

House Bill 467

By: Representatives Powell of the 33<sup>rd</sup>, Mathiak of the 82<sup>nd</sup>, Seabaugh of the 34<sup>th</sup>, Tarvin of the 2<sup>nd</sup>, Cameron of the 1<sup>st</sup>, and others

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 revise provisions for the protection of government  
3 statues, monuments, plaques, banners, and other commemorative symbols; to provide for  
4 construction; to provide for severability; to provide for related matters; to repeal conflicting  
5 laws; and for 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 subsections (b) and (c) of Code Section 50-3-1,  
10 relating to description of state flag, militia to carry flag, defacing public monuments, and  
11 relocation of monuments, and adding new subsections to read 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 (2) It shall be unlawful for any person, firm, corporation, officer, agency, or other entity  
29 to mutilate, deface, defile, damage, destroy, lose, or abuse contemptuously any publicly  
30 or privately owned monument located, erected, constructed, created, or maintained on  
31 real property owned by an agency or the State of Georgia. No person, firm, corporation,  
32 officer, or agency, or other entity shall remove or conceal from display any such  
33 monument for the purpose of preventing the visible display of the same. A ~~violation of~~  
34 ~~this paragraph shall constitute~~ person that violates this Code section shall be guilty of a  
35 misdemeanor.

36 (3) No publicly or privately owned monument erected, constructed, created, or  
37 maintained on the public property of this state or its agencies, departments, authorities,  
38 or instrumentalities or on real property owned by an agency or the State of Georgia shall  
39 be relocated, removed, concealed, obscured, or altered in any fashion by any officer or  
40 agency; provided, however, that appropriate measures for the preservation, ~~protection,~~  
41 ~~and interpretation~~ and protection in place of such monument or memorial shall not be  
42 prohibited.

43 (4) Any person, firm, corporation, officer, agency, or other entity that ~~damages, destroys,~~  
44 ~~or loses a monument or that takes or removes a monument without replacing it~~ violates  
45 this Code section shall be liable for treble the amount of the full cost of repair or  
46 replacement of such monument and may be subject to exemplary damages ~~unless such~~  
47 ~~person or entity was authorized to take such action by the public entity owning such~~  
48 ~~monument.~~ In addition to treble the cost of repair or replacement and possible exemplary  
49 damages, the person, firm, corporation, officer, agency, or other 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~~ claimant under this Code section in any action  
52 or proceeding required to establish liability and collect amounts owed. Should a ~~public~~  
53 ~~entity owner of the monument or person, group, or other legal entity~~ prevail in any action  
54 claimant under this Code section prevail in any action, such prevailing party claimant  
55 shall use the moneys collected from the party mutilating, defacing, defiling, damaging,  
56 destroying, losing, abusing, or relocating such monument to timely pay for the cost of ~~or~~  
57 ~~repair or placement~~ restoration of the monument to its former condition prior to being  
58 mutilated, defaced, defiled, damaged, destroyed, lost, abused, or relocated ~~upon moneys~~  
59 ~~being collected from the party damaging, destroying, or losing such monument.~~

60 (5) ~~A public entity owning a monument or any~~ Any interested person, group, or legal  
61 entity, without regard to ownership of the monument or a specialized and personalized  
62 injury, shall have standing and a right to bring a cause of action for any conduct  
63 prohibited by this Code section ~~for damages as permitted by this Code section.~~ Such  
64 claimant may bring an action individually or in a representative capacity against the  
65 person, firm, corporation, officer, agency, or other entity that violates this Code section  
66 to seek injunctive relief and to recover attorney's fees, expenses of litigation, and general  
67 and exemplary damages sustained as a result of such unlawful actions. Such action shall  
68 be brought in the superior court of the county in which the monument was located.

