tiac.net

Westboro Baptist Church

(WBC Chronicles -- Since 1955)

3701 S.W. 12th St. Topeka, Ks. 66604 785-273-0325 www.GodHatesFags.com

Religious Opinion & Bible Commentary on Current Events

Saturday, January 8, 2011

NEWS RELEASE

(Supplemental info: background, photos, audio sermons & hymns, & video footage -- available free at www.JewsKilledJesus.com, www.SignMovies.com, www.GodHatesTheWorld.com, www.PriestsRapeBoys.com, www.BeastObama.com & Blogs.SpareNot.com)

THANK GOD FOR THE SHOOTER-6 DEAD! WBC WILL PICKET THEIR FUNERALS!

Shooter Jared Lee Laughner opened fire at a Tucson, AZ grocery store at a political rally—shot 18, including Congresswoman Gabrielle Giffords; killing 6, including federal Judge John M. Roll.

God appointed this rod for your sins! God sent the shooter! This hateful nation unleashed violent veterans on the servants of God at WBC—hoping to silence our kind warning to obey God and flee the wrath to come. Your soldiers & fellow citizens are dying for your sins! Instead of hearing the rod, and Him that appointed it, you sent a crippled veteran (Ryan Newell) with 90 rounds of ammunition, hoping he'd shoot 5 WBC picketers dead. Your federal judge (in Baltimore) put WBC on trial for telling you God's standard. Congress passed three laws against WBC. So, God sent the shooter to shoot you! And He's sitting in Heaven laughing at you! Your federal judge is dead and your (fag-promoting, baby-killing, proud-sinner) Congresswoman fights for her life. God is avenging Himself on this rebellious house! WBC prays for your destruction—more shooters, more dead carcasses piling up, young, old, leader and commoner—all. Your doom is upon you! Praise His Name!

THANK GOD FOR HIS RIGHTEOUS JUDGMENTS!

House Bill 1135
AN ACT establishing a civil action for certain disruptions of funerals
of members or former members of the armed forces.

Testimony before House Judiciary Committee

January 17, 2012

by
Peter Morin
Executive Director, New Hampshire Funeral Directors and Embalmers Association
NH Licensed Funeral Director & Embalmer # 927

Good afternoon Committee Chairman, Members of the Committee.

My Name is Peter Morin and I am the Executive Director of the New Hampshire Funeral Directors and Embalmers Association & NH Funeral Director & Embalmer # 927

I am here this afternoon to offer testimony on behalf of the NHFDA in support of House Bill 1135.

As funeral directors we help the living by caring for their dead. We feel this bill is really about honor for the dead and respect for the grieving.

In our society funeral rituals are customary ways the living show respect for the dead. Funerals are the way families, friends and neighbors come together as a grieving community. As funeral directors we see how these rituals serve the community who knew and loved the deceased.

It is disheartening there is even a need for this legislation. The ancient, sacred act of burying our honored dead with the respect and dignity they deserve should be sacrosanct. Sad we need a law to assure the family a time and place of sanctuary in the darkest of times.

"Show me the manner in which a nation cares for its dead, and I will measure with mathematical exactness, the tender mercies of its people, their loyalty to high ideals, and their regard for the laws of the land." William Ewart Gladstone

In closing, I want to thank you for considering our support of this bill.

Peter C. Morin

644:2-b Prohibition on Funeral Protests. –

I. In this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.

II. It shall be unlawful for any person to engage in picketing or other protest activities at any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral, if such picketing or other protest activities:

(a) Take place within 150 feet of a road, pathway, or other route of ingress to or egress from cemetery property and include, as part of such activities, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral, memorial service, or ceremony; or

(b) Are within 300 feet of such cemetery and impede the access to or egress from such cemetery.

