

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2515**

BY DELEGATES HOWELL AND ROHRBACH

[Originating in the Committee on Government

Organization; Reported March 22, 2017.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act  
3 of 2017; prohibiting the removal, renaming, alteration, or relocation, of any statue,  
4 monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve,  
5 or reserve recognized by the West Virginia State Historic Preservation Office and which  
6 is located on public property and has been erected for, or named, or dedicated in honor  
7 of certain historical military, labor, civil rights, and Native American events, figures, and  
8 organizations; prohibiting any person from preventing the governmental entity having  
9 responsibility for maintaining the items, structures, or areas from taking proper measures  
10 to protect, preserve, care for, repair, or restore the items, structures, or areas recognized  
11 by the West Virginia State Historic Preservation Office; and authorizing the West Virginia  
12 State Historic Preservation Office to grant waivers under certain circumstances.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §29-1-8c, to read as follows:

3 **ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

**§29-1-8c. Protection of Monuments and Memorials; penalties.**

1 (a) Short title. — This section shall be known and may be cited as the “West Virginia  
2 Monument and Memorial Protection Act of 2017.”

3 (b) No statue, monument, memorial, nameplate, plaque, school, street, bridge, building,  
4 park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office  
5 which is located on public property may be removed, renamed, altered, or relocated, except as  
6 provided in subsection (f) of this section, if such has been erected for, or named or dedicated in  
7 honor of leaders, persons and events including for any historical figure, event, organization, in

8 (A) the military history of West Virginia,

9           (B) the history of industrial development in West Virginia, including the labor union  
10 movement and activities, mining disasters or mine wars;

11           (C) the struggle for African-American Civil Rights, or the struggle for Women’s Civil Rights;  
12 or

13           (D) the history of Native Americans or American Indians in West Virginia.

14           (c) For the purposes of this section, “public property” means all property owned or leased  
15 by the State of West Virginia; and, any county, municipality, or any other entity or political  
16 subdivision that is created by act of the Legislature to perform any public function.

17           (d) No person may prevent a governmental entity from taking appropriate measures, for  
18 the protection, preservation, care, repair, or restoration of those items, structures, or areas  
19 described in subsection (b) of this section.

20           (e) This section shall apply to items, structures, or areas described in subsection (b) which  
21 have attained the age of fifty years. This section shall not apply to items, structures, or areas  
22 described in subsection (b) that are located on public property under the control of, or acquired  
23 by, the Department of Transportation which may interfere with the construction, maintenance, or  
24 operation of the public transportation system. The department shall strive to ensure that any such  
25 items, structures, or areas are preserved to the greatest extent possible.

26           (f) Any entity exercising control of public property on which an item, structure or area  
27 described in subsection (b) is located may petition the West Virginia State Historic Preservation  
28 Office for a permit to remove, alter or relocate the item, structure or area. A petition for a permit  
29 shall be in writing and shall state the reason, or reasons, upon which the permit is sought. Upon  
30 good cause shown, the West Virginia State Historic Preservation Office may grant such permit  
31 request and may include reasonable conditions and instructions to ensure that any items,  
32 structures, or areas are preserved to the greatest extent possible. An entity may lawfully remove,  
33 alter or relocate an item, structure or area under authority, and in compliance with, the terms of a  
34 permit issued pursuant to this subsection.

NOTE: The purpose of this bill is to prohibit the relocation, removal, alteration, or renaming, of any statue, monument, memorial, nameplate, or plaque which is located on public property and has been erected for, or named, or dedicated in honor of certain historical military, labor, civil rights, and Native American events, figures, and organizations; to prohibit any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas; and to establish a process by which the West Virginia State Historic Preservation Office may grant waivers under certain circumstances.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.