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HOUSE BILL 186

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO FUNERALS; LIMITING DEMONSTRATIONS; PROVIDING FOR  
INJUNCTIVE RELIEF; PROVIDING PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Demonstrations at Funerals and Memorial Services Act".

Section 2. DEFINITIONS.--As used in the Demonstrations at  
Funerals and Memorial Services Act:

A. "funeral" means the ceremonies, rituals,  
processions and memorial services held at a funeral site in  
connection with the viewing, burial, cremation or memorial of  
or wake for a deceased person;

B. "funeral site" means a church, synagogue,  
mosque, funeral home, mortuary, cemetery, grave site, mausoleum  
or other place at which a funeral is being conducted or is

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1 scheduled to be conducted within the next sixty minutes or has  
2 been conducted within the last sixty minutes; and

3 C. "targeted residential picketing" includes the  
4 following acts:

5 (1) marching, standing or patrolling by one or  
6 more persons directed solely at a particular residential  
7 building in a manner that adversely affects the safety,  
8 security or privacy of an occupant of the building; or

9 (2) marching, standing or patrolling by one or  
10 more persons that prevents an occupant of a residential  
11 building from gaining access to or exiting from the property on  
12 which the residential building is located.

13 Section 3. PROHIBITED ACTS.--A person shall not, with  
14 knowledge of the existence of a funeral or funeral site:

15 A. engage in any loud singing, playing of music,  
16 chanting, whistling, yelling or noisemaking with or without  
17 noise amplification, including bullhorns, auto horns and  
18 microphones within five hundred feet of any ingress or egress  
19 of that funeral site, when the volume of such singing, music,  
20 chanting, whistling, yelling or noisemaking is likely to be  
21 audible at and disturbing to the peace or good order at that  
22 funeral site;

23 B. direct abusive epithets or make any threatening  
24 gestures that the person knows or reasonably should know is  
25 likely to provoke a violent reaction by another person;

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1 C. display within five hundred feet of any ingress  
2 or egress of that funeral site any visual images that convey  
3 fighting words or actual or veiled threats against another  
4 person;

5 D. knowingly obstruct, hinder, impede or block  
6 another person's access to or egress from that funeral site or  
7 a facility containing that funeral site, except that the owner  
8 or occupant of property may take lawful actions to exclude  
9 others from that property;

10 E. knowingly obstruct, hinder, impede or block the  
11 progress of a vehicle participating in a procession to or from  
12 a funeral site; or

13 F. knowingly engage in targeted residential  
14 picketing at the home or domicile of any surviving member of  
15 the deceased person's family or household on the date of the  
16 funeral.

17 Section 4. PENALTIES.--Any person who violates Section 3  
18 of the Demonstrations at Funerals and Memorial Services Act is:

19 A. for the first offense, guilty of a petty  
20 misdemeanor and shall be sentenced pursuant to the provisions  
21 of Section 31-19-1 NMSA 1978;

22 B. for the second offense, guilty of a misdemeanor  
23 and shall be sentenced pursuant to the provisions of Section  
24 31-19-1 NMSA 1978; and

25 C. for the third and subsequent offenses, guilty of  
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1 a fourth degree felony and shall be sentenced pursuant to the  
2 provisions of Section 31-18-15 NMSA 1978.

3 Section 5. INJUNCTIVE RELIEF.--In addition to the  
4 criminal penalties provided in Section 4 of the Demonstrations  
5 at Funerals and Memorial Services Act, the court may enjoin  
6 conduct prohibited in Section 3 of that act if there is  
7 credible evidence that a person is likely to violate Section 3  
8 of the Demonstrations at Funerals and Memorial Services Act.  
9 Any surviving member of the deceased person's immediate family  
10 who is threatened with loss or injury by reason of a violation  
11 described in Section 3 of the Demonstrations at Funerals and  
12 Memorial Services Act is entitled to sue for and have  
13 injunctive relief in any court of competent jurisdiction  
14 against any damage, threatened loss or injury by reason of a  
15 violation of this act.

16 Section 6. SEVERABILITY.--If any part or application of  
17 this act is held invalid, the remainder or its application to  
18 other situations or persons shall not be affected.

19 Section 7. EMERGENCY.--It is necessary for the public  
20 peace, health and safety that this act take effect immediately.