MISSISSIPPI LEGISLATURE

REGULAR SESSION 2018

By: Representative Arnold

To: Public Property

HOUSE BILL NO. 281

AN ACT TO CREATE NEW SECTION 29-5-106, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE REMOVAL OF RELIGIOUS STRUCTURES WITH HISTORICAL SIGNIFICANCE FROM PUBLIC PROPERTY; TO BRING FORWARD SECTIONS 29-5-79, 29-5-87, 29-5-105, 39-7-3, 39-7-4, 39-7-7, 39-7-15, 39-7-33, 39-13-17, 55-15-81, 65-7-23 AND 97-17-39, MISSISSIPPI CODE OF 1972, WHICH RELATE TO CERTAIN PROHIBITIONS AND REQUIREMENTS REGARDING PUBLIC BUILDINGS, PUBLIC PROPERTY AND CERTAIN HISTORICALLY SIGNIFICANT STRUCTURES, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 29-5-106, Mississippi Code of 1972:

29-5-106. (1) For the purposes of this section, the following terms shall be defined as provided in this section, unless the context otherwise requires:

(a) "Public property" means any property that is owned or leased by the state or any agency, department, institution or political subdivision of the state.

(b) "Historical significance" has the same meaning as the term "historical significance" as provided in Section 39-7-4.
(2) Except as provided in subsections (3) and (4) of this section, it shall be unlawful to remove, relocate, disturb, alter, rename or rededicate any religious symbol, display, implement, monument, marker, structure, item or object with historical significance from any public property.

(3) The governing body having jurisdiction over the public property must take proper measures and exercise proper means for any necessary maintenance, protection, preservation, care, repair or restoration of religious symbols, displays, implements, monuments, markers, structures, items or objects with historical significance that are located on the public property.

SECTION 2. Section 29-5-79, Mississippi Code of 1972, is brought forward as follows:

29-5-79. (1) The Speaker of the House of Representatives and the Lieutenant Governor are authorized to make such regulations as they may deem necessary for preserving the peace and securing the State Capitol from defacement, and for the protection of the property therein. The Lieutenant Governor or the Speaker of the House of Representatives may request the assistance of the Office of General Services and the State Department of Public Safety in order to preserve the peace at the State Capitol and secure the State Capitol from defacement, and for the protection of the property therein.

(2) All regulations promulgated under authority of this section shall be filed with the Secretary of State and be made
available for public inspection; such regulation shall likewise be published in one (1) of the daily newspapers of the City of Jackson, and shall not become effective until the expiration of ten (10) days after the date of such filing with the Secretary of State and such publication.

SECTION 3. Section 29-5-87, Mississippi Code of 1972, is brought forward as follows:

29-5-87. It is forbidden to step or climb upon, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf in such grounds.

SECTION 4. Section 29-5-105, Mississippi Code of 1972, is brought forward as follows:

29-5-105. (1) "In God We Trust" and the Ten Commandments may be displayed in all public buildings at the discretion of the governing authorities.

(2) The Beatitudes and the Ten Commandments may be displayed on any government property in Mississippi.

SECTION 5. Section 39-7-3, Mississippi Code of 1972, is brought forward as follows:

39-7-3. It is hereby declared to be the public policy and in the public interest of the State of Mississippi to locate, protect, and preserve all sites, objects, buildings, shipwrecks, and locations of historical, archaeological, or architectural significance, including, but not limited to historically or
architecturally significant buildings, structures relating to significant engineering accomplishments, prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archaeological sites of every character, treasure imbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part or the contents thereof, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, prehistory, history, natural history, government, or culture in, on or under any of the lands, tidelands, submerged lands, and bed of the sea within the jurisdiction of the State of Mississippi.

SECTION 6. Section 39-7-4, Mississippi Code of 1972, is brought forward as follows:

39-7-4. For the purpose of this chapter, the following definitions shall apply:

(a) "Historical significance" means that quality or qualities associated with events that have made a significant contribution to the broad patterns of state, local or national history, or that quality or qualities associated with the lives of persons significant in local, state or national history.

(b) "Architectural significance" means the qualities which embody the distinctive characteristics of type, period or method of construction, or that represent the work of a master, or that possess high artistic value.
(c) "Archeological significance" means possessing the quality or qualities which have yielded, or may be likely to yield, information important in Mississippi prehistory or history.

(d) "Department" means the Mississippi Department of Archives and History.

(e) "Board" means the Board of Trustees of the Mississippi Department of Archives and History.

(f) "Agency" means any administrative division of the State of Mississippi, its counties, cities or political subdivisions thereof.

(g) "Restoration" means the returning of an object, building, structure or site to a prior condition or to an original historic appearance.

SECTION 7. Section 39-7-7, Mississippi Code of 1972, is brought forward as follows:

39-7-7. The duties of the board shall be to determine the site of and to designate Mississippi Landmarks; to remove from such designation certain of such sites as hereinafter provided; to contract or otherwise provide for the discovery and salvage operations herein covered; to consider the requests for and issue the permits hereinafter provided for; and to protect and preserve the archaeological, historical and architectural resources of the State of Mississippi. The board shall be the legal custodian of all items hereinafter described which have been recovered and retained by the State of Mississippi, and shall maintain an
inventory of such items showing the description and depository thereof.

