

By: McCall

H.B. No. 97

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain disruptions at a funeral service;  
creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 42, Penal Code, is amended by adding  
Section 42.055 to read as follows:

Sec. 42.055. FUNERAL SERVICE DISRUPTIONS. (a) In this  
section:

(1) "Facility" means a building at which any portion  
of a funeral service takes place, including a funeral parlor,  
mortuary, private home, or established place of worship.

(2) "Funeral service" means a ceremony, procession, or  
memorial service, including a wake or viewing, held in connection  
with the burial or cremation of the dead.

(3) "Picketing" means:

(A) standing, sitting, or repeated walking,  
riding, driving, or other similar action by a person displaying or  
carrying a banner, placard, or sign;

(B) engaging in loud singing, chanting,  
whistling, or yelling, with or without noise amplification through  
a device such as a bullhorn or microphone; or

(C) blocking access to a facility or cemetery  
being used for a funeral service.

(b) A person commits an offense if, during the period

1 beginning one hour before the service begins and ending one hour  
2 after the service is completed, the person engages in picketing  
3 within 500 feet of a facility or cemetery being used for a funeral  
4 service.

5 (c) An offense under this section is a Class B misdemeanor.

6 SECTION 2. Sections 42.04(a) and (c), Penal Code, are  
7 amended to read as follows:

8 (a) If conduct that would otherwise violate Section  
9 42.01(a)(5) (Unreasonable Noise), ~~[or]~~ 42.03 (Obstructing  
10 Passageway), or 42.055 (Funeral Service Disruptions) consists of  
11 speech or other communication, of gathering with others to hear or  
12 observe such speech or communication, or of gathering with others  
13 to picket or otherwise express in a nonviolent manner a position on  
14 social, economic, political, or religious questions, the actor must  
15 be ordered to move, disperse, or otherwise remedy the violation  
16 prior to his arrest if he has not yet intentionally harmed the  
17 interests of others which those sections seek to protect.

18 (c) It is a defense to prosecution under Section  
19 42.01(a)(5), ~~[or]~~ 42.03, or 42.055:

20 (1) that in circumstances in which this section  
21 requires an order no order was given;

22 (2) that an order, if given, was manifestly  
23 unreasonable in scope; or

24 (3) that an order, if given, was promptly obeyed.

25 SECTION 3. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this  
2 Act takes effect on the 91st day after the last day of the  
3 legislative session.