

The House Committee on Governmental Affairs offers the following substitute to SB 77:

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:

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

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

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

28 ~~(1)(2)~~ It shall be unlawful for any person, firm, corporation, or other entity to mutilate,
 29 deface, defile, or abuse contemptuously any publicly owned monument, ~~plaque, marker,~~
 30 ~~or memorial which is dedicated to, honors, or recounts the military service of any past or~~
 31 ~~present military personnel of this state, the United States of America or the several states~~
 32 ~~thereof, or the Confederate States of America or the several states thereof, and no officer,~~
 33 ~~body, or representative of state or local government or any department, agency, authority,~~
 34 ~~or instrumentality thereof located, erected, constructed, created, or maintained on real~~
 35 ~~property owned by an agency or the State of Georgia. No officer or agency shall remove~~
 36 ~~or conceal from display any such monument, plaque, marker, or memorial for the purpose~~
 37 ~~of preventing the visible display of the same. A violation of this paragraph shall~~
 38 ~~constitute a misdemeanor.~~

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

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

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

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

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

85 **SECTION 2.**

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

88 **SECTION 3.**

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