

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40150-MK-41A

Short Title: Restore Injured Monument/Prosecution. (Public)

Sponsors: Representatives Speciale, Kidwell, Pittman, and Brody (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO RESTORE ANY OBJECT OF REMEMBRANCE THAT IS INJURED BY A MEMBER OR MEMBERS OF THE PUBLIC AND TO AUTHORIZE THE ATTORNEY GENERAL TO PROSECUTE VIOLATIONS OF STATE LAW IN CAUSING INJURY TO THE OBJECT OF REMEMBRANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-132 reads as rewritten:

"§ 14-132. Disorderly conduct in and injuries to public buildings and facilities.

(a) It is a misdemeanor if any person shall:

- (1) Make any rude or riotous noise, or be guilty of any disorderly conduct, in or near any public building or facility; or
- (2) Unlawfully write or scribble on, mark, deface, besmear, or injure the walls of any public building or facility, or any statue or monument situated in any public ~~place;~~place, including moving or removing the statue or monument from its location; or
- (3) Commit any nuisance in or near any public building or facility.

(b) Any person in charge of any public building or facility owned or controlled by the State, any subdivision of the State, or any other public agency shall have authority to arrest summarily and without warrant for a violation of this section.

(c) The term "public building or facility" as used in this section includes any building or facility which is:

- (1) One to which the public or a portion of the public has access and is owned or controlled by the State, any subdivision of the State, any other public agency, or any private institution or agency of a charitable, educational, or eleemosynary nature; or
- (2) Dedicated to the use of the general public for a purpose which is primarily concerned with public recreation, cultural activities, and other events of a public nature or character.
- (3) Designated by the Director of the State Bureau of Investigation in accordance with G.S. 143B-987.

The term "building or facility" as used in this section also includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits a violation of subdivision (2) of subsection (a) of this



1 section involving a monument subject to the provisions of G.S. 100-2.1 is guilty of a Class A1
2 misdemeanor, which shall include (i) a fine of not less than five hundred dollars (\$500.00) and
3 not more than one thousand dollars (\$1,000) and (ii) restitution for the damage caused to the
4 monument and any costs incurred by the owner of the monument for repairing or otherwise
5 restoring the monument. Unless the conduct is covered under some other provision of law
6 providing greater punishment, any person who violates any provision commits any other
7 violation of this section is guilty of a Class 2 misdemeanor. The Attorney General of North
8 Carolina, or the Attorney General's designee, shall have concurrent jurisdiction with the district
9 attorneys of this State to prosecute violations of subdivision (2) of subsection (a) of this section
10 involving a monument subject to the provisions of G.S. 100-2.1."

11 **SECTION 2.** G.S. 100-2.1 reads as rewritten:

12 **"§ 100-2.1. Protection of monuments, memorials, and works of art.**

13 (a) Approval Required. – Except as otherwise provided in ~~subsection~~ subsections (b) and
14 (b1) of this section, a monument, memorial, or work of art owned by the State may not be
15 removed, relocated, or altered in any way without the approval of the North Carolina Historical
16 Commission.

17 (b) Limitations on Removal. – An object of remembrance located on public property may
18 not be permanently removed and may only be relocated, whether temporarily or permanently,
19 under the circumstances listed in this subsection and subject to the limitations in this subsection.
20 An object of remembrance that is temporarily relocated shall be returned to its original location
21 within 90 days of completion of the project that required its temporary removal. An object of
22 remembrance that is permanently relocated shall be relocated to a site of similar prominence,
23 honor, visibility, availability, and access that are within the boundaries of the jurisdiction from
24 which it was relocated. An object of remembrance may not be relocated to a museum, cemetery,
25 or mausoleum unless it was originally placed at such a location. As used in this section, the term
26 "object of remembrance" means a monument, memorial, plaque, statue, marker, or display of a
27 permanent character that commemorates an event, a person, or military service that is part of
28 North Carolina's history. The circumstances under which an object of remembrance may be
29 relocated are either of the following:

30 (1) When appropriate measures are required by the State or a political subdivision
31 of the State to preserve the object.

32 (2) When necessary for construction, renovation, or reconfiguration of buildings,
33 open spaces, parking, or transportation projects.

34 (b1) Restoration Due to Injury by the Public. – In the event an object of remembrance
35 subject to the limitations on removal in subsection (b) of this section is injured in violation of
36 G.S. 14-132 by a member or members of the public, the State or a political subdivision of the
37 State with custody of the object of remembrance shall restore the object to its original condition
38 and location, as soon as practicable, but no later than 90 days from the date of the injury. The
39 State or political subdivision of the State may apply to the North Carolina Historical Commission
40 for an extension of this time period if it is impossible to restore the object of remembrance to its
41 original location within 90 days because of the extent of injury or removal of the object by a
42 member or members of the public. The Commission shall only grant an extension so that the
43 State or political subdivision of the State may properly restore the object of remembrance to its
44 original location and condition.

45 A law enforcement officer or agency with jurisdiction over the location of an object of
46 remembrance shall take all necessary measures in responding to a threat or action by any person
47 to unlawfully injure the object of remembrance in violation of G.S. 14-132 and shall execute an
48 arrest of that person for the purposes of prosecution by the district attorney or the Attorney
49 General pursuant to G.S. 14-132(d). In addition, the State or political subdivision of the State
50 with custody of the object of remembrance shall pursue a civil action, if necessary, against any

1 person responsible for injury to the object for the cost of repairing or otherwise restoring the
2 object.

3 (c) Exceptions. – This section does not apply to the following:

4 (1) Highway markers set up by the Board of Transportation in cooperation with
5 the Department of Environmental Quality and the Department of Natural and
6 Cultural Resources as provided by Chapter 197 of the Public Laws of 1935.

7 (2) An object of remembrance owned by a private party that is located on public
8 property and that is the subject of a legal agreement between the private party
9 and the State or a political subdivision of the State governing the removal or
10 relocation of the object.

11 (3) An object of remembrance for which a building inspector or similar official
12 has determined poses a threat to public safety because of an unsafe or
13 dangerous condition."

14 **SECTION 3.** This act is effective December 1, 2019, and applies to offenses
15 committed on or after that date.