

House Bill 50

By: Representatives Benton of the 31<sup>st</sup>, Buckner of the 137<sup>th</sup>, and Greene of the 151<sup>st</sup>

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 waive sovereign immunity; to provide for  
5 related matters; to repeal 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 of the University System of Georgia, and any  
16 institution of the University System of Georgia.

17 (B) 'Monument' means a monument, plaque, statue, marker, flag, banner, structure  
18 name, display, or memorial that honors or recounts the military service or other service  
19 of any past or present military personnel or citizen of this state, the United States of  
20 America or the several states thereof, or the Confederate States of America or the  
21 several states thereof and is located with the intent of being permanently displayed and  
22 perpetually maintained.

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 shall remove or conceal from display any such monument,~~  
 32 ~~plaque, marker, or memorial for the purpose of preventing the visible display of the same.~~  
 33 ~~A violation of this paragraph shall constitute a misdemeanor located, erected, or~~  
 34 ~~maintained on real property owned by an agency or the State of Georgia.~~

35 ~~(2)(3) No publicly owned monument or memorial located, erected, constructed, created,~~  
 36 ~~or maintained on the public property of this state or its agencies, departments, authorities,~~  
 37 ~~or instrumentalities in honor of the military service of any past or present military~~  
 38 ~~personnel of this state, the United States of America or the several states thereof, or the~~  
 39 ~~Confederate States of America or the several states thereof real property owned by an~~  
 40 ~~agency or the State of Georgia shall be relocated, removed, concealed, obscured, or~~  
 41 ~~altered in any fashion by any officer or agency; provided, however, that appropriate~~  
 42 ~~measures for the preservation, protection, and interpretation of such monuments ~~or~~~~  
 43 ~~memorials shall not be prohibited.~~

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

51 ~~(3)(5) Conduct prohibited by paragraphs (1) and (2) of this subsection this Code section~~  
 52 ~~shall be enjoined by the appropriate superior court upon proper application therefor. Any~~  
 53 ~~person or entity adversely affected by a violation of this Code section shall have the right~~  
 54 ~~to bring a cause of action in the superior court of the county in which the monument was~~  
 55 ~~located for injunctive relief, damages, or both. The sovereign immunity of the state and~~  
 56 ~~all agencies is expressly waived with regard to actions maintained for any violation of~~  
 57 ~~this Code section.~~

58 ~~(4)(6) Except as provided in this paragraph, ~~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, or alter in any fashion any~~  
 61 ~~privately owned monument, plaque, marker, or memorial which is dedicated to, honors,~~  
 62 ~~or recounts the military service of any past or present military personnel of this state, the~~  
 63 ~~United States of America or the several states thereof, or the Confederate States of~~

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

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

78 **SECTION 2.**

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