

HOUSE BILL 175¹: STATE GOVERNMENT; PROHIBIT DISPLAY OF MONUMENTS OR MEMORABILIA
RELATED TO THE CONFEDERATE STATES ON PUBLIC PROPERTY EXCEPT FOR MUSEUMS AND CIVIL
WAR BATTLEFIELDS

*Amending O.C.G.A. § 5-30-1, Code Section 1-4-20 of the O.C.G.A., and Part 4 of Article 6 of
Chapter 3 of Title 12 of the O.C.G.A.*

First Signature: Representative Renitta Shannon (84th)

Co-Sponsors: Representative Derrick Jackson (64th), Representative Sandra Scott (76th),
Representative Mary Margaret Oliver (82nd), Representative Teri Anulewicz (42nd), and
Representative Shelly Hutchinson (107th)

Summary: “A BILL to be entitled an Act to amend Chapter 3 of Title 50 of the O.C.G.A., relating to the state flag, seal, and other symbols, so as to prohibit the display of monuments, memorials, plaques, markers, or memorabilia related to the Confederate States of America on public property except for museums and Civil War battlefields; to amend Code Section 1-4-20 of the O.C.G.A., relating to Confederate History and Heritage Month; to amend Part 4 of Article 6 of Chapter 3 of Title 12 of the O.C.G.A., relating to the Stone Mountain Memorial Association; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.”²

Status: House Second Readers on February 8, 2019.³

TEXT OF HOUSE BILL 175 LC 47 0063

SECTION 1.

Chapter 3 of Title 50 of the Official Code of Georgia Annotated, relating to the state flag, seal, and other symbols, is amended by revising subsections (b) and (c) of Code Section 50-3-1, relating to the description of the state flag, defacing public monuments, and obstruction of Stone Mountain, as follows:

“(b)(1) It shall be unlawful for any person, firm, corporation, or other entity to mutilate, deface, defile, or abuse contemptuously any publicly owned monument, plaque, marker, or memorial which is dedicated to, honors, or recounts the military service of any past or present military personnel of this state, or the United States of America or the several states thereof, ~~or the Confederate States of America or the several states thereof~~, and no officer, body, or representative of state or local government or any department, agency, authority, or instrumentality thereof shall remove or conceal from display any such monument, plaque,

¹ H.B. 175, 155th Gen. Assemb. (Ga. 2019), available at <https://www.legis.ga.gov/api/legislation/document/20192020/180579>.

² *Id.*

³ 2019-2020 Regular Session-HB 175, *State Government; Prohibit Display of Monuments or Memorabilia Related to the Confederate States on Public Property Except for Museums and Civil War Battlefields*, GA. GEN. ASSEMB., <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/175> [hereinafter H.B. 175 Status Sheet].

marker, or memorial for the purpose of preventing the visible display of the same. A violation of this paragraph shall constitute a misdemeanor.

(2) No publicly owned monument or memorial erected, constructed, created, or maintained on the public property of this state or its agencies, departments, authorities, or instrumentalities in honor of the military service of any past or present military personnel of this state, or the United States of America or the several states thereof; ~~or the Confederate States of America or the several states thereof~~ shall be relocated, removed, concealed, obscured, or altered in any fashion; provided, however, that appropriate measures for the preservation, protection, and interpretation of such monuments or memorials shall not be prohibited.

(3) Conduct prohibited by paragraphs (1) and (2) of this subsection shall be enjoined by the appropriate superior court upon proper application therefor.

(4) It shall be unlawful for any person, firm, corporation, or other entity acting without authority to mutilate, deface, defile, abuse contemptuously, relocate, remove, conceal, or obscure any privately owned monument, plaque, marker, or memorial which is dedicated to, honors, or recounts the military service of any past or present military personnel of this state; or the United States of America or the several states thereof; ~~or the Confederate States of America or the several states thereof~~. Any person or entity who suffers injury or damages as a result of a violation of this paragraph may bring an action individually or in a representative capacity against the person or persons committing such violations to seek injunctive relief and to recover general and exemplary damages sustained as a result of such person's or persons' unlawful actions."

