

2005 DRAFTING REQUEST

Bill

Received: **01/19/2006**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Ronald Brown (608) 266-8546**

By/Representing: **Dan**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Brown@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**
cathlene.hanaman@legis.state.wi.us
michael.dsida@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Disturbing the peace at funerals and memorial services

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 01/19/2006	jdye 01/23/2006		_____			
	lnorthro 01/20/2006			_____			
	mdsida 01/20/2006			_____			
/P1			jfrantze	_____	mbarman		S&L

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			01/23/2006 _____		01/23/2006		Crime
/1	mdsida 01/24/2006	jdye 01/24/2006	rschluet 01/24/2006 _____		mbarman 01/24/2006	lemery 01/24/2006	

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1246

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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/?	mdsida	PI 1/23 jld	1/23	1/23			

FE Sent For:

<END>

1/18 Mts w/ Rep. Mussen, Sen. Brown...

Visitation

visitation

Gravesite

procession

Mussen?

internment, mem. svc.

~~Standard SB~~ Senate

Mentioned possible constitutional problem w/ covering procession

Use knowledge for procession

~~Class~~ Class A misd. for ~~initial~~ offenses

Class 1 felony for 2d offense

internment

add ~~disrupt~~ ^{or likely} intent to sub (2) + (1)

likely to

500 feet

1 hr. before actual commencement
2 after

Dsida, Michael

From: Dsida, Michael
Sent: Thursday, January 19, 2006 11:10 AM
To: Lindstedt, Daniel; Reineking, Marlene
Cc: Sappenfield, Anne
Subject: RE: Wakes

Dan-

Thanks for letting me know.

As I mentioned to Marlene a few minutes ago, I want to make sure that, if you want companion bills, your offices are on the same page on this issue. If you do want companion bills, maybe you and Marlene can talk to confirm what the bill should contain with respect to wakes and then let me know.

Also, if the time window is the subject of additional discussion down the road, you may also want to think about what sort of time period to use, if any, in connection with funeral processions. As I have mentioned, having a 1,000-foot corridor (500 feet on each side of the procession) in which disruptive protests are prohibited may be unconstitutional. Having that corridor in place for one hour before the procession begins and for two hours afterwards makes the prohibition even more problematic from a constitutional standpoint.

Finally, one issue that we didn't discuss yesterday was the problem with determining the start of the time period during which the bill would apply. The "/1" version of the bill addressed this by referring to the *scheduled* start time of the service. But a graveside service may not have a scheduled start time (it could occur after a procession, which itself might occur after a religious service of indeterminate length), which means that a potential protester would not know when the prohibition regarding protesting at the cemetery first kicks in. This could make the bill subject to constitutional challenges as well.

From: Lindstedt, Daniel
Sent: Thursday, January 19, 2006 10:54 AM
To: Dsida, Michael; Sappenfield, Anne; Reineking, Marlene
Subject: RE: Wakes

Mike:

Senator would like to keep the distance and duration language as is, but specifically acknowledge wakes in the bill.

The Senator is already hearing from some other lawmakers that they support the idea, but some of the specific provisions may be going too far. At this point, he doesn't want to cause more concern than needed. However, he would still like to research and potentially address the issue as the bill moves through the legislative process and make any needed changes later.

- Dan

From: Dsida, Michael
Sent: Thursday, January 19, 2006 10:00 AM
To: Sappenfield, Anne; Lindstedt, Daniel; Reineking, Marlene
Subject: RE: Wakes

Anne is right. The protests still couldn't occur *during* the wake. But the approach we discussed yesterday still leaves open the possibility of someone protesting immediately afterwards. Using the conclusion of the wake or other service to establish the window during which the protests would be prohibited would address this problem.

Dan and Marlene-

If you want to follow that approach (and if you do, I would recommend that you do so for all services -- not just wakes), for how long after the end of the service would the prohibition be in place?

From: Sappenfield, Anne
Sent: Thursday, January 19, 2006 9:39 AM

To: . . .
Subject: RE: Wakes

It may not be important to use the starting time. There will be so many witnesses at these things to let the DA know when it ended, and, chances are, no one is going to START protesting an hour and 50 minutes after the ceremony or wake. What do you all think about counting from when it ends??

Anne

From: Lindstedt, Daniel
Sent: Thursday, January 19, 2006 9:38 AM
To: Dsida, Michael; Reineking, Marlene
Cc: Sappenfield, Anne
Subject: RE: Wakes

From personal experience, my Mom's lasted almost 6 hours.

Off the top of my head, I would say include it, but I can't think of a creative way to make an exception for wakes so that the time frame is longer.

Open to suggestion.

From: Dsida, Michael
Sent: Thursday, January 19, 2006 9:35 AM
To: Lindstedt, Daniel; Reineking, Marlene
Cc: Sappenfield, Anne
Subject: Wakes

We didn't address this yesterday, but wakes generally last longer than two hours. Using "two hours from the start" to mark the end of the time during which the bill would apply means that protests could occur while the wake is still going on. Does that affect how you want to measure the time period? Does it affect whether you want to include wakes?

