

The House Committee on Judiciary offers 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 effective  
10 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 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) Fails to embalm, inter, cremate, or refrigerate a dead human body within 72 hours  
 13 after taking custody of such dead human body; or

14 (D) Disinters a body which has been legally interred.

15 (b) Use of a dead human body, or part thereof, at or by an accredited medical school,  
 16 dental school, college, or university for education, research, advancement of medical or  
 17 dental science, or therapy shall be exempt from this Code section.

18 (c) Any person who violates subsection (a) of this Code section shall be guilty of a felony  
 19 and shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 and  
 20 imprisonment for not less than one nor more than three years. Each instance of abuse of a  
 21 dead human body shall constitute a separate offense."

## 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.

34 (a) The funeral director or person in charge of final disposition of a dead body shall, prior  
 35 to the interment of such dead body, affix on the ankle or wrist of the deceased or, if

1 cremated, on the inside of the vessel containing the remains, a tag of durable, noncorroding  
 2 material permanently marked with the name of the deceased, the date of death, the social  
 3 security number of the deceased, and the county and state of death. If the religious faith of  
 4 the deceased prohibits ~~desecration of the body~~ such means of identification, alternative  
 5 means of identification of the body may be used.

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

#### 11 SECTION 4.

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

14 "43-18-72.

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

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

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

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

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

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

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

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

7 **SECTION 5.**

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

10 **SECTION 6.**

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