

Senate Bill 474

By: Senators Mullis of the 53rd, Hamrick of the 30th, Thompson of the 33rd, Tanksley of the 32nd, Marable of the 52nd and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 3 of Chapter 21 of Title 31 of the Official Code of Georgia Annotated,
 2 relating to offenses relative to the treatment of dead bodies, so as to provide that it shall be
 3 abuse of a dead human body to treat a dead human body in a manner inconsistent with
 4 community or professional standards or in a manner known to outrage ordinary family
 5 sensibilities or to disinter a body which had been legally interred; to provide for legitimate
 6 medical or scientific use; to amend Chapter 18 of Title 43 of the Official Code of Georgia
 7 Annotated, relating to funeral directors and embalmers, so as to change certain provisions
 8 relating to definitions; to change certain provisions relating to identification of bodies of
 9 deceased persons; to change certain provisions relating to crematories; to provide an effective
 10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 3 of Chapter 21 of Title 31 of the Official Code of Georgia Annotated, relating to
 14 offenses relative to the treatment of dead bodies, is amended by striking in its entirety Code
 15 Section 31-21-44.1, relating to the abuse of a dead body, and inserting in lieu thereof the
 16 following:

17 "31-21-44.1.

18 (a)(1) A person commits the offense of abuse of a dead human body if, prior to interment
 19 and except as otherwise authorized by law, such person willfully defaces a dead human
 20 body while the dead human body is lying in state or is prepared for burial, showing, or
 21 cremation whether in a funeral establishment, place of worship, home, or other facility
 22 for lying in state or at a grave site. The lawful presence of the offender at a place where
 23 the dead human body is abused shall not be a defense to a prosecution under this Code
 24 section.

25 (2) A person who is providing care to another person, other than in a hospital, either on
 26 a permanent or temporary basis, shall, upon the death of such person while in such

1 person's care, be required to notify a local law enforcement agency or coroner or a
 2 relative of such deceased person within six hours of the discovery of the death of such
 3 person. Any person who intentionally violates the provisions of this paragraph shall
 4 commit the offense of abuse of a dead human body.

5 (3) A person commits the offense of abuse of a dead human body when, without legal
 6 privilege, he or she:

7 (A) Treats a dead human body in a manner not recognized by generally accepted
 8 standards of the community;

9 (B) Is a member of a profession which normally places him or her in contact with dead
 10 human bodies, and he or she treats a dead human body in a manner not generally
 11 accepted as suitable practice by other members of the profession;

12 (C) Knowingly and willfully treats a dead human body in a way that he or she knows
 13 would outrage ordinary family sensibilities;

14 (D) Fails to inter, cremate, or refrigerate a dead human body within 72 hours after
 15 taking custody of such dead human body; or

16 (E) Disinters a body which has been legally interred.

17 (b) Any person who violates subsection (a) of this Code section shall be guilty of a felony
 18 and shall be punished by imprisonment for not less than one nor more than three years.
 19 Each instance of abuse of a dead human body shall constitute a separate offense.

20 (c) Nothing in this Code section shall be construed so as to limit the use of a dead human
 21 body for legitimate medical training or scientific purposes."

22 SECTION 2.

23 Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to funeral
 24 directors and embalmers, is amended by striking paragraph (6) of Code Section 43-18-1,
 25 relating to definitions, and inserting in lieu thereof the following:

26 "(6) 'Crematory' means a any place that is owned by a funeral director or funeral
 27 establishment where cremation is performed, and which is open to the public other than a
 28 hospital, clinic, laboratory, or other facility authorized by the Department of Human
 29 Resources for such purposes."

30 SECTION 3.

31 Said chapter is further amended by striking Code Section 43-18-8, relating to identification
 32 of bodies of deceased persons, and inserting in lieu thereof the following:

33 "43-18-8.

1 (c) Application for licensure of a crematory shall be made upon a form approved by the
2 board and shall be accompanied by an application fee. No license shall be issued unless
3 the facility meets all the requirements set forth by the board.

4 (d) The board may adopt rules requiring each crematory to submit periodic reports to the
5 board which include the names of persons cremated and the types of containers used.

6 (e) No more than one dead human body shall be placed in a retort at one time unless
7 written permission has been received from the person possessing legal responsibility for
8 the disposition of the dead human body.

9 (f) Nothing in this article shall require a funeral establishment to have a separate license
10 for a crematory but such establishment must comply with all the minimum equipment and
11 facilities requirements, and all other statutes, rules, and regulations relating to crematories."

12 **SECTION 5.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval.

15 **SECTION 6.**

16 All laws and parts of laws in conflict with this Act are repealed.