

Senate Bill 23

By: Senators Parent of the 42nd, Butler of the 55th, Jones of the 10th, Harrell of the 40th, Halpern of the 39th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state and other flags, so as to provide that local governments may relocate,
3 remove, conceal, obscure, or alter certain monuments; to provide for related matters; to
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

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

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

12 (A) 'Agency' means any state or local government 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 constructed and located with the intent of being
19 permanently displayed and perpetually maintained that is:

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

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

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

27 (2) It shall be unlawful for any person, firm, corporation, or other entity to mutilate,
28 deface, defile, or abuse contemptuously any publicly owned monument located, erected,
29 constructed, created, or maintained on real property owned by an agency or the State of
30 Georgia. No officer or agency shall remove or conceal from display any such monument
31 for the purpose of preventing the visible display of the same without a duly adopted
32 resolution of the public entity owning such monument, plaque, marker, or memorial
33 authorizing such monument, plaque, marker, or memorial to be removed or concealed
34 from display. A violation of this paragraph shall constitute a misdemeanor.

35 (3) No publicly owned monument erected, constructed, created, or maintained on the
36 public property of this state or its agencies, departments, authorities, or instrumentalities
37 or on real property owned by an agency or the State of Georgia shall be relocated,
38 removed, concealed, obscured, or altered in any fashion by any officer or agency without
39 a duly adopted resolution of the public entity owning such monument, plaque, marker,
40 or memorial authorizing such monument, plaque, marker, or memorial to be removed or
41 concealed from display; provided, however, that appropriate measures for the
42 preservation, protection, and interpretation of such monument or memorial shall not be
43 prohibited.

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

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

61 (6) Except as provided in this paragraph, it shall be unlawful for any person, firm,
62 corporation, or other entity acting without authority to mutilate, deface, defile, abuse
63 contemptuously, relocate, remove, conceal, or obscure any privately owned monument
64 located on privately owned property, provided that, if such monument, plaque, marker,
65 or memorial is located on public property, the public entity owning such public property
66 may remove from display and return such monument, plaque, marker, or memorial to the
67 private entity owning such monument, plaque, marker, or memorial upon the adoption
68 of a resolution by such public entity authorizing such removal and return. Any person
69 or entity that suffers injury or damages as a result of a violation of this paragraph may
70 bring an action individually or in a representative capacity against the person or persons

71 committing such violations to seek to recover general and exemplary damages sustained
72 as a result of such person's or persons' unlawful actions. This paragraph shall not apply
73 to an owner of real property storing privately owned monuments.

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

81

SECTION 2.

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