(I did not cc everyone who attended the meeting. I will leave it to you to decide how much input to get from them.)

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@legis.state.wi.us

Dsida, Michael

From: Sappenfield, Anne
Sent: Friday, January 20, 2006 11:51 AM
To: Dsida, Michael; Lindstedt, Daniel; Reineking, Marlene
Cc: Offerdahl, Mary; Shannon, Pam
Subject: RE: Funeral bill

I have a couple of thoughts on this. First, I think that the "likely to disrupt" language relating to loud protests is somewhat of a problem and may not really add much. The problem I see is that it doesn't require that the behavior prohibited be targeted at the funeral. The conduct the bill seeks to prohibit is disruptive, fairly extreme behavior, so I think that requiring a showing that a loud protest, for example, is intended to disrupt the funeral is reasonable and avoids the scenario of some other loud behavior that happens to be going on nearby to be swept in to the prohibition.

As far as the wake/visitation issue and the other elements of a funeral or memorial service, although I originally liked the idea of trying to treat all of the elements the same, it seems to raise issues. Mike raised concerns about the procession at the meeting, and I think he has a point. Would it make sense to do something like this??--

- No prohibited conduct one hour before scheduled funeral ceremony or memorial service/wake until one hour after ceremony or service ends (times, of course, could be changed).
- Prohibit impeding a procession or blocking entry or movement in cemetery.
- No prohibited conduct during graveside ceremony until one hour following conclusion of graveside ceremony.

I know you're all frantically busy trying to get this done, so feel free to disregard this if you have come up with the final language. Good luck and let any of us know if you need anything further!

Anne

From: Dsida, Michael
Sent: Thursday, January 19, 2006 5:25 PM
To: Lindstedt, Daniel; Reineking, Marlene
Cc: Sappenfield, Anne; Offerdahl, Mary; Shannon, Pam
Subject: Funeral bill

1. At the meeting yesterday, I was instructed to specify that disruptions of processions are only prohibited if the person was aware that the procession was taking place. (This may have been suggested because of the concern that the "likely to disrupt" language would sweep too broadly.) Should that same restriction apply to the loud protests provision?
2. The bill will cover the entire the entire wake or visitation. Do you want the bill to cover the hour before a wake or visitation as well?

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@legis.state.wi.us



800-728-7788
www.wisbar.org/cle/seminars/

1/20 Plc to Dan

1 hr bf + 1 hr after all events

Use Anne's instructions

~~Plc from~~



State of Wisconsin
2005 - 2006 LEGISLATURE

4444
LRB-4369/1 P1
MGD:jld/rs
stays

2005 BILL

Mon AM
1/23

Regen

disrupting

1 AN ACT *to renumber and amend* 947.01; and *to create* 947.01 (1), 947.01 (2)
2 and 947.01 (3) of the statutes; **relating to:** *disorderly conduct* at a funeral or
3 memorial service and providing a penalty. *ies*
or a funeral procession

Analysis by the Legislative Reference Bureau

Current law prohibits disorderly conduct. Disorderly conduct is defined as engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. Disorderly conduct is a Class B misdemeanor that is punishable by a fine of up to \$1,000 or imprisonment for up to 90 days or both.

Under this bill, doing any of the following in connection with a funeral or memorial service during the period starting 30 minutes before the service is scheduled to begin and ending 30 minutes after the service ends constitutes disorderly conduct: 1) engaging in a loud protest, with or without using an electric sound amplification device, involving singing, chanting, whistling, yelling, or honking a motor vehicle horn within 300 feet of any entrance to a facility being used for the service if the protest is intended to disrupt the service; 2) displaying any visual image that conveys fighting words or actual or veiled threats against any other person within 300 feet of any entrance to a facility being used for the service; and 3) intentionally blocking access to a facility being used for the service.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

BILL

INS J
A

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 Fix
Component

SECTION 1. 947.01 of the statutes is renumbered 947.01 (intro.) and amended

2 to read:

3 ~~947.01 Disorderly conduct. (intro.) Whoever, in a public or private place,~~
4 ~~engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or~~
5 ~~otherwise disorderly conduct under circumstances in which the conduct tends to~~
6 ~~cause or provoke a disturbance is guilty of a Class B misdemeanor. Any of the~~
7 ~~following in connection with a funeral or memorial service during the period starting~~
8 ~~30 minutes before the service is scheduled to begin and ending 30 minutes after the~~
9 ~~service ends is a violation of this section:~~

INS
2/3

10 SECTION 2. 947.01 (1) of the statutes is created to read:

11 947.01 (1) Engaging in a loud protest, with or without using an electric sound
12 amplification device, that involves singing, chanting, whistling, yelling, or honking
13 a motor vehicle horn within 300 feet of any entrance to a facility being used for the
14 service if the protest is intended to disrupt the service.