~~“(c)(1) Any other provision of law notwithstanding, the memorial to the heroes of the Confederate States of America graven upon the face of Stone Mountain shall never be altered, removed, concealed, or obscured in any fashion and shall be preserved and protected for all time as a tribute to the bravery and heroism of the citizens of this state who suffered and died in their cause. Except as provided in paragraph (2) of this subsection, no publicly or privately owned monument, memorial, plaque, marker, or memorabilia dedicated to, honoring, or recounting the Confederate States of America, the several states thereof, or the military service of military personnel thereof shall be erected, constructed, created, displayed, or maintained on the public property of this state or its agencies, departments, authorities, instrumentalities, counties, municipalities, political subdivisions, or local authorities.~~

(2) Monuments, memorials, plaques, or markers related to the Confederate States of America, the several states thereof, or the military service of military personnel thereof may be displayed and maintained in museums owned or operated by the state or its agencies, departments, authorities, instrumentalities, counties, municipalities, political subdivisions, or local authorities or within the boundaries of Civil War battlefields provided for in the State of Georgia Civil War Sites Heritage Plan adopted pursuant to Article 5 of Chapter 7 of this title.

(3) After July 1, 2020, conduct prohibited by paragraph (1) of this subsection shall be enjoined by the appropriate superior court upon proper application therefor, and the sovereign immunity of the state, its agencies, departments, authorities, instrumentalities, counties, municipalities, political subdivisions, and local authorities is waived to the extent necessary to effectuate this subsection.

(4) This subsection shall not provide a right of action or waive sovereign immunity in regard to any claim of injury or damage arising from the removal of a privately owned monument, memorial, plaque, marker, or memorabilia from public property pursuant to paragraph (1) of this subsection.

(5) Compliance or attempts to comply with paragraph (1) of this subsection shall not be violations of either subsection (e) of Code Section 16-7-21 or paragraph (7) of subsection (a) of Code Section 16-8-12.”

SECTION 2.

Said chapter is further amended by revising Code Section 50-3-10, relating to use of flags for decorative or patriotic purposes, as follows:

“50-3-10. Nothing in this article shall be construed to prevent the use of the flag of the United States or any flag, standard, color, shield, ensign, or other insignia of the State of Georgia ~~or of the Confederate States of America~~ for decorative or patriotic purposes, either inside or outside of any residence, store, place of business, public building, or school building.”

SECTION 3.

Code Section 1-4-20 of the Official Code of Georgia Annotated, relating to Confederate History and Heritage Month, is amended by repealing subsection (c).

SECTION 4.

Part 4 of Article 6 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the Stone Mountain Memorial Association, is amended by revising paragraph (7) of Code Section 12-3-191, relating to definitions, as follows:

“(7) ‘Project’ means Stone Mountain and property adjacent thereto acquired by the association and all accommodations, utilities, facilities, services, and equipment necessary or convenient, and all property, real, personal, or mixed, used or useful, including franchises and easements, in constructing, erecting, improving, remodeling, developing, equipping, adding to, extending, maintaining, managing, and operating Stone Mountain, located in DeKalb County, Georgia, and property adjacent thereto, as a ~~Confederate memorial~~ and public recreational area, and the construction, improvement, development, maintenance, management, operation, and extension of any part thereof, as to which the association has undertaken or agreed to undertake any action permitted by this part.”

SECTION 5.

Said part is further amended by revising Code Section 12-3-192.1, relating to purposes of the association, as follows:

“12-3-192.1.

The purposes of the Stone Mountain Memorial Association shall include:

- (1) To preserve the natural areas situated within the Stone Mountain Park area; and
- (2) To provide access to Stone Mountain for Georgia's citizens; ~~and~~
- (3) ~~To maintain an appropriate and suitable memorial for the Confederacy.”~~

SECTION 6.

Said part is further amended by repealing subsection (d) of Code Section 12-3-194.1, relating to police and legislative powers of the association and the sale of confederate memorabilia.

SECTION 7.

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

SECTION 8.

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

SPONSOR'S RATIONALE

Representative Renitta Shannon, District 84, introduced House Bill 175 to prevent funding for additional Confederate monuments or the preservation of current monuments. Additionally, the bill would prohibit new monuments from being erected on public land except for state-operated museums or within the boundaries of Civil War battlefields.⁴ Representative Shannon asserts the bill would prevent citizens' tax dollars from funding the maintenance of Confederate monuments.⁵ Georgia has the third most Confederate monuments in the United States, and Representative Shannon believes too much public money is used to preserve these monuments.⁶ She argues that they are symbols of oppression to many Georgia citizens, and this bill is meant to restore the dignity of African American taxpayers.⁷ House Bill 175 calls for the monuments to be removed from public places, and Representative Shannon believes the proper place for Confederate statues and other memorials are in museums or on private property.⁸

