

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 977

(Senator Gladden, *et al.*)

Judicial Proceedings

Judiciary

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**Freedom of Speech - Picketing at a Funeral - Distance**

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This bill increases the distance within which a person is prohibited from engaging in picketing activities at a funeral, burial, memorial service, or funeral procession from 100 feet to 500 feet.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be met with existing State resources.

**Local Effect:** The bill's requirements can be met with existing local resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Chapter 357 of 2006 enacted several restrictions on protests and related activities at a funeral, memorial service, burial, or funeral procession. Under the statute, a person may not engage in picketing activity within 100 feet of a funeral, burial, memorial service, or funeral procession that is targeted at one or more persons attending the funeral, burial, memorial service, or funeral procession. The prohibition does not apply to a person who conducts a funeral, burial, memorial service, or funeral procession.

A person is also prohibited from (1) knowingly obstructing, hindering, impeding, or blocking another person's entry to or exit from a funeral, burial, memorial service, or funeral procession; or (2) addressing speech to a person attending a funeral, burial, memorial service, or funeral procession that is likely to incite or produce an imminent breach of the peace.

Violators are guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a \$1,000 fine.

**Background:** Marine Lance Corporal Matthew Snyder died in Iraq in 2006. Members of the Westboro Baptist Church picketed outside of his military funeral at St. John's Catholic Church in Westminster. The Westboro protesters picketed on a plot of land approximately 1,000 feet from St. John's, but within 200-300 feet of the funeral procession.

Westboro Baptist Church, which is based in Kansas, is led by the Reverend Fred Phelps and mostly consists of members of the Phelps family. Members of the church have mounted anti-gay protests at military funerals for several years based on their belief that military deaths in Iraq and Afghanistan are the result of the nation's tolerance of homosexuality. Albert Snyder sued the church and its members over their actions at his son's funeral. A trial court awarded him \$11 million for various tort claims, including intentional infliction of emotional distress. The award was later reduced to \$5 million. A federal appeals court threw out the verdict and said that the U.S. Constitution shielded the members of Westboro Baptist from tort liability.

In March 2, 2011, the United States Supreme Court held in an 8-1 ruling that the Westboro protesters are shielded from tort liability and that their words and actions fall under the purview of constitutionally protected free speech. Chief Justice Roberts noted that the picketing is protected free speech when the disputed words "address matters of public import on public property" and when the protest is conducted "in a peaceful manner, in full compliance with the guidance of local officials." While the court has previously held that the location of targeted picketing can be regulated under content-neutral provisions, the court did not address the validity of Maryland's funeral picketing law since it was enacted after the funeral.

Forty-eight states, 42 United States Senators, and several veterans groups sided with the Snyder family and asked the court to protect military funerals from "psychological terrorism." News agencies asked the court to side with Westboro Baptist, fearing restrictions on free speech.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Harford, Montgomery, and St. Mary's counties; towns of Bel Air and Leonardtown; City of Salisbury; United States Supreme Court, *Los Angeles Times*, *Maryland Daily Record*, Department of Legislative Services

**Fiscal Note History:** First Reader - March 23, 2011  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510