III. Each day on which a violation of this section occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

Source. 2007, 370:2, eff. Sept. 15, 2007.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY
EXECUTIVE SESSION ON HOUSE BILL 1135

BILL TITLE: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.
DATE: February 7, 2012
LOB ROOM: 208

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Lenette Peterson

Seconded by Rep. M. Kappler

Vote: 10-7 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

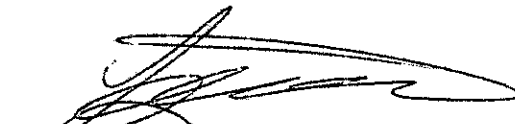
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep. Lenette M. Peterson Clerk

HOUSE COMMITTEE ON JUDICIARY
EXECUTIVE SESSION ON HOUSE BILL 1135

BILL TITLE: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.
DATE: {Type DATE} 2/2/12
LOB ROOM: 208

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Peterson*

Seconded by Rep. *Kapler*

Vote: (Please attach record of roll call vote.) *10-7*

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

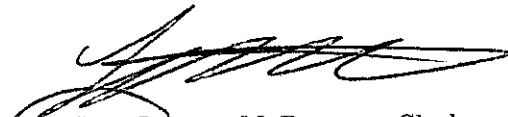
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep. Lenette M. Peterson Clerk

Peterson
Palmer
minority

JUDICIARY

Bill #: 1135 Title: _____

PH Date: 1/17/12 Exec Session Date: 2/7/12

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman	✓	
Borg, Gregory M, V Chairman		✓
Souza, Kathleen F	✓	
Hagan, Joseph M <i>Kiper</i>	✓	
Silva, Peter L		✓
Hopper, Gary S		✓
Andolina, Donald C	✓	
Giuda, J. Brandon		✓
LaCasse, Paul D	✓	
McClarren, Donald B		✓
Murphy, Brian JX		✓
Palmer, Barry J		✓
Peterson, Lenette M. Clerk	✓	
Wall, Janet G	✓	
Potter, Frances D	✓	
Weber, Lucy M	✓	
Watrous, Rick H	✓	
	10	7
TOTAL VOTE:		

Committee Report

REGULAR CALENDAR

February 8, 2012

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on JUDICIARY to which
was referred HB 1135,**

**AN ACT establishing a civil action for certain
disruptions of funerals of members or former members
of the armed forces. Having considered the same,
report the same with the following Resolution:**

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Lenette M. Peterson

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB 1135
Title: establishing a civil action for certain disruptions of
funerals of members or former members of the armed
forces.
Date: February 8, 2012
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The current law already protects the right of all funerals and does not single out one funeral over another. Since current law was enacted in 2007, there have been no disruptions to any funeral; therefore no changes to the statute are necessary.

Vote 10-7

Rep. Lenette M. Peterson
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB 1135, establishing a civil action for certain disruptions of funerals of members or former members of the armed forces. **INEXPEDIENT TO LEGISLATE.**

Rep. Lenette M Peterson for the Majority of JUDICIARY. The current law already protects the right of all funerals and does not single out one funeral over another. Since current law was enacted in 2007, there have been no disruptions to any funeral; therefore no changes to the statute are necessary. **Vote 10-7.**

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

^R
SPLIT

COMMITTEE: Judiciary Rep. Lennette M. Peterson

BILL NUMBER: HB 1135

TITLE: disruption of funerals

DATE: 1/19/12 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 - OUGHT TO PASS W/ AMENDMENT
 - INEXPEDIENT TO LEGISLATE
 - INTERIM STUDY (Available only 2nd year of biennium)
- Amendment No.

SPLIT
MAJORITY

HB 1135, establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

Rep. Lennette M. Peterson Vote: 10-7 INEXPEDIENT TO LEGISLATE

The current law already protects the right of all funerals and does not single out one funeral over another. Since current law was enacted in 2007, there have been no disruptions to any funeral; therefore no changes to the statute are necessary.

