

House Bill 1212

By: Representatives Hutchinson of the 107th, Kennard of the 102nd, Beverly of the 143rd, Kendrick of the 93rd, Bennett of the 94th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 state flag, seal, and other symbols, so as to prohibit the display of monuments, memorials,
3 plaques, markers, or memorabilia related to the Confederate States of America, slave owners,
4 or persons advocating for slavery on public property except for museums and Civil War
5 battlefields; to remove reference to the preservation and protection of the memorial graven
6 upon the face of Stone Mountain; to remove reference to display of the flag of the
7 Confederate States of America from public buildings or schools; to amend Chapter 4 of
8 Title 1 of the Official Code of Georgia Annotated, relating to holidays and observances so
9 as to remove provisions related to Confederate History and Heritage Month; to amend Part 4
10 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to
11 the Stone Mountain Memorial Association, so as to remove reference to the confederate
12 memorial; to remove provisions for the sale of confederate memorabilia by the Stone
13 Mountain Memorial Association; to provide for related matters; to provide for an effective
14 date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to state flag, seal,
18 and other symbols, is amended by revising subsections (b) and (c) of Code Section 50-3-1,
19 relating to description of state flag, militia to carry flag, defacing public monuments, and
20 obstruction and relocation of monuments, as follows:

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

22 ~~(A) 'Agency' means any state or local government entity, including any department,~~
23 ~~agency, bureau, authority, board, educational institution, commission, or~~
24 ~~instrumentality or subdivision thereof, and specifically including a local board of~~
25 ~~education, the Board of Regents of the University System of Georgia, and any~~
26 ~~institution of the University System of Georgia.~~

27 ~~(B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure~~
 28 ~~name, display, or memorial constructed and located with the intent of being~~
 29 ~~permanently displayed and perpetually maintained that is:~~

30 ~~(i) Dedicated to a historical entity or historically significant military, religious, civil,~~
 31 ~~civil rights, political, social, or cultural events or series of events; or~~

32 ~~(ii) Dedicated to, honors, or recounts the military service of any past or present~~
 33 ~~military personnel of this state; the United States of America or the several states~~
 34 ~~thereof; or the Confederate States of America or the several states thereof.~~

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

37 ~~(2) It shall be unlawful for any person, firm, corporation, or other entity to mutilate,~~
 38 ~~deface, defile, or abuse contemptuously any publicly owned monument, plaque, marker,~~
 39 ~~or memorial which is dedicated to, honors, or recounts the military service of any past or~~
 40 ~~present military personnel of this state, the United States of America, or the several states~~
 41 ~~thereof; and no officer, body, or representative of state or local government or any~~
 42 ~~department, agency, authority, or instrumentality thereof located, erected, constructed,~~
 43 ~~created, or maintained on real property owned by an agency or the State of Georgia. No~~
 44 ~~officer or agency shall remove or conceal from display any such monument, plaque,~~
 45 ~~marker, or memorial for the purpose of preventing the visible display of the same. A~~
 46 ~~violation of this paragraph shall constitute a misdemeanor.~~

47 ~~(3)~~(2) ~~No publicly owned monument plaque, marker, or memorial erected, constructed,~~
 48 ~~created, or maintained on the public property of this state or its agencies, departments,~~
 49 ~~authorities, or instrumentalities ~~or on real property owned by an agency or the State of~~~~
 50 ~~Georgia in honor of the military service of any past or present military personnel of this~~
 51 ~~state, the United States of America, or the several states thereof shall be relocated,~~
 52 ~~removed, concealed, obscured, or altered in any fashion ~~by any officer or agency;~~~~
 53 ~~provided, however, that appropriate measures for the preservation, protection, and~~
 54 ~~interpretation of such ~~monument~~ monuments, plaques, markers, or memorial memorials~~
 55 ~~shall not be prohibited.~~

56 ~~(4)~~(3) ~~Any person or entity that damages, destroys, or loses a monument or that takes or~~
 57 ~~removes a monument without replacing it shall be liable for treble the amount of the full~~
 58 ~~cost of repair or replacement of such monument and may be subject to exemplary~~
 59 ~~damages unless such person or entity was authorized to take such action by the public~~
 60 ~~entity owning such monument. In addition to treble the cost of repair or replacement and~~
 61 ~~possible exemplary damages, the person or entity shall also be liable for the attorney's~~
 62 ~~fees and court costs expended by the public entity owner of the monument or person,~~
 63 ~~group, or legal entity in any action or proceeding required to establish liability and collect~~

64 amounts owed. ~~Should a public entity owner of the monument or person, group, or other~~
 65 ~~legal entity prevail in any action under this Code section, such prevailing party shall~~
 66 ~~timely pay for the cost of or repair or placement of the monument upon moneys being~~
 67 ~~collected from the party damaging, destroying, or losing such monument Conduct~~
 68 ~~prohibited by paragraphs (1) and (2) of this subsection shall be enjoined by the~~
 69 ~~appropriate superior court upon proper application therefor.~~

