

Legislative Analysis



DEMONSTRATIONS AT FUNERALS

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House Bill 4284 (Substitute H-1)

Sponsor: Rep. Bruce Rendon

House Bill 4745 without amendment

Sponsor: Rep. Kurt Damrow

Committee: Military and Veteran Affairs and Homeland Security

Complete to 6-28-11

A SUMMARY OF HOUSE BILLS 4284 & 4745 AS REPORTED FROM COMMITTEE

The Michigan Penal Code was amended in 2006 to prohibit a person from doing any of the following within 500 feet of a building or other location where a funeral, memorial service, or viewing of a deceased person is being conducted, or within 500 feet of a funeral procession or burial:

- Making loud and raucous noise and continuing to do so after being asked to stop.
- Making any statement or gesture that would make a reasonable person under the circumstances feel intimidated, threatened, or harassed.
- Engaging in any other conduct that the person knows or reasonably should know will disturb, disrupt, or adversely affect the funeral, memorial service, viewing, funeral procession, or burial.

House Bill 4284 would rewrite this section of the Penal Code. It would, instead, prohibit a person from doing any of the following within 500 feet of a building or other location where a funeral, memorial service, or viewing of a deceased person is being conducted, or within 500 feet of a funeral procession or burial:

- Making any statement or gesture or engaging in any conduct that would make a reasonable person attending that funeral, memorial service, viewing, procession, or burial under the circumstances feel intimidated threatened or harassed, and that makes any person attending that funeral, memorial service, viewing, procession, or burial feel intimidated threatened or harassed.
- Making any statement or gesture or engaging in any conduct intended to incite or produce an imminent breach of the peace among those attending that funeral, memorial service, viewing, or burial or traveling in that procession, and that causes an imminent breach of the peace among those attending that funeral, memorial service, viewing, or burial or traveling in that procession.

- Making any statement or gesture or engaging in any conduct intending to disrupt or that disrupts the funeral, memorial service, viewing, procession, or burial and that disrupts the funeral, memorial service, viewing, procession, or burial.

Also under the bill, a person could not intentionally obstruct, hinder, impede or block another person's entry to or exit from a funeral, memorial service, viewing of a deceased person, funeral procession, or burial. (This provision would not apply to a person conducting or assisting in conducting the event.)

As now, a person found in violation of this section would be considered to be a disorderly person and guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000. However, for a second or subsequent conviction, the penalty would be imprisonment for not more than 4 years and/or a fine of not more than \$10,000.

House Bill 4745 would make a complementary amendment to the sentencing guidelines in the Code of Criminal Procedure. In the Code, a first offense is a Class G felony with a two-year maximum term of imprisonment. A second or subsequent offense is a Class F felony with a four-year maximum term of imprisonment.

FISCAL IMPACT:

In that the bills only serve to revise current law related to demonstrations at funerals, they should have little fiscal impact on the State and on local units of government. To the extent that the revisions made by the bills result in additional felony convictions that would not have otherwise occurred, they could increase costs on state and local correctional systems. The average cost of prison incarceration is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. Costs of local incarceration in county jails vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

POSITIONS:

Michigan State Police supports the bills. (6-21-11)

ACLU of Michigan supports the bills (6-21-11)

American Legion, Marine Corps League, and Commanders Group support the bills. (6-21-11)

Michigan Funeral Directors Association supports the bill. (6-21-11)

Military Order of the Purple Heart supports the bills. (6-21-11)

Vietnam Veterans of America support the bills. (6-21-11)

A representative of the Department of Military and Veteran Affairs testified and is neutral on the bills. (6-21-11)

Legislative Analyst: E. Best
Fiscal Analyst: Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.