[Handwritten Signature]

COMMITTEE VOTE: 10-7

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Lennette M. Peterson
For the Committee

REGULAR CALENDAR

February 8, 2012

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB 1135,

AN ACT establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill
OUGHT TO PASS.

Rep. Barry J. Palmer

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB 1135
Title: establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.
Date: February 8, 2012
Consent Calendar: NO
Recommendation: OUGHT TO PASS

STATEMENT OF INTENT

There are few things more neither dignified nor poignant than a military funeral, with its honor guard, a trumpeter playing taps and presentation of the American flag to a surviving family member. And disruption of such a funeral by misguided protesters would compound a family's grief. When a person is laid to final rest and goes to his or her maker, it's a sacred moment. And because the person is an American hero who served their country, it is hallowed ground. This bill simply enhances the current funeral disruption bill (a misdemeanor) by providing an opportunity for a civil action to mitigate their grief because of a disruption. This bill simply tells those who are considering such a sacrilegious disruption that in New Hampshire "Don't even think about it!" The Minority of the committee recommends OUGHT TO PASS.

Rep. Barry J. Palmer
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB 1135, establishing a civil action for certain disruptions of funerals of members or former members of the armed forces. **OUGHT TO PASS.**

Rep. Barry J. Palmer for the **Minority** of JUDICIARY. There are few things more neither dignified nor poignant than a military funeral, with its honor guard, a trumpeter playing taps and presentation of the American flag to a surviving family member. And disruption of such a funeral by misguided protesters would compound a family's grief. When a person is laid to final rest and goes to his or her maker, it's a sacred moment. And because the person is an American hero who served their country, it is hallowed ground. This bill simply enhances the current funeral disruption bill (a misdemeanor) by providing an opportunity for a civil action to mitigate their grief because of a disruption. This bill simply tells those who are considering such a sacrilegious disruption that in New Hampshire "Don't even think about it!" The Minority of the committee recommends **OUGHT TO PASS.**

Original: House Clerk
Cc: Committee Bill File

MINORITY REPORT

SPLIT

(R)

COMMITTEE:

Judiciary

BILL NUMBER:

1135

TITLE:

MILITARY FUNERAL DISRUPTIONS

DATE:

2.7.2012

CONSENT CALENDAR:

YES

NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- ~~INEXPEDIENT TO LEGISLATE~~
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

MINORITY REPORT

OUGHT TO PASS

EXR

HB 1135, establishing a civil action for certain disruptions of funerals of members or former members of the armed forces.

Rep. Barry J. Palmer

There are few things more neither dignified nor poignant than a military funeral, with its honor guard, a trumpeter playing taps and presentation of the American flag to a surviving family member. And disruption of such a funeral by misguided protesters would compound a family's grief. When a person is laid to final rest and goes to his or her maker, it's a sacred moment. And because the person is an American hero who served their country, it is hallowed ground. This bill simply enhances the current funeral disruption bill (a misdemeanor) by providing an opportunity for a civil action to mitigate their grief because of a disruption. This bill simply tells those who are considering such a sacrilegious disruption that in New Hampshire "Don't even think about it!" The Minority of the committee recommends OUGHT TO PASS.

• Copy to Committee Bill File

RESPECTFULLY SUBMITTED,

Rep. Barry J. Palmer
For the Minority

HB1135

Rep. Barry Palmer For Judiciary.

There are few things more dignified nor poignant than a military funeral, with its ~~and~~ honor guard, a trumpeter playing taps, and presentation of the American flag to a surviving family member.

Any disruption of such a funeral by misguided protesters would ~~and~~ compound a family's grief.

When a person is laid to final rest and goes to his or her maker, it's a sacred moment. And because the person is an American hero

who served their country, it is hallowed ground. This bill

simply enhances the current funeral disruption bill (a

misdeemeanor) by providing an opportunity for a civil

action to mitigate their grief because of a disruption.

This bill simply tells those who are considering such a

sacriligious disruption, that in New Hampshire, "Don't even think about it!"