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## HOUSE JOINT RESOLUTION NO. 785

Offered January 19, 2001

*Memorializing the Congress of the United States to propose an amendment to the Constitution of the United States authorizing Congress and the states to prohibit the physical desecration of the American flag.*

Patrons—Hargrove, Albo, Broman, Byron, Cox, Dudley, Johnson, Katzen, Keister, Larrabee, McQuigg, O'Brien, Parrish, Purkey, Rapp, Rollison, Sherwood, Tata, Wardrup, Weatherholtz and Welch

Referred to Committee for Courts of Justice

WHEREAS, for over 200 years, the flag of the United States has symbolized our nation; and  
WHEREAS, on June 14, 1777, the Continental Congress resolved that the flag represents the United States and its ideals of liberty and justice for all its citizens; and

WHEREAS, the flag served to unite the 13 colonies and obtain recognition of America's national sovereignty; and

WHEREAS, during the British attack on Fort McHenry in the War of 1812, the flag inspired Francis Scott Key to compose the song that became our national anthem; and

WHEREAS, at the end of the War Between the States, the American flag again stood for the indestructible union of the United States; and

WHEREAS, during the First World War, thousands of Americans died on foreign soil fighting for the American cause symbolized by the flag; and

WHEREAS, during the Second World War, thousands of Americans again followed the flag into battle, where many lost their lives in an effort to preserve freedom; and

WHEREAS, the flag served to boost the morale of American soldiers in the Korean and Vietnam conflicts, as they fought to preserve democracy; and

WHEREAS, Americans of every state, political party, race, creed, and national origin regard the flag as the unifying symbol of the pluralism evident in the United States; and

WHEREAS, on June 21, 1989, the United States Supreme Court reached a 5-4 decision in the case of Texas v. Gregory Lee Johnson holding that physical desecration of the American flag is constitutionally protected free speech; and

WHEREAS, the Supreme Court recognized in its decision that "the flag is constant in expressing beliefs Americans share, belief in the law and peace and that freedom which sustains the human spirit," and that "the flag as readily signifies this Nation as does the combination of letters found in 'America'"; and

WHEREAS, on June 11, 1990, the Supreme Court again by a 5-4 decision, in United States v. Eichman, held that the Flag Burning Act of 1989 was unconstitutional as applied to the prosecution of defendants for burning the flag and thus overturned the attempt by Congress to respond by statute to protect the flag; and

WHEREAS, on June 24, 1999, the United States House of Representatives passed House Joint Resolution 33 proposing a constitutional amendment for ratification by the states to enable Congress to ban the desecration of the flag, but the United States Senate failed to pass the resolution before the 106th Congress adjourned; and

WHEREAS, the General Assembly has recognized the unique status the American flag holds in the eyes of the United States citizens by prohibiting the desecration of the flag pursuant to the Virginia Uniform Flag Act (§ 18.2-486 et seq.); now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Congress of the United States be urged to propose an amendment to the Constitution of the United States authorizing Congress and the states to prohibit the physical desecration of the American flag; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the Virginia General Assembly in this matter.

INTRODUCED

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