

House Bill 91

By: Representatives Benton of the 31st, Allison of the 8th, Dutton of the 157th, McCall of the 33rd, Cooke of the 18th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 50-3-1 of the Official Code of Georgia Annotated, relating to the
2 description of the state flag, defacing public monuments, and obstruction of Stone Mountain,
3 so as to provide for additional protections for government statues, monuments, plaques,
4 banners, and other commemorative symbols; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

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

17 (B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure
18 name, display, or memorial that is dedicated to a historical entity, event or series of
19 events, nation, or government and which honors or recounts the military service or
20 other service of any past or present military personnel or citizen of this state, the United
21 States of America or the several states thereof, or the Confederate States of America or
22 the several states thereof.

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

25 (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 real property owned by an agency or the State of Georgia ~~the public~~
 38 ~~property of this state or its agencies, departments, authorities, or instrumentalities in~~
 39 ~~honor of the military service of any past or present military personnel of this state, the~~
 40 ~~United States of America or the several states thereof, or the Confederate States of~~
 41 ~~America or the several states thereof shall be relocated, removed, concealed, obscured,~~
 42 or altered in any fashion by any officer or agency; provided, however, that appropriate
 43 measures for the preservation, protection, and interpretation of such monuments ~~or~~
 44 ~~memorials~~ shall not be prohibited.

45 ~~(3)(4)~~ Conduct prohibited by paragraphs ~~(1)(2)~~ and ~~(2)(3)~~ of this subsection shall be
 46 enjoined by the appropriate superior court upon proper application therefor.

47 ~~(4)(5)~~ Except as provided in this paragraph, ~~it~~ It shall be unlawful for any person, firm,
 48 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
 49 contemptuously, relocate, remove, conceal, or obscure any privately owned monument;
 50 ~~plaque, marker, or memorial which is dedicated to, honors, or recounts the military~~
 51 ~~service of any past or present military personnel of this state, the United States of~~
 52 ~~America or the several states thereof, or the Confederate States of America or the several~~
 53 ~~states thereof located on privately owned property.~~ Any person or entity who suffers
 54 injury or damages as a result of a violation of this paragraph may bring an action
 55 individually or in a representative capacity against the person or persons committing such
 56 violations to seek injunctive relief and to recover general and exemplary damages
 57 sustained as a result of such person's or persons' unlawful actions. This paragraph shall
 58 not apply to an owner of real property storing privately owned monuments.

59 (6) Nothing in this Code section shall prevent an agency from relocating a monument
 60 when relocation is necessary for the construction, expansion, or alteration of edifices,
 61 buildings, roads, streets, highways, or other transportation construction projects. Any
 62 monument relocated for such purposes shall be relocated to a site of similar prominence,
 63 honor, visibility, availability, and access within the same jurisdiction in which such

64 monument was originally located. A monument shall not be relocated to a museum,
65 cemetery, or mausoleum unless it was originally placed at such a location."

66 **SECTION 2.**

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