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

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

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

93 ~~"(c)(1) Any other provision of law notwithstanding, the memorial to the heroes of the~~
 94 ~~Confederate States of America graven upon the face of Stone Mountain shall never be~~
 95 ~~altered, removed, concealed, or obscured in any fashion and shall be preserved and~~
 96 ~~protected for all time as a tribute to the bravery and heroism of the citizens of this state~~
 97 ~~who suffered and died in their cause. Except as provided in paragraph (2) of this~~
 98 ~~subsection, no publicly or privately owned monument, plaque, marker, memorial, or~~
 99 ~~memorabilia dedicated to, honoring, or recounting:~~

100 (A) The Confederate States of America, the several states thereof, or the military
 101 service of military personnel thereof;
 102 (B) Any individual, group, or organizations that owned, possessed, or controlled
 103 enslaved persons; or
 104 (C) Any individual, group, or organization that encouraged, promoted, supported, or
 105 advocated for the continuation of slavery
 106 shall be erected, constructed, created, displayed, or maintained on the public property of
 107 this state or its agencies, departments, authorities, instrumentalities, counties,
 108 municipalities, political subdivisions, or local authorities.
 109 (2) Monuments, plaques, markers, or memorials related to the persons, institutions, or
 110 organizations outlined in subparagraphs (A) through (C) of paragraph (1) of this
 111 subsection may be displayed and maintained in museums owned or operated by the state
 112 or its agencies, departments, authorities, instrumentalities, counties, municipalities,
 113 political subdivisions, or local authorities or within the boundaries of Civil War
 114 battlefields provided for in the State of Georgia Civil War Sites Heritage Plan adopted
 115 pursuant to Article 5 of Chapter 7 of this title.
 116 (3) On or after January 1, 2021, conduct prohibited by paragraph (1) of this subsection
 117 shall be enjoined by the appropriate superior court upon proper application therefor, and
 118 the sovereign immunity of the state, its agencies, departments, authorities,
 119 instrumentalities, counties, municipalities, political subdivisions, and local authorities is
 120 waived to the extent necessary to effectuate this subsection.
 121 (4) This subsection shall not provide a right of action or waive sovereign immunity in
 122 regard to any claim of injury or damage arising from the removal of a privately owned
 123 monument, plaque, marker, memorial, or memorabilia from public property pursuant to
 124 paragraph (1) of this subsection.
 125 (5) Compliance or attempts to comply with paragraph (1) of this subsection shall not be
 126 violations of either subsection (e) of Code Section 16-7-21 or paragraph (7) of
 127 subsection (a) of Code Section 16-8-12."

128 **SECTION 2.**

129 Said chapter is further amended by revising Code Section 50-3-10, relating to use of flag for
 130 decorative or patriotic purposes, as follows:

131 "50-3-10.

132 Nothing in this article shall be construed to prevent the use of the flag of the United States
 133 or any flag, standard, color, shield, ensign, or other insignia of the State of Georgia ~~or of~~
 134 ~~the Confederate States of America~~ for decorative or patriotic purposes, either inside or
 135 outside of any residence, store, place of business, public building, or school building."

136 **SECTION 3.**

137 Chapter 4 of Title 1 of the Official Code of Georgia Annotated, relating to holidays and
 138 observances, is amended by repealing and reserving Code Section 1-4-20 relating to
 139 designation of Confederate History and Heritage Month.

140 **SECTION 4.**

141 Part 4 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
 142 relating to the Stone Mountain Memorial Association, is amended by revising paragraph (7)
 143 of Code Section 12-3-191, relating to definitions, as follows:

144 "(7) 'Project' means Stone Mountain and property adjacent thereto acquired by the
 145 association and all accommodations, utilities, facilities, services, and equipment
 146 necessary or convenient, and all property, real, personal, or mixed, used or useful,
 147 including franchises and easements, in constructing, erecting, improving, remodeling,
 148 developing, equipping, adding to, extending, maintaining, managing, and operating Stone
 149 Mountain, located in DeKalb County, Georgia, and property adjacent thereto, as a
 150 ~~Confederate memorial and~~ public recreational area, and the construction, improvement,
 151 development, maintenance, management, operation, and extension of any part thereof,
 152 as to which the association has undertaken or agreed to undertake any action permitted
 153 by this part."

154 **SECTION 5.**

155 Said part is further amended by revising Code Section 12-3-192.1, relating to purposes of the
 156 association, as follows:

157 "12-3-192.1.

158 The purposes of the Stone Mountain Memorial Association shall include:

- 159 (1) To preserve the natural areas situated within the Stone Mountain Park area; and
 160 (2) To provide access to Stone Mountain for Georgia's citizens; ~~and~~
 161 (3) ~~To maintain an appropriate and suitable memorial for the Confederacy."~~

162 **SECTION 6.**

163 Said part is further amended by repealing subsection (d) of Code Section 12-3-194.1, relating
 164 to police and legislative powers of the association and the sale of confederate memorabilia.

165 **SECTION 7.**

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

168

SECTION 8.

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