

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 418

BY SENATORS MAYNARD, AZINGER, KARNES, RUCKER,

SMITH, SYPOLT, CLINE, AND BOSO

[Originating in the Committee on Government

Organization; Reported on February 14, 2018]

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 2018; prohibiting the removal, renaming, alteration, or relocation, of any statue,
4 monument, memorial, plaque, nameplate, school, street, bridge, or building recognized by
5 the West Virginia State Historic Preservation Office and which is located on public property
6 and has been erected for, or named or dedicated in honor of, certain historical, military,
7 labor, civil rights, and Native-American events, figures, and organizations; prohibiting any
8 person from preventing the governmental entity having responsibility for maintaining the
9 items, structures, or areas from taking proper measures to protect, preserve, care for,
10 repair, or restore the items, structures, or areas recognized by the West Virginia State
11 Historic Preservation Office; and authorizing the Legislature to grant waivers under certain
12 circumstances.

Be it enacted by the Legislature of West Virginia:

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 2018”.

3 (b) No statue, monument, memorial, plaque, nameplate, school, street, bridge, or building
4 recognized by the West Virginia State Historic Preservation Office, which is located on public
5 property, may be removed, renamed, altered, or relocated, except as provided in §29-1-8c(f) of
6 this code, if such has been erected for, or named or dedicated in honor of leaders, persons, and
7 events including any historical figure event, or organization in:

8 (1) The military history of West Virginia;

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

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

12 or

13 (4) 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 §21-1-8c(b) of this code.

20 (e) This section shall apply to items, structures, or areas described in subsection (b) of
21 this section which have attained the age of 50 years. This section shall not apply to items,
22 structures, or areas described in subsection (b) of this section that are located on public property
23 under the control of, or acquired by, the Department of Transportation which may interfere with
24 the construction, maintenance, or operation of the public transportation system. The department
25 shall strive to ensure that any such items, structures, or areas are preserved to the greatest extent
26 possible.

27 (f) Any entity exercising control of public property on which an item, structure, or area
28 described in §21-1-8c(b) of this code is located, may petition the West Virginia Legislature for
29 consideration of the petition during the next Regular Session of the Legislature. A petition for
30 permission shall follow the Legislature's rules for petitions, and the petition shall state the reason,
31 or reasons, for which permission is being sought for the alteration of the monument or memorial.
32 After consideration by the Legislature, permission may be granted and may include reasonable
33 conditions and instructions to ensure that any items, structures, or areas be preserved to the
34 greatest extent possible. An entity may lawfully remove, alter, or relocate an item, structure, or
35 area under authority, and in compliance with, the terms of a permit issued pursuant to this
36 subsection.

NOTE: The purpose of this bill is to prohibit the relocation, removal, alteration, or renaming, of any statue, monument, memorial, bridge, street, school, or building 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 Legislature 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.