

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 22, 2006 LB 287

In 2004 the United States Supreme Court recognized the strong privacy interests of family members. Justice Anthony Kennedy, in National Archives and Records Administration v. Favish, wrote, "Family members have a personal stake in honoring and mourning their dead and objecting to unwarranted public exploitation that by intruding on their own grief, tends to degrade the rites"--that's r-i-t-e-s--"and respect they seek to accord to the deceased person, who was their own." There's one particular group that travels the nation to protest at these funerals, most notably military funerals lately, but also other high-profile gatherings. They protested at the memorial service of 12 West Virginia coal miners. Last month they were in Georgia to protest outside the funeral service of civil rights icon, Coretta Scott King. They have visited Nebraska on at least three occasions; most recently, just last month here in Lincoln at the memorial service of Army First Lieutenant Garrison Avery. The group's hate speech is despicable and deplorable. Before I put before you a handout showing some of the pictures taken at their protests around the country and also here in Lincoln, I'd like it noted for the record the group of which I speak recently stated in news reports that they will abide by the law, if a state enacts a prohibition on protesting at funerals or memorial services. Based on the input received at the committee hearing, and in an effort to allay some concerns expressed by free speech advocates, the prohibition on picketing at processions, as provided in the green copy of the bill, has been removed. Striking the appropriate balance between privacy rights in grieving family members and the freedom of speech or First Amendment rights of others, is a delicate undertaking. My primary concern is passing good, enforceable legislation that ultimately meets constitutional muster. In various First Amendment cases the Supreme Court has ruled that the time, place, and manner...that those things can be regulated. What cannot be regulated is content. AM2700, we believe, meets those tests, and I wanted to thank Senator Bourne and also Jeff Beaty, Judiciary Committee legal counsel, for helping us through this process. I believe Senator Chambers is going to speak to some of this, too, because he helped, as well. I'd like it noted for the record that 25 other states have introduced legislation in various forms prohibiting picketing of funerals, of which five of those have been enacted into law. I