15 SECTION 3. 947.01 (2) of the statutes is created to read:

16 947.01 (2) Displaying any visual image that conveys fighting words or actual
17 or veiled threats against any other person within 300 feet of any entrance to a facility
18 being used for the service.

19 SECTION 4. 947.01 (3) of the statutes is created to read:

20 947.01 (3) Intentionally blocking access to a facility being used for the service.

21

(END)

INS 2/20

that is not intended to honor or commemorate

2005-2006 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-4444/Plins MGD:.....

1 **analysis INSERT A**

This is a preliminary draft. An analysis will be provided in a later version. ✓

2 **INSERT 2/3**

3 **SECTION 1.** 947.01 (2) of the statutes is created to read:

4 947.01 (2) (a) In this subsection: ✓

5 1. "Facility" ^{includes} means a cemetery or any building in which a funeral or memorial service takes place. ✓

7 2. "Funeral or memorial service" includes a wake and a service conducted in connection with a burial, as defined in s. 157.061 (4). "Funeral or memorial service" does not include a service ^{that} that does not relate to one or more specific individuals. ✓ ^{but} ^{decedents}

10 (b) No person may do any of the following during a funeral or memorial service, during the 60 minutes immediately preceding a funeral or memorial service that has a scheduled starting time, or during the 60 minutes immediately following a funeral or memorial service: ✓

14 **INSERT 2/21**

15 (c) No person, with the intent to disrupt a funeral procession, may impede vehicles that he or she knows are part of the procession.

17 (d) 1. Except as provided in subd. 2., ✓ any person who violates this section is guilty of a Class A misdemeanor. ✓ ^{sub}

19 2. Any person who violates par. (b) ✓ after having been convicted of a violation of this section is guilty of a Class I felony. ✓ ^{sub}

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Re Gen

1 AN ACT to renumber 947.01; and to create 947.01 (2) of the statutes; relating
2 to: disrupting a funeral or memorial service or a funeral procession and
3 providing penalties. ✓

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

INS analysis

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 947.01 of the statutes is renumbered 947.01 (1). ✓

5 SECTION 2. 947.01 (2) ✓ of the statutes is created to read:

6 947.01 (2) (a) In this subsection:

7 1. "Facility" includes a cemetery in which a funeral or memorial service takes
8 place.

9 2. "Funeral or memorial service" includes a wake but does not include a service
10 that is not intended to honor or commemorate one or more specific decedents.

1 (b) No person may do any of the following during a funeral or memorial service,
2 during the 60 minutes immediately preceding a funeral or memorial service that has
3 a scheduled starting time, or during the 60 minutes immediately following a funeral
4 or memorial service:

5 1. Engage in a loud protest, with or without using an electric sound
6 amplification device, that involves singing, chanting, whistling, yelling, or honking
7 a motor vehicle horn within 500 feet of any entrance to a facility being used for the
8 service if the protest is intended to disrupt the service.

9 2. Display any visual image that conveys fighting words or actual or veiled
10 threats against any other person within 500 feet of any entrance to a facility being
11 used for the service.

12 3. Intentionally block access to a facility being used for the service.

13 (c) No person, with the intent to disrupt a funeral procession, may impede
14 vehicles that he or she knows are part of the procession.

15 (d) 1. Except as provided in subd. 2., any person who violates this subsection
16 is guilty of a Class A misdemeanor.

17 2. Any person who violates par. (b) after having been convicted of a violation
18 of this subsection is guilty of a Class I felony.

19 (END)

1

analysis INSERT

Current law prohibits disorderly conduct, which is defined as engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A person who commits disorderly conduct is guilty of a Class B misdemeanor and may be fined up to \$1,000 or imprisoned in the county jail for up to 90 days or both.

Under this bill, no person may do any of the following during a funeral or memorial service (including a wake), during the 60 minutes immediately preceding a funeral or memorial service that has a scheduled starting time, or during the 60 minutes immediately following a funeral or memorial service: 1) engage in a loud protest that involves singing, chanting, whistling, yelling, or honking a motor vehicle horn within 500 feet of any entrance to a facility being used for the service (including a cemetery) if the protest is intended to disrupt the service; 2) display any visual image that conveys fighting words or actual or veiled threats against any other person within 500 feet of any entrance to a facility being used for the service; or 3) intentionally block access to a facility being used for the service. In addition, under the bill, no person, with the intent to disrupt a funeral procession, may impede vehicles that he or she knows are part of the procession. In general, a person who violates either of these prohibitions is guilty of a Class A misdemeanor and may be fined up to \$10,000 or imprisoned in the county jail for up to 9 months or both. But if a person violates one of these prohibitions after having been convicted of a prior violation of either of them, the person is guilty of a Class I felony and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to three and a half years (which, if the sentence is for more than one year, consists of a term of confinement in prison followed by a term of extended supervision) or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Emery, Lynn

From: Dsida, Michael
Sent: Tuesday, January 24, 2006 2:26 PM
To: LRB.Legal
Subject: Please jacket 05-4444/1 for senate

thanks