

The House Committee on State Properties offers the following substitute to HB 91:

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 constructed and located with the intent of being
19 permanently displayed and perpetually maintained that is dedicated to a historical
20 entity, event or series of events, nation, or government and which honors or recounts
21 the military service or other service of any past or present military personnel or citizen
22 of this state, the United States of America or the several states thereof, or the
23 Confederate States of America or the several states thereof.

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

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

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

46 (4) Any person or entity that damages, destroys, or loses a monument or that takes or
 47 removes a monument without replacing it shall be liable for the full cost of repair or
 48 replacement of such monument unless such person or entity was authorized to take such
 49 action by the public entity owning such monument. In addition to the cost of repair or
 50 replacement, the person or entity shall also be liable for the attorney's fees and court costs
 51 expended by the public entity owner of the monument in any action or proceeding
 52 required to establish liability and collect amounts owed.

53 ~~(3)(5)~~ (5) Conduct prohibited by paragraphs ~~(1) and (2)~~ of this subsection this Code section
 54 shall be enjoined by the appropriate superior court upon proper application therefor. A
 55 public entity owning a monument shall have a right to bring a cause of action for
 56 injunctive relief or damages in the superior court of the county in which the monument
 57 was located.

58 ~~(4)(6)~~ (6) Except as provided in this paragraph, it It shall be unlawful for any person, firm,
 59 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
 60 contemptuously, relocate, remove, conceal, or obscure any privately owned monument;
 61 ~~plaque, marker, or memorial which is dedicated to, honors, or recounts the military~~
 62 ~~service of any past or present military personnel of this state, the United States of~~

63 ~~America or the several states thereof, or the Confederate States of America or the several~~
64 ~~states thereof~~ located on privately owned property. Any person or entity who suffers
65 injury or damages as a result of a violation of this paragraph may bring an action
66 individually or in a representative capacity against the person or persons committing such
67 violations to seek injunctive relief and to recover general and exemplary damages
68 sustained as a result of such person's or persons' unlawful actions. This paragraph shall
69 not apply to an owner of real property storing privately owned monuments.

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

77 **SECTION 2.**

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