

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 685

BY SENATORS WOODRUM, SMITH, AND KARNES

Introduced March 22, 2021; 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 2021; 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 of,
 7 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; authorizing the West Virginia State
 12 Historic Preservation Office to grant waivers under certain circumstances; and
 13 establishing penalties.

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 2021”.

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

9 (1) The military history of West Virginia, including, but not limited to, persons, places or
 10 events currently located in West Virginia but located in Virginia before or during the U. S. Civil

11 War;

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

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

15 or

16 (4) The history of Native Americans or American Indians in West Virginia.

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

20 (d) No person may prevent a governmental entity from taking appropriate measures, for
21 the protection, preservation, care, repair, or restoration of those items, structures, or areas
22 described in subsection (b) of this section. However, the item or structure must be replaced or
23 restored within 30 days from being disturbed.

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

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

37 remove, alter or relocate an item, structure or area under authority, and in compliance with, the
38 terms of a permit issued pursuant to this subsection.

39 (g) For the purposes of subsection (f) of this section, “good cause shown” shall be deemed
40 to have been established if the item or structure is relocated to an area of equal or greater public
41 access and visibility, so long as the original location is not integral to the item or structure’s
42 historical significance. “Good cause shown” shall also be deemed to have been established if
43 areas are only minimally impacted as a proportion of their overall dimensions.

44 (h) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
45 conviction thereof, shall be fined not more than \$500 or confined in jail for not more than six
46 months, or both fined and confined.

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. Waivers may be granted 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.