

VOTE NO ON SB 606 - The Funeral Protest Bill

Although this bill is well intentioned, it violates the First Amendment of the US Constitution and is extraordinarily overbroad, which results in unintended consequences. The behavior of Fred Phelps is offensive, distasteful, and upsetting, but his speech is still protected. In addition, this bill silences others who are not engaging in offensive behavior. There are other ways to shield families attending protests that do not violate the rights of protesters.

This bill is unconstitutional.

A 500-foot no speech buffer zone far exceeds any buffer zone approved by the Supreme Court or lower federal courts. For example, the Supreme Court upheld an 8 foot buffer zone¹ and a 36 foot buffer zone.² The Supreme Court has rejected buffer zones of 15 feet³ and 300 feet. The Eleventh Circuit, which governs Georgia has struck down a 200 foot buffer zone.⁴ The 500-foot no speech buffer zone far exceeds any zone upheld by the Courts and will likely be struck down by the Courts.

The bill is extraordinarily broad.

This bill bans every public assembly, demonstration or protest even when the target of the protest is not a funeral and even where a person was not aware that a funeral was to begin in an hour or ended an hour earlier.

As a result:

- no person could silently walk on the sidewalk in front of this State Capitol with a sign to protest a bill if the Presbyterian church across the street were to have a funeral scheduled that day.
- A person conducting a march would have to call every church, funeral home, and cemetery before the march began to be sure that they did not pass by a funeral.
- Two or more people could not gather on a street for a discussion within 500 feet of a cemetery, funeral home or house of worship if a funeral were being held.
- A labor union could not picket a cemetery to challenge its labor practices.

There are Other Ways to Address the Problem.

We do not need to violate the First Amendment or silence other speakers to deal with the protests held by Fred Phelps. We could enforce the laws already on the books - trespassing, blocking access to public ways, noise ordinances, etc. Other states have amended their disorderly conduct laws to include conduct that disrupts a funeral service. The Legislature would better serve the families targetted by the protests by adopting one of these solutions rather than passing a law that will later be struck down by the Courts.

¹ *Hill v. Colorado* (requiring that in the area 100 feet from the entrance of an abortion clinic, protesters stay 8 feet from the patients).

² *Madsen* (upholding an injunction that instituted a 36 foot buffer zone after protesters defied a court order to refrain from blocking entrance and exit from an abortion clinic).

³ *Schenck v. Pro-Choice Network* (finding that the previous behavior of the protesters did not justify an injunction instituting a 15 foot buffer zone).

⁴ *Lucero v. Trosch*.