



State of South Carolina

Office of the Governor

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May 31, 2006

The Honorable Robert Harrell, Jr.
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval H. 4965, R-346.

H. 4965 would make it illegal for a person to willfully, knowingly or maliciously disturb or interrupt a funeral service, if the interruption is within: 1,000 feet of the funeral service, and within the time period 30 minutes before or after the service. The penalty for violating this statute would be up to \$500 or up to 30 days in jail. In addition, it H. 4965 makes it illegal to undertake an activity at a cemetery (other than a funeral or visitation) without the written approval of the owner. The penalty for an infraction is up to \$100 or up to 30 days in jail.

While well intentioned, because there indeed are few things more sacred than the burial of a loved one, I have three main concerns with this bill.

First, as a rule, I believe we should minimize the number of things handled by law or government and maximize personal freedom and the number of things handled by individuals. Accordingly, we shouldn't pass laws in our state for problems that don't yet exist in our state. This bill appears to be driven by news reports about the misguided actions of Reverend Fred Phelps and his Topeka, Kansas church group at military funerals. There have been no protests at funerals across our state. This bill, in an attempt to stop protests that don't exist, may have the unintended consequence of, in fact, sparking protests in opposition to the bill.

Second, in the week since the General Assembly agreed to this bill, President Bush has signed the "Respect for America's Fallen Heroes Act", which, while having even stricter penalties, is more narrowly tailored to addressing the specific problem posed by the Topeka group. The new federal bill deals specifically with military funerals at the nation's 122 national cemeteries, mandating that protesters remain 300 feet of the entrance of a cemetery. By contrast, the South Carolina law applies to all ceremonies at all cemeteries and imposes a setoff distance of 1,000 feet from the funeral service – more than three football fields. While many of us find the actions of Rev. Phelps and his followers abhorrent, we must be careful to balance our sincere desire to

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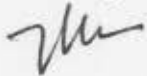
help families have a peaceful funeral service with the interests of liberty and free speech. The federal bill does a better job of balancing those interests, and its existence renders South Carolina's much more restrictive bill unnecessary.

Third, the provision prohibiting any activity outside of a ceremony or visitation is overly broad, as 'activity' isn't defined. An activity could include a homeless person sleeping in a cemetery, or children taking an ill-advised shortcut on the way to school. Attaching a potential jail sentence to these activities, especially for a first offense, appears to be unduly harsh.

For these reasons, I am returning H. 4965 without my signature.

Should the circumstances that brought about this legislation change, I commit to revisit this issue because men or women who pay the ultimate price in protecting this country's freedoms are owed a solemn burial service.

Sincerely,



Mark Sanford

cc: The Honorable Dwight A. Loftis