

# Protect the sanctity of funerals

Now halfway through the 2006 legislative session, legislators at the Statehouse have started working on bills that have been passed through the opposite chamber. In the House, committees have been reviewing legislation such as Senate Bill 5, a bill authored by state Sen. Brent Steele of Bedford that makes disorderly conduct at funerals a Class D felony.

Late last year, an extremist group from Kansas started visiting Hoosier communities to incite violent behavior for their cause. Calling themselves the Westboro Baptist Church (they have no actual affiliation with a Baptist organization), they have gained notoriety by staging vulgar, disruptive protests at funerals nationwide, particularly those of fallen soldiers.

This group has picketed the funerals of fallen Hoosier soldiers in both Bedford and Evansville, claiming that their deaths are "God's punishment to a country that has turned away from the Bible." The group argues that "one of God's weapons of choice" is Iraqi roadside bombs that have been injuring and killing our soldiers.

In addition, this extremist group has pressed the limits by sending out a news release to "thank God for the Indiana tornado that killed 22 and injured 230," adding "... we humbly pray for many such visitations of God's wrath on Indiana," referencing the Evansville-area tornado that hit southern Indiana last November.

This disgusting behavior is all too common. Across the country, extremist groups use similar tactics to gain media attention and



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Constitution.

Most Americans understand the importance of our freedom of speech. However, the U.S. Supreme Court has recognized that this freedom is not absolute. Specifically, the court has long defined limits on incidents that may incite violent behavior from large groups.

Writing for a majority opinion in 1919, Supreme Court Justice Oliver Wendell Holmes coined the phrase "shouting fire in a crowded theater" to describe certain limitations on Americans' freedom of speech. This abridgment to free speech, Holmes wrote, was permissible because it presented a "clear and present danger." That majority opinion was later overturned, yet the foundation of Holmes definition was permanently cast in American legal doctrine. Used as a litmus test even today, the courts agree that speech can be banned when it is "directed to and likely to incite imminent lawless action," such as riots or other violent behavior.

Senate Bill 5 is a common-sense effort to address this problem. The bill makes disorderly conduct at a

motivate members of their clan. There is little doubt that this group of Kansas radicals is attempting to gain attention here in Indiana, abusing their free speech rights provided under the First Amendment to our U.S.

funeral a Class D felony and mandates a 500-foot setback from the edge of the grave for any protest.

The bill's author, Sen. Steele, explained: "I think every person's funeral is entitled to the sanctity of peace and quietude, especially if the family wants prayer said at the grave side. This prayer site is entitled to privacy. This is not only a bill based on good manners, but it is obviously a bill that will promote public safety."

SB 5 will make disorderly conduct at all funerals a Class D felony whether the actions occur at a funeral home, the procession or at the grave site. These provisions are not unprecedented. In fact, for safety reasons, Indiana currently has a statute (IC 35-45-1-3) that makes disorderly conduct at airports, airport hangars and parking areas a Class D felony.

"This legislation is not an attack on freedom of speech," said Steele. "It simply ensures that grieving families have the right to lay their son or daughter, wife or spouse, friend or relative to rest without being harassed and taunted. Anyone is still free to protest a funeral, if they feel that is appropriate and necessary, in any forum they desire. They simply must remain at least 500 feet away from the funeral. Our soldiers die to not only insure freedom of speech but also the rule of law."

SB 5 passed out of the Senate last week by a vote of 47 to 1 and will be voted on in the House next week.

Messer is executive director of the Indiana Republican Party and represents District 57, including most of Shelby County, in the Indiana House.

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