

1 SB71  
2 115299-3  
3 By Senator Mitchell  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10  
6 PFD: 01/04/2010

1 SB71

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4 ENROLLED, An Act,

5 To amend Section 13A-7-23.1, Code of Alabama 1975,  
6 relating to the crime of desecration or defacement of certain  
7 memorials and to provide exemptions; and in connection  
8 therewith would have as its purpose or effect the requirement  
9 of a new or increased expenditure of local funds within the  
10 meaning of Amendment 621 of the Constitution of Alabama of  
11 1901, now appearing as Section 111.05 of the Official  
12 Recompilation of the Constitution of Alabama of 1901, as  
13 amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 13A-7-23.1, Code of Alabama 1975,  
16 is amended to read as follows:

17 "§13A-7-23.1.

18 "(a) Any person who willfully or maliciously  
19 injures, defaces, removes, or destroys any tomb, monument,  
20 gravestone , burial mound, earthen or shell monument  
21 containing human skeletal remains or associated burial  
22 artifacts, or other structure or thing placed or designed for  
23 a memorial of the dead, or any fence, railing, curb, or any  
24 enclosure for the protection or ornamentation of any tomb,  
25 monument, gravestone, burial mound, earthen or shell monument

1 containing human skeletal remains or associated burial  
2 artifacts, or other structure before mentioned, or for any  
3 enclosure for the burial of the dead, or any person who  
4 willfully and wrongfully or maliciously destroys, removes,  
5 cuts, breaks, or injures any tree, shrub, plant, flower,  
6 decoration, or other real or personal property within any  
7 cemetery or graveyard shall be guilty of a Class A  
8 misdemeanor.

9 "(b) Any person who willfully or maliciously  
10 desecrates, injures, defaces, removes, or destroys any tomb,  
11 monument, structure, or container of human remains, burial  
12 mound, earthen or shell monument containing human skeletal  
13 remains or associated burial artifacts, and invades or  
14 mutilates the human corpse or remains shall be guilty of a  
15 Class C felony and upon conviction the person shall be  
16 punished as provided by law.

17 "(c) The provisions of subsections (a) and (b) shall  
18 not apply to any person holding a permit issued by the Alabama  
19 Historical Commission pursuant to subsection (d), to anyone  
20 operating a cemetery under standard rules and regulations and  
21 maintenance procedures, or to any person otherwise authorized  
22 by law to remove or disturb a tomb, monument, grave marker,  
23 burial mound, earthen or shell monument, or similar structure,  
24 or its contents, as described in subsections (a) and (b), nor

1 shall the provisions of subsections (a) and (b) apply to any  
2 person authorized to take any action on municipal property.

3 "(d) The Alabama Historical Commission, to provide  
4 for the lawful preservation, investigation, restoration, or  
5 relocation of human burial remains, human skeletal remains, or  
6 funerary objects, shall promulgate rules and regulations for  
7 the issuance of a permit and may issue a permit to persons or  
8 companies who seek to restore, preserve, or relocate human  
9 burial remains, human skeletal remains, funerary objects, or  
10 otherwise disturb, a place of burial."

11 Section 2. Although this bill would have as its  
12 purpose or effect the requirement of a new or increased  
13 expenditure of local funds, the bill is excluded from further  
14 requirements and application under Amendment 621, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended, because the  
17 bill defines a new crime or amends the definition of an  
18 existing crime.

19 Section 3. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB71  
Senate 17-FEB-10  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

McDowell Lee  
Secretary

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House of Representatives  
Amended and passed 21-APR-10

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Senate concurred in House amendment 22-APR-10

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