

LEGISLATIVE BILL 287

Approved by the Governor April 4, 2006

Introduced by McDonald, 41; Janssen, 15; Louden, 49; Combs, 32; Friend, 10

AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Cumulative Supplement, 2004; to state intent; to define terms; to prohibit picketing of a funeral as prescribed; to provide a penalty; to harmonize provisions; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Legislature finds that families have a legitimate and legally cognizable interest in organizing and attending funerals for deceased relatives and that the rights of families to peacefully and privately mourn the death of relatives are violated when funerals are targeted for picketing or protest activities.

(2) The Legislature also recognizes that individuals have a constitutional right to free speech and that in the context of funeral ceremonies, the competing interests of picketers and funeral participants must be balanced. Therefore, the Legislature declares that the purposes of sections 1 to 3 of this act are to protect the privacy of grieving families and to preserve the peaceful character of cemeteries, mortuaries, churches, and other places of worship during a funeral while still providing picketers and protestors the opportunity to communicate their message at a time and place that minimizes the interference with the rights of funeral participants.

Sec. 2. For purposes of sections 1 to 3 of this act, the following definitions apply:

(1) Funeral means the ceremonies and memorial services held in connection with the burial or cremation of the dead but does not include funeral processions on public streets or highways; and

(2) Picketing of a funeral means protest activities engaged in by a person or persons located within three hundred feet of a cemetery, mortuary, church, or other place of worship during a funeral.

Sec. 3. (1) A person commits the offense of unlawful picketing of a funeral if he or she engages in picketing from one hour prior to through two hours following the commencement of a funeral.

(2) Unlawful picketing of a funeral is a Class III misdemeanor.

Sec. 4. Section 28-101, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-101 Sections 28-101 to 28-1350 and sections 1 to 3 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 6. Original section 28-101, Revised Statutes Cumulative Supplement, 2004, is repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.