

Senate Bill 77

By: Senators Mullis of the 53rd, Gooch of the 51st, Miller of the 49th, Dugan of the 30th,
Jones of the 25th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state
2 flag, seal, and other symbols, so as to provide additional protections for government statues,
3 monuments, plaques, banners, and other commemorative symbols; to provide definitions;
4 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state flag, seal,
9 and other symbols, is amended by revising subsection (b) of Code Section 50-3-1, relating
10 to description of state flag, militia to carry flag, defacing public monuments, and obstruction
11 of Stone Mountain, as follows:

12 "(b)(1) As used in this subsection, the term:

13 (A) 'Agency' means any state or local government entity, including any department,
14 agency, bureau, authority, board, educational institution, commission, or
15 instrumentality or subdivision thereof, and specifically including a local board of
16 education, the Board of Regents of the University System of Georgia, and any
17 institution of the University System of Georgia.

18 (B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure
19 name, display, or memorial constructed and located with the intent of being
20 permanently displayed and perpetually maintained that is dedicated to a historical entity
21 or historically significant military, religious, civil, civil rights, political, social, or
22 cultural events or series of events.

23 (C) 'Officer' means an officer, official, body, employee, contractor, representative, or
24 agent of any agency, whether appointed or elected.

25 ~~(1)(2)~~ (2) It shall be unlawful for any person, firm, corporation, or other entity to mutilate,
26 deface, defile, or abuse contemptuously any publicly owned monument, ~~plaque, marker,~~

27 ~~or memorial~~ which is dedicated to, honors, or recounts the military service of any past or
 28 present military personnel of this state; ~~the United States of America or the several states~~
 29 ~~thereof; or the Confederate States of America or the several states thereof, and no officer,~~
 30 ~~body, or representative of state or local government or any department, agency, authority,~~
 31 ~~or instrumentality thereof~~ located, erected, constructed, created, or maintained on real
 32 property owned by an agency or the State of Georgia. No officer or agency shall remove
 33 or conceal from display any such monument, ~~plaque, marker, or memorial~~ for the purpose
 34 of preventing the visible display of the same. A violation of this paragraph shall
 35 constitute a misdemeanor.

36 ~~(2)~~(3) No publicly owned monument ~~or memorial~~ erected, constructed, created, or
 37 maintained on the public property of this state or its agencies, departments, authorities,
 38 or instrumentalities in honor of the military service of any past or present military
 39 personnel of this state, the United States of America or the several states thereof, or the
 40 Confederate States of America or the several states thereof or on real property owned by
 41 an agency or the State of Georgia shall be relocated, removed, concealed, obscured, or
 42 altered in any fashion by any officer or agency; provided, however, that appropriate
 43 measures for the preservation, protection, and interpretation of such ~~monuments~~
 44 monument or memorials memorial shall not be prohibited.

45 ~~(3)~~(4) ~~Conduct prohibited by paragraphs (1) and (2) of this subsection shall be enjoined~~
 46 ~~by the appropriate superior court upon proper application therefor~~ Any person or entity
 47 that damages, destroys, or loses a monument or that takes or removes a monument
 48 without replacing it shall be liable for treble the amount of the full cost of repair or
 49 replacement of such monument and exemplary damages unless such person or entity was
 50 authorized to take such action by the public entity owning such monument. In addition
 51 to treble the cost of repair or replacement and exemplary damages, the person or entity
 52 shall also be liable for the attorney's fees and court costs expended by the public entity
 53 owner of the monument or person, group, or legal entity in any action or proceeding
 54 required to establish liability and collect amounts owed. Should a public entity owner of
 55 the monument or person, group, or other legal entity prevail in any action under this Code
 56 section, such prevailing party shall timely pay for the cost of or repair or placement of the
 57 monument upon moneys being collected from the party damaging, destroying, or losing
 58 such monument.

59 (5) A public entity owning a monument or any person, group, or legal entity shall have
 60 a right to bring a cause of action for any conduct prohibited by this Code section for
 61 damages as permitted by this Code section. Such action shall be brought in the superior
 62 court of the county in which the monument was located.

63 ~~(4)(6)~~ It Except as provided in this paragraph, it shall be unlawful for any person, firm,
 64 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
 65 contemptuously, relocate, remove, conceal, or obscure any privately owned monument;
 66 plaque, marker, or memorial which is dedicated to, honors, or recounts the military
 67 service of any past or present military personnel of this state, the United States of
 68 America or the several states thereof, or the Confederate States of America or the several
 69 states thereof. Any person or entity who that suffers injury or damages as a result of a
 70 violation of this paragraph may bring an action individually or in a representative
 71 capacity against the person or persons committing such violations to seek injunctive relief
 72 and to recover general and exemplary damages sustained as a result of such person's or
 73 persons' unlawful actions. This paragraph shall not apply to an owner of real property
 74 storing privately owned monuments.

75 (7) Nothing in this Code section shall prevent an agency from relocating a monument
 76 when relocation is necessary for the construction, expansion, or alteration of edifices,
 77 buildings, roads, streets, highways, or other transportation construction projects. Any
 78 monument relocated for such purposes shall be relocated to a site of similar prominence,
 79 honor, visibility, and access within the same county or municipality in which the
 80 monument was originally located. A monument shall not be relocated to a museum,
 81 cemetery, or mausoleum unless it was originally placed at such location."

82 **SECTION 2.**

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

85 **SECTION 3.**

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