House Bill 175 also removes the designation of April as Confederate Heritage and History Month, created in 2009 when Senate Bill 27 was passed and signed into law by former Governor Sonny Perdue.⁹ Representative Shannon contends that such a designation by the Georgia legislature was an inappropriate act by a state government.¹⁰ She equates it to the State of Georgia encouraging citizens to celebrate Confederate history.¹¹ In response to previous bills in the General Assembly intended to prohibit the designation of holidays celebrating Confederate leaders, former

⁴ Jessica Szilagyi, *2 Bills in Georgia Target Confederate Monuments, Stone Mountain*, ALL ON GEORGIA (Feb. 7, 2019), available at <https://allongeorgia.com/georgia-state-politics/2-bills-in-georgia-target-confederate-monuments-stone-mountain>.

⁵ WGCL Digital Team, *Bill Would Prohibit Tax Dollars from Paying for Confederate Monuments, Repeal Confederate History Month*, CBS (Feb. 12, 2019), available at https://www.cbs46.com/news/bill-would-prohibit-tax-dollars-from-paying-for-confederate-monuments/article_47bce5e2-2ed3-11e9-9a55-17c0c05f4ebe.html.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ S.B. 27, 145th Gen. Assemb. (Ga. 2009), available at <http://www.legis.ga.gov/Legislation/en-US/Display/20092010/SB/27>.

¹⁰ WGCL Digital Team, *supra* note 5.

¹¹ *Id.*

state Senator Vincent Fort stated that it was improper for the state to formally recognize those who fought to protect slavery.¹²

Additionally, representatives are opposed to public funds being used to maintain Confederate symbols. Representative Teri Anulewicz, of the 42nd District, says the bill is intended to remove the burden from taxpayers of subsidizing symbols that are recognized as symbols of oppression and racism.¹³ She asserts that the bill does not prohibit individuals from displaying Confederate symbols on private property, rather would allow cities and counties to decide the appropriate location for such symbols.¹⁴ As for the portion of the bill that strips protections for Confederate symbols at Stone Mountain, Representative Anulewicz believes the bill is not intended to result in the destruction of the rock's sculpture, but would ensure that there is no longer a state-sanctioned monument honoring the Confederacy.¹⁵

Some Georgia lawmakers suggest House Bill 175 follows the trend in Georgia to remove Confederate symbols from the public sphere. Representative Derrick Jackson from District 64 contends that House Bill 175 is the proper way to honor heritage when it comes to divisive symbols like Confederate monuments.¹⁶ He compares House Bill 175 to the state flag debate in Georgia in 2001 and its removal of Confederate symbols.¹⁷ Citing the seventy-three percent of Georgians who supported the removal of the symbol from the state flag, Representative Jackson believes that House Bill 175 is the next step in a conversation regarding the appropriate place of Confederate symbols in 2019.¹⁸

OPPOSITIONS RATIONALE

Opponents of House Bill 175 argue that the monuments represent significant historical figures and deserve the same protection as any other historical monument.¹⁹ Representative Don Parsons, of the 44th district, believes monuments depicting Civil War figures, such as Robert E. Lee and Stonewall Jackson, represent individuals who fought for their states and sacrificed their lives in the process.²⁰ He contends that the soldiers were not fighting to protect slavery, but to defend their states and their homes.²¹ According to Parsons, lawmakers in Georgia should not participate in the removal of statues or monuments built to honor soldiers who sacrificed their lives on the battlefield.²²

¹² Michelle Baruchman, *Georgia Lawmaker Makes Pitch for Measure to Mark Confederate History*, THE ATLANTA JOURNAL-CONSTITUTION (Mar. 27, 2017), available at <https://www.ajc.com/news/state--regional-govt--politics/georgia-lawmaker-makes-pitch-for-measure-mark-confederate-history/P3hyPruJgLPfYw9F1EjrYP>.

