

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2790**

BY DELEGATES HARSHBARGER, CADLE, WORRELL,  
WESTFALL, TONEY, D. KELLY, P. MARTIN, J. KELLY AND  
COOPER

[Introduced January 31, 2019; Referred  
to the Committee on the Judiciary.]

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 2019; prohibiting the relocation, removal, alteration, renaming, rededication, or other  
 4 disturbance of any statue, monument, memorial, nameplate, or plaque which is located  
 5 on public property and has been erected for, or named, or dedicated in honor of certain  
 6 historical military, civil rights, and Native American events, figures, and organizations;  
 7 prohibiting any person from preventing the governmental entity having responsibility for  
 8 maintaining the items, structures, or areas from taking proper measures to protect,  
 9 preserve, care for, repair, or restore the items, structures, or areas; and authorizing the  
 10 West Virginia State Historic Preservation Office to grant waivers under certain  
 11 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 2019."

3 (b)(1) No statue, monument, memorial, nameplate, plaque, school, street, bridge, building,  
 4 park, preserve, or reserve which has been erected for, or named or dedicated in honor of events  
 5 in our military history or any historical military figure, historical military event, military organization,  
 6 or military unit, including, but not limited to, those taking part in: The French and Indian War,  
 7 American Revolution, War of 1812, U.S.-Mexican War, the War Between the states, Spanish-  
 8 American War, the Mexican border period, World War I, World War II, the Korean Conflict, the  
 9 Vietnam War, Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation  
 10 Just Cause (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation  
 11 Enduring Freedom (Afghanistan), and Operation Iraqi Freedom (Persian Gulf War II), and is  
 12 located on public property, may be relocated, removed, altered, renamed, rededicated, or

13 otherwise disturbed.

14 (2) No statue, monument, memorial, nameplate, plaque, historic flag display, school,  
15 street, bridge, building, park, preserve, or reserve which has been erected for, or named or  
16 dedicated in honor of events in our labor union movement and activities or mine wars; and is  
17 located on public property, may be relocated, removed, altered, renamed, rededicated, or  
18 otherwise disturbed.

19 (3) No statue, monument, memorial, nameplate, plaque, historic flag display, school,  
20 street, bridge, building, park, preserve, or reserve which has been erected for, or named or  
21 dedicated in honor of leaders and events in the struggle for African-American Civil Rights and is  
22 located on public property, may be relocated, removed, altered, renamed, rededicated, or  
23 otherwise disturbed.

24 (4) No statue, monument, memorial, nameplate, plaque, historic flag display, school,  
25 street, bridge, building, park, preserve, or reserve which is located on public property and has  
26 been erected for, or named, or dedicated in honor of Native Americans or American Indians or  
27 any historical Native American or American Indian figure, historical Native American or American  
28 Indian rights event, or Native American or American Indian organization may be renamed or  
29 rededicated.

30 (5) For the purposes of this section, “public property” means all property owned or leased  
31 by the State of West Virginia, any county, municipality, or any other entity or political subdivision  
32 that is created by act of the Legislature to perform any public function.

33 (c) No person may prevent the governmental entity having responsibility for maintaining  
34 any of the items, structures, or areas described in subsection (b) of this section from taking proper  
35 and appropriate measures, and exercising proper and appropriate means, for the protection,  
36 preservation, care, repair, or restoration of those items, structures, or areas.

37 (d) Any entity exercising control of public property on which an item, structure or area  
38 described in subsection (b) is located may petition the West Virginia State Historic Preservation

39 Office for a permit to remove, alter or relocate the item, structure or area. A petition for a permit  
40 shall be in writing and shall state the reason, or reasons, upon which the permit is sought. Upon  
41 good cause shown, the West Virginia State Historic Preservation Office may grant such permit  
42 request and may include reasonable conditions and instructions to ensure that any items,  
43 structures, or areas are preserved to the greatest extent possible. An entity may lawfully remove,  
44 alter or relocate an item, structure or area under authority and in compliance of the terms of a  
45 permit issued pursuant to this subsection.

46 (e)(1) This section shall apply to items, structures, or areas described in subsection (b) in  
47 existence prior to January 1, 1970, and those lawfully erected, named or dedicated on or after  
48 January 1, 1970.

49 (2) This section does not apply to items, structures, or areas described in subsection (b)  
50 that are located on public property under the control of, or acquired by, the Department of  
51 Transportation which may interfere with the construction, maintenance, or operation of the public  
52 transportation system. The department shall strive to ensure that any such items, structures, or  
53 areas are preserved to the greatest extent possible.

NOTE: The purpose of this bill is to prohibit the relocation, removal, alteration, renaming, rededication, or other disturbance 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, 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.