

Senators Mullis of the 53rd and Scott of the 36th offered the following substitute to SB 474:

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
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

17 "31-21-44.1.

18 (a)(1) A person commits the offense of abuse of a dead human body if, prior to
19 interment and except as otherwise authorized by law, such person willfully defaces a
20 dead human body while the dead human body is lying in state or is prepared for burial,
21 showing, or cremation whether in a funeral establishment, place of worship, home, or
22 other facility for lying in state or at a grave site. The lawful presence of the offender at
23 a place where the dead human body is abused shall not be a defense to a prosecution
24 under this Code 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 he 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
 28 a 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 (a) The funeral director or person in charge of final disposition of a dead body shall, prior
 2 to the interment of such dead body, affix on the ankle or wrist of the deceased or, if
 3 cremated, on the inside of the vessel containing the remains, a tag of durable, noncorroding
 4 material permanently marked with the name of the deceased, the date of death, the social
 5 security number of the deceased, and the county and state of death. If the religious faith
 6 of the deceased prohibits ~~desecration of the body~~ such means of identification, alternative
 7 means of identification of the body may be used.

8 (b) The funeral director in charge of a crematory shall provide to the person to whom
 9 cremated remains are delivered or released a written statement signed and verified by such
 10 funeral director before a person authorized to administer oaths, attesting that the vessel
 11 contains the remains of the deceased identified in accordance with subsection (a) of this
 12 Code section."

13 SECTION 4.

14 Said chapter is further amended by striking Code Section 43-18-72, relating to crematories,
 15 and inserting in lieu thereof the following:

16 "43-18-72.

17 (a) It shall be unlawful for any person, firm, corporation, or association to operate a
 18 crematory without first obtaining a license from the board in accordance with this article.
 19 The crematory must be at a specific address or location and must have the following
 20 minimum equipment, facilities, and personnel:

- 21 (1) A room with seating for a minimum of 30 people in which funeral services may be
- 22 conducted;
- 23 (2) A display room containing an adequate supply of urns;
- 24 (3) Rolling stock consisting of at least one operable motor hearse either owned or leased
- 25 by said firm with current Georgia registration;
- 26 (4) At least one operable retort for cremation; and
- 27 (5) At least one church truck;

28 provided, however, that the provisions of paragraphs (1), (2), (3), and (5) of this subsection
 29 shall not apply to crematories which provide cremation services only to other funeral
 30 establishments.

31 (b) The board may adopt and enforce such rules as may be reasonable and necessary to
 32 provide for the sanitary disposal of dead human bodies and prevent the spread of disease
 33 and to protect the health, safety, and welfare of the people of this state.

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.