

Senate Bill No. 661

Passed the Senate August 30, 2012

Secretary of the Senate

Passed the Assembly August 28, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 661, 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.

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

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

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

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

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

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

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

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

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

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

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

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

(c) For purposes of this section:

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

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

(3) "Protest activities" includes oration, speech, use of sound amplification equipment in a manner that is intended to make or makes speech, including, but not limited to, oration audible to

participants in a funeral, or similar conduct that is not part of the funeral, before an assembled group of people.

(4) “Targeted at” means directed at or toward the deceased person or the attendees of a funeral.

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

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

Approved _____, 2012

Governor