¹³ Shaddi Abusaid, *Smyrna Lawmaker Backs Bill Taking Aim at Confederate Monuments*, MARIETTA DAILY JOURNAL (Feb. 8, 2019), available at https://www.mdjonline.com/news/smyrna-lawmaker-backs-bill-taking-aim-at-confederate-monuments/article_07c34ab0-2c05-11e9-af6-af9028ca1f6f.html.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ WGCL Digital Team, *supra* note 5.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Abusaid, *supra* note 13.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

Governor Brian Kemp says some historical monuments do not reflect present-day values, but that Georgians should not attempt to erase history.²³ Both Governor Kemp and Representative Alan Powell, of the 32nd District, believe Confederate monuments serve an important historical purpose.²⁴ While Governor Kemp argues such monuments remind citizens how far Georgia and the United States have come,²⁵ Representative Powell concurs that allowing Confederate monuments to be restricted or destroyed would be an attempt to erase history.²⁶ Representative Powell contends that the monuments were erected to remember our past and not forget the sacrifices of our ancestors.²⁷

The question of protecting Georgia's Confederate monuments is not just being debated in the House, but is also being considered in the State Senate. Senate Bill 77, sponsored by Senator Jeff Mullis, provides additional protections for maintenance and the removal of Confederate monuments.²⁸ The bill would allow punitive damages for a person caught defacing or vandalizing historical monuments, including Confederate monuments, as well as provides for offenders being liable for attorney's fees.²⁹ Additionally, Senate Bill 77 prohibits the removal of monuments without approval from the legislature, and it requires that monuments only be removed to locations of equal prominence and visibility, specifically prohibiting relocation to museums.³⁰

Senator Mullis believes the preservation of the monuments is a sign of respect to our ancestors and that Georgians should respect the monuments their ancestors believed were important at the time they were erected.³¹ According to Mullis, anyone who vandalizes a historical monument should be required to pay for the damage they inflict.³² The stark contrasts between House Bill 175 and Senate Bill 77 highlight the political divide as lawmakers decide the appropriate location for Confederate monuments in 2019.

IMPLICATIONS IN GEORGIA

If House Bill 175 is signed into law, Confederate monuments throughout the state would lose protections currently afforded to historical signs and symbols.³³ However, the bill would not

²³ Associated Press, *Governor Kemp Signs Bill to Protect Confederate Monuments*, WGXA (April 29, 2019), available at <https://wgxa.tv/news/local/governor-kemp-signs-bill-to-protect-confederate-monuments>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Ross Terrell, *Stronger Protections for Confederate Monuments Passed by Georgia House*, GEORGIA PUBLIC BROADCASTING (Mar. 28, 2019), available at <https://www.gpbnews.org/post/stronger-protections-confederate-monuments-passed-georgia-house>.

²⁷ *Id.*

²⁸ S.B. 77, 155th Gen. Assemb., (Ga. 2019), available at <http://www.legis.ga.gov/Legislation/en-US/display/20192020/SB/77>.

²⁹ Jessica Szilagy, *Republicans Counter Dem Legislation with Protections, Punishments for Monument Removal*, ALL ON GEORGIA (Feb. 12, 2019), available at <https://allongeorgia.com/georgia-state-politics/republicans-counter-dem-legislation-with-protections-punishments-for-monument-removal/>.

³⁰ *Id.*

³¹ *Id.*

³² Maya Prabhu, *Competing Georgia Bills Protect or Remove Confederate Monuments*, THE ATLANTA JOURNAL-CONSTITUTION (Feb. 9, 2019), available at <https://www.ajc.com/news/state--regional-govt--politics/competing-georgia-bills-protect-remove-confederate-monuments/u6IZKbtUxmNlaWv3LCQYtN/>.

³³ *Id.*

affect an individual's right to display Confederate symbols on private property.³⁴ Additionally, the bill would remove specific protections for Confederate monuments throughout the State and displays at Stone Mountain currently possess.³⁵ This would eliminate the requirement under Georgia law to maintain an appropriate and suitable memorial for the Confederacy at Stone Mountain.³⁶ Finally, it would repeal the month of April as Confederate Heritage and History month.³⁷

LEGISLATIVE GENEALOGY

House Bill 175 was introduced to the House hopper on February 6, 2019.³⁸ The House first read the Bill on February 7, 2019 and it had its second reading on February 8, 2019.³⁹

Prepared by: *Charles Carr*

³⁴ *Id.*

³⁵ Abusaid, *supra* note 13.

³⁶ *Id.*

³⁷ H.B. 175, 155th Gen. Assemb. (Ga. 2019), available at <https://www.legis.ga.gov/api/legislation/document/20192020/180579>.

³⁸ H.B. 175 Status Sheet, *supra* note 3.

³⁹ *Id.*