

109TH CONGRESS  
2D SESSION

# S. 2452

To prohibit picketing at the funerals of members and former members of  
the armed forces.

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## IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. BAYH (for himself and Mr. CHAMBLISS) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To prohibit picketing at the funerals of members and former  
members of the armed forces.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Dignity for Military  
5   Funerals Act of 2006”.

### 6   **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) article I, section 8, of the Constitution of  
9       the United States grants Congress the power to  
10      “provide for the common Defence”, “To raise and

1 support Armies”, and “To provide and maintain a  
2 Navy”;

3 (2) the Supreme Court of the United States has  
4 held that “The constitutional power of Congress to  
5 raise and support armies and to make all laws nec-  
6 essary and proper to that end is broad and sweep-  
7 ing.”, United States v. O’Brien, 391 U.S. 367, 377  
8 (1968) (citations omitted);

9 (3) supporting our armies and maintaining a  
10 Navy includes supporting soldiers, sailors, and ma-  
11 rines, and their families, after they are deceased;

12 (4) our brave military men and women put  
13 themselves at great risk to protect the freedom of  
14 every American and our Nation as a whole;

15 (5) every death of a member of the armed  
16 forces is a tragic loss to our Nation;

17 (6) all Americans have tremendous gratitude  
18 for the courage and selflessness of the members of  
19 the armed forces;

20 (7) when a member of the armed forces dies in  
21 the line of duty, the thoughts and prayers of the en-  
22 tire Nation are with the family of the deceased at  
23 such an extraordinarily difficult time;

1           (8) it is generally recognized that families have  
2           a substantial interest in organizing and attending  
3           funerals for deceased relatives;

4           (9) the interests of families in privately and  
5           peacefully mourning the loss of deceased relatives  
6           are violated when funerals are targeted for picketing  
7           and other public demonstrations;

8           (10) picketing of funerals causes emotional dis-  
9           turbance and distress to grieving families who par-  
10          ticipate in funerals; and

11          (11) full opportunity exists under this Act and  
12          the amendments made by this Act for the exercise  
13          of freedom of speech and other constitutional rights  
14          at times other than within 1 hour prior to or during  
15          the funeral of a member of the armed forces and 1  
16          hour following the conclusion of such a funeral.

17 **SEC. 3. DEFINITIONS.**

18          In this Act—

19           (1) the term “armed forces” has the meaning  
20           given the term in section 101 of title 10, United  
21           States Code;

22           (2) the term “funeral of a member or former  
23           member of the armed forces” means any ceremony,  
24           procession, or memorial service held in connection

1 with the burial or cremation of a member or former  
 2 member of the armed forces;

3 (3) the term “picketing” means protest activi-  
 4 ties engaged in by any person within 300 feet of a  
 5 cemetery, mortuary, or church during the period be-  
 6 ginning 1 hour prior to the funeral of a member of  
 7 the armed forces and ending 1 hour after the conclu-  
 8 sion of such a funeral; and

9 (4) the term “protest activities” includes, with  
 10 respect to any funeral—

11 (A) oration, speech, or similar conduct be-  
 12 fore an assembled group of people that is not  
 13 part of the funeral or ceremony,

14 (B) the display of placards, banners, post-  
 15 ers, flags, or similar devices that are not part  
 16 of the funeral or ceremony, and

17 (C) the distribution of any handbill, pam-  
 18 phlet, leaflet, or other written material that is  
 19 not part of the funeral or ceremony.

20 **SEC. 4. PROHIBITION ON PICKETING AT FUNERALS OF**  
 21 **MILITARY PERSONNEL.**

22 (a) IN GENERAL.—No State or unit of local govern-  
 23 ment shall issue a permit allowing, or otherwise authorize,  
 24 picketing during the funeral of a member or former mem-  
 25 ber of the armed forces.

1 (b) CRIMINAL PROHIBITION.—

2 (1) IN GENERAL.—Chapter 67 of title 18,  
3 United States Code, is amended by adding after sec-  
4 tion 1386 the following:

5 **“§ 1387. Prohibition on picketing at funerals of mili-**  
6 **tary personnel**

7 “(a) IN GENERAL.—It shall be unlawful for any per-  
8 son to engage in picketing at the funeral of a member or  
9 former member of the armed forces .

10 “(b) PENALTY.—Any person who violates subsection  
11 (a) shall be fined under this title, imprisoned for not more  
12 than 5 years, or both.

13 “(c) DEFINITIONS.—In this section—

14 “(1) the term ‘armed forces’ has the meaning  
15 given the term in section 101 of title 10;

16 “(2) the term ‘funeral of a member or former  
17 member of the armed forces’ means any ceremony,  
18 procession, or memorial service held in connection  
19 with the burial or cremation of a member or former  
20 member of the armed forces;

21 “(3) the term ‘picketing’ means protest activi-  
22 ties engaged in by any person within 300 feet of a  
23 cemetery, mortuary, or church during the period be-  
24 ginning 1 hour prior to the funeral of a member of

1 the armed forces and ending 1 hour after the conclu-  
 2 sion of such a funeral; and

3 “(4) the term ‘protest activities’ includes, with  
 4 respect to any funeral—

5 “(A) oration, speech, or similar conduct  
 6 before an assembled group of people that is not  
 7 part of the funeral or ceremony,

8 “(B) the display of placards, banners,  
 9 posters, flags, or similar devices that are not  
 10 part of the funeral or ceremony, and

11 “(C) the distribution of any handbill, pam-  
 12 phlet, leaflet, or other written material that is  
 13 not part of the funeral or ceremony.”.

14 (2) CONFORMING AMENDMENT.—The table of  
 15 sections for chapter 67 of title 18, United States  
 16 Code, is amended by adding after the item related  
 17 to section 1386 the following:

“1387. Prohibition on picketing at funerals of military personnel.”.

18 **SEC. 5. NONPREEMPTION.**

19 Nothing in this Act or the amendments made by this  
 20 Act shall be construed to preempt any State or local law  
 21 that affords greater protection to individuals attending the  
 22 funeral of a member or former member of the armed  
 23 forces.

1 **SEC. 6. SEVERABILITY.**

2       If any provision of this Act, the amendments made  
3 by this Act, or the application of such provision or amend-  
4 ment to any person or circumstance is held to be unconsti-  
5 tutional, the remainder of this Act, the amendments made  
6 by this Act, and the application of the provisions of such  
7 to any person or circumstance shall not be affected there-  
8 by.

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