

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY JULY 5, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 661

Introduced by Senator Lieu

(Principal coauthor: Senator Rubio)

(Principal coauthor: Assembly Member Cook)

(Coauthors: Senators Anderson, Fuller, Strickland, and Vargas)

(Coauthors: Assembly Members Huffman and Jeffries)

February 18, 2011

An act to add Section 594.37 to the Penal Code, relating to picketing.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as amended, Lieu. Crime: picketing.

Existing law makes it a crime for a person to disturb, obstruct, detain, or interfere with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service or an interment.

This bill would make it a crime, punishable by a fine not exceeding \$1,000, imprisonment in a county jail not exceeding 6 months, or by both, for a person to engage in picketing, as defined, except upon private property, which is targeted at a funeral, as defined, during the time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral. The bill would set forth related findings and declarations.

Because this bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 the following:

3 (1) It is generally recognized that families have a compelling
4 interest in organizing and attending funerals for deceased relatives.

5 (2) The interests of families in privately and peacefully
6 mourning the loss of deceased relatives are violated when funerals
7 are disrupted by picketing.

8 (3) Picketing of funerals causes emotional disturbance and
9 distress to grieving families who participate in funerals.

10 (4) Full opportunity exists for the exercise of freedom of speech
11 and other constitutional rights at times other than within one hour
12 prior to or during a funeral and one hour following the conclusion
13 of a funeral.

14 (5) *President Barack Obama signed the Honoring America's*
15 *Veterans and Caring for Camp Lejeune Families Act of 2012, a*
16 *wide-ranging package of benefits for military personnel. As part*
17 *of this new federal law, the restriction on protests of service*
18 *member funerals around national cemeteries was expanded to 300*
19 *feet. By enacting this expansion on the restriction around funerals,*
20 *the President is signifying the importance and need to protect the*
21 *deceased and their mourners during funerals.*

22 (b) The purpose of this act is to protect the privacy of grieving
23 families and to preserve the peaceful character of cemeteries,
24 mortuaries, and places of worship during the time one hour before
25 and one hour after a funeral.

26 (c) By restricting application of this act to speech that is targeted
27 at a funeral, the Legislature intends to limit the amount of speech
28 that is subject to the act and to make it as narrowly tailored as
29 possible while furthering the purpose of the act.

30 SEC. 2. Section 594.37 is added to the Penal Code, to read:

1 594.37. (a) It is unlawful, except upon private property, for a
2 person to engage in picketing targeted at a funeral during the time
3 period beginning one hour prior to the funeral and ending one hour
4 after the conclusion of the funeral.

5 (b) Any violation of subdivision (a) is punishable by a fine not
6 exceeding one thousand dollars (\$1,000), imprisonment in a county
7 jail not exceeding six months, or by both that fine and
8 imprisonment.

9 (c) For purposes of this section:

10 (1) "Funeral" means the ceremony or memorial service held in
11 connection with the burial or cremation of a deceased person.
12 "Funeral" does not mean any nonburial or noncremation activities,
13 businesses, or services.

14 (2) "Picketing," for purposes of this section only, means protest
15 activities engaged in by any person within 300 feet of a burial site,
16 mortuary, or place of worship.

17 (3) "Protest activities" includes oration, speech, use of sound
18 amplification equipment in a manner that is intended to make or
19 makes speech, including, but not limited to, oration audible to
20 participants in a funeral, or similar conduct that is not part of the
21 funeral, before an assembled group of people.

22 (4) "Targeted at" means directed at or toward the deceased
23 person or the attendees of a funeral.

24 (d) The provisions of this section are severable. If any provision
25 of this section or its application is held invalid, that invalidity shall
26 not affect other provisions or applications that can be given effect
27 without the invalid provision or application.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

O