69 (6) Except as provided in this paragraph, it shall be unlawful for any person, firm,  
70 corporation, officer, agency, or other entity acting without authority to mutilate, deface,  
71 defile, abuse contemptuously, relocate, remove, conceal, damage, destroy, alter, or  
72 obscure any privately owned monument located on privately owned property. Any  
73 person or entity that suffers injury or damages as a result of a violation of this paragraph  
74 may bring an action individually or in a representative capacity against the person or  
75 persons, firm, corporation, officer, agency, or other entity committing such violations to  
76 seek to recover general and exemplary damages sustained as a result of such person's or  
77 persons' unlawful actions of any such defendant. Any person, firm, corporation, officer,  
78 agency, or other entity that damages, destroys, or loses a monument or that takes or  
79 removes a privately owned monument shall be liable for treble the amount of the full cost  
80 of repair or replacement of such monument and may be subject to exemplary damages.  
81 In addition to treble the cost of repair or replacement and possible exemplary damages,  
82 such person, firm, corporation, officer, agency, or other entity shall also be liable for the  
83 attorney's fees and court costs expended by the claimant under this Code section in any  
84 action or proceeding required to establish liability and collect amounts owed. This  
85 paragraph shall not apply to an a private owner of real property storing regarding such  
86 owner's privately owned monuments.

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

94 (8) In all cases when there has been an alleged violation of this Code section, the  
95 Attorney General or the district attorney of the circuit in which the monument was

96 located may represent the interests of the monument owner, the interests of others with  
97 interest in the monument, and the interests of this state as parens patriae in all legal  
98 matters pertaining to the enforcement of this Code section. The Attorney General or the  
99 district attorney may bring actions, and, insofar as an action of this nature may be deemed  
100 an action against the state and its agencies, the state expressly gives its consent thereto.

101 (9) Conduct prohibited by this Code section shall be enjoined by the appropriate superior  
102 court upon proper application.

103 (10) No claimant shall be required to show a particularized or personal concrete injury  
104 to make a claim for damages.

105 (11) In the event that an agency desires to remove a monument from public display or  
106 relocate such monument, the agency shall give 90 days' public notice in the legal organ  
107 of the county in which such monument is located of such intent and, if the agency desires  
108 to remove the monument from public display, shall solicit in such public notice any third  
109 party that would be interested in receiving such monument for public display. No action  
110 with regard to removing or relocating such monument shall be taken by the agency until  
111 the expiration of the 90 day period, provided that such period shall be tolled during the  
112 pendency of any litigation requesting an injunction to prevent such agency from  
113 removing such monument from public display or relocating such monument or requesting  
114 other sanctions under this Code section until a decision on the merits of such litigation  
115 is final. At the conclusion of the 90 day period, the agency shall either safely store and  
116 maintain such monument or, if a third party so requests, transfer the monument to such  
117 third party, provided that such third party agrees to publicly display the monument at  
118 either a location owned by such third party or a location owned by a public agency that  
119 such third party has permission to use for such display. In the event that multiple third  
120 parties are interested in receiving such monument for public display, preference shall be  
121 given to the third party that is willing to publicly display such monument in a location

122 within the jurisdiction where the monument is located. The agency shall be responsible  
123 for all costs of moving and placing the monument in a new location.

124 (c) Any other provision of law notwithstanding, the memorial to the heroes of the  
125 Confederate States of America graven upon the face of Stone Mountain shall never be  
126 altered, removed, concealed, or obscured in any fashion and shall be preserved and  
127 protected for all time as a tribute to the bravery and heroism of the citizens of this state who  
128 suffered and died in their cause.

129 (d) Nothing in this Code section shall be construed so as to interfere with the rights of any  
130 private monument owner. For the purposes of protection pursuant to this Code section, any  
131 monument found to be privately owned shall be treated as publicly owned. No transfer of  
132 title of such a monument is conveyed by this Code section.

133 (e) The Department of Community Affairs shall establish a registry of all monuments in  
134 this state located on public property. Such registry shall contain, at a minimum, a  
135 description of each monument, the location of such monument, and a statement as to  
136 whether the monument itself is privately or publicly owned and the name of the owner.  
137 This shall include monuments that are in storage as well as monuments on public display.  
138 Not later than December 31, 2025, each agency shall send to the Department of  
139 Community Affairs a comprehensive list of all monuments within the jurisdiction of such  
140 agency containing the information set forth in this Code section. Thereafter, any time a  
141 monument is relocated to a place that is different from the location on the monument  
142 registry maintained by the Department of Community Affairs the agency within whose  
143 jurisdiction such monument is located shall immediately notify the Department of  
144 Community Affairs of the new location of the monument."

145 **SECTION 2.**

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