SECTION 8. Section 39-7-15, Mississippi Code of 1972, is brought forward as follows:

39-7-15. Upon majority vote of the board any Mississippi Landmark on public or private land may be determined to be of no further historical, archaeological, or architectural significance, or not of sufficient significance to warrant its further classification as such, and upon such determination it may be removed from such designation. In the case of sites located on private land that have theretofore been designated by instrument of record, the board is authorized to cause to be executed and recorded in the deed records of the county where such site is located an instrument setting out such determination and releasing the site from the provisions thereof.

SECTION 9. Section 39-7-33, Mississippi Code of 1972, is brought forward as follows:

39-7-33. It shall be unlawful for any person, not being the owner thereof, and without lawful authority, to willfully injure, disfigure, remove or destroy any historical structure, monument, marker, medallion, or artifact.

SECTION 10. Section 39-13-17, Mississippi Code of 1972, is brought forward as follows:

39-13-17. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon
conviction, shall be fined not less than Ten Dollars ($10.00) nor
more than Five Hundred Dollars ($500.00).

Each day that a violation continues to exist shall constitute
a separate offense.

SECTION 11. Section 55-15-81, Mississippi Code of 1972, is
brought forward as follows:

55-15-81. (1) None of the following items, structures or
areas may be relocated, removed, disturbed, altered, renamed or
rededicated: any Revolutionary War, War of 1812, Mexican-American
War, War Between the States, Spanish-American War, World War I,
World War II, Korean War, Vietnam War, Persian Gulf War, War in
Iraq or Native American War's statues, monuments, memorials or
nameplates (plaques), which have been erected on public property
of the state or any of its political subdivisions, such as local,
municipal or county owned public areas, and any statues,
monuments, memorials, nameplates (plaques), schools, streets,
bridges, buildings, parks preserves, reserves or other public
items, structure or areas of the state or any of its political
subdivisions, such as, local, municipal or county owned public
areas, which has been dedicated in memory of, or named for, any
historical military figure, historical military event, military
organization or military unit.

(2) No person may prevent the public body responsible for
maintaining any of the items, structures or areas described above
from taking proper measures and exercising proper means for the
protection, preservation, care, repair or restoration of those items, structures or areas. The governing body may move the memorial to a more suitable location if it is determined that the location is more appropriate to displaying the monument.

(3) This section shall not apply to items, structures or areas located on property owned or acquired by the Mississippi Transportation Commission which may interfere with the construction, maintenance or operation of public transportation facilities.

SECTION 12. Section 65-7-23, Mississippi Code of 1972, is brought forward as follows:

65-7-23. (1) Any person willfully defacing, removing, marring, damaging or destroying any sign or guide board, including any railroad crossing sign or flasher signal, or other traffic control device erected as provided shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable for the actual cost of replacing or repairing such sign and shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00), or be imprisoned in the county jail not more than six (6) months, or be punished by both such fine and imprisonment. If the offender is a minor, the parents of such minor shall be civilly liable in accordance with Section 93-13-2 for the actual cost of replacing or repairing the sign, signal or device.
(2) The penalties prescribed in subsection (1) of this section shall also be applicable to any person, and to the parents of any minor, who willfully defaces, mars or damages any bridge, underpass or overpass.

(3) Any person who violates subsection (1) of this section regarding a memorial, other historical or cultural marker or sign, the value of which is Five Hundred Dollars ($500.00) or more, shall be guilty of a misdemeanor, and, upon conviction, shall be imprisoned in the county jail for up to six (6) months or fined up to One Thousand Dollars ($1,000.00), or both. Such person shall also be ordered to make full restitution.

SECTION 13. Section 97-17-39, Mississippi Code of 1972, is brought forward as follows:

97-17-39. If any person, by any means whatever, shall willfully or mischievously injure or destroy any of the burial vaults, urns, memorials, vases, foundations, bases or other similar items in a cemetery, or injure or destroy any of the work, materials, or furniture of any courthouse or jail, or other public building, or schoolhouse or church, or deface any of the walls or other parts thereof, or shall write, or make any drawings or character, or do any other act, either on or in said building or the walls thereof, or shall deface or injure the trees, fences, pavements, or soil, on the grounds belonging thereto, or an ornamental or shade tree on any public road or street leading
thereto, such person, upon conviction, for such offense, shall be punished as follows:

(a) If the damage caused by the destruction or defacement of such property has a value of less than Five Hundred Dollars ($500.00), any person who is convicted of this offense may be fined not more than One Thousand Dollars ($1,000.00) or be imprisoned in the county jail for not more than one (1) year, or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars ($500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding Two Thousand Dollars ($2,000.00), or both.

(b) If the damage caused by the destruction or defacement of such property has a value equal to or exceeding Five Hundred Dollars ($500.00) or more but less than Five Thousand Dollars ($5,000.00), any person who is convicted of this offense shall be fined not more than Five Thousand Dollars ($5,000.00) or
be imprisoned in the State Penitentiary for up to five (5) years, or both.

(c) If the damage caused by the destruction or defacement of such property has a value of Five Thousand Dollars ($5,000.00) or more but less than Twenty-five Thousand Dollars ($25,000.00), any person who is convicted of this offense shall be fined not more than Ten Thousand Dollars ($10,000.00) or be imprisoned in the Penitentiary for up to ten (10) years, or both.

(d) If the damage caused by the destruction or defacement of such property has a value of Twenty-five Thousand Dollars ($25,000.00) or more, any person who is convicted of this offense shall be fined not more than Ten Thousand Dollars ($10,000.00) or be imprisoned in the Penitentiary for up to twenty (20) years, or both.

SECTION 14. This act shall take effect and be in force from and after July 1, 2018.