

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2790

FISCAL  
NOTE

By Delegates Dillion, Foster, Ross, Burkhammer,  
Chiarelli, Gearhart, Longanacre, and Holstein  
[Introduced January 18, 2023; Referred to the  
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §29-1-8e, relating to the West Virginia Historical Monument Preservation and  
 3 Restoration Act of 2023; prohibiting the relocation, removal, alteration, renaming,  
 4 rededication, or other disturbance of any statue, monument, memorial, nameplate, or  
 5 plaque which is located on public property and has been erected for, or named, or  
 6 dedicated in honor of certain historical military, civil rights, natural disasters or accidents,  
 7 and Native American events, figures, and organizations; prohibiting any person from  
 8 preventing the governmental entity having responsibility for maintaining the items,  
 9 structures, or areas from taking proper measures to protect, preserve, care for, repair, or  
 10 restore the items, structures, or areas; and authorizing the West Virginia State Historic  
 11 Preservation Office to grant waivers under certain circumstances.

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

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

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

1 (a) Short title. — This section shall be known and may be cited as the "West Virginia  
 2 Historical Monument Preservation and Restoration Act of 2023".

3 (b) Legislative findings. The Legislature finds that monuments are erected for a variety of  
 4 reasons, and the existence of a monument does not equate to an endorsement or promotion of  
 5 any set of ideas. Furthermore, monuments testify of significant historical events and social  
 6 changes which have shaped the course of our state. Certain monuments have been politicized  
 7 and censored by activists in the last 10 years. For this reason, it is necessary to identify and protect  
 8 all current public historical monuments and restore all public monuments removed or destroyed  
 9 within the last 10 years. This section also reiterates that any vandalism or damage committed to  
 10 public monuments will be prosecuted to the fullest extent of the law.

11 (c)(1) No statue, monument, memorial, nameplate, plaque, school, street, bridge, building,  
 12 park, preserve, or reserve which has been erected for, or named or dedicated in honor of events in

13 our military history or any historical military figure, historical military event, military organization, or  
14 military unit, including, but not limited to, those taking part in: The French and Indian War,  
15 American Revolution, War of 1812, U.S. Mexican War, the War Between the states, Spanish-  
16 American War, the Mexican border period, World War I, World War II, the Korean Conflict, the  
17 Vietnam War, Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation  
18 Just Cause (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation  
19 Enduring Freedom (Afghanistan), and Operation Iraqi Freedom (Persian Gulf War II), and is  
20 located on public property, may be relocated, removed, altered, renamed, rededicated, or  
21 otherwise disturbed.

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

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

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

38 (5) No statue, monument, memorial, nameplate, plaque, historic flag display, school,  
39 street, bridge, building, park, preserve, or reserve which has been erected for, or named or  
40 dedicated in honor of any natural disaster or other catastrophic accident may be relocated,  
41 removed, altered, renamed, rededicated, or otherwise disturbed.

42 (6) For the purposes of this section, "public property" means all property owned or leased  
43 by the State of West Virginia, any county, municipality, or any other entity or political subdivision  
44 that is created by act of the Legislature to perform any public function.

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

49 (e) Any entity exercising control of public property on which an item, structure or area  
50 described in subsection (c) is located may petition the West Virginia State Historic Preservation  
51 Office for a permit to remove, alter or relocate the item, structure, or area. A petition for a permit  
52 shall be in writing and shall state the reason, or reasons, upon which the permit is sought. Upon  
53 good cause shown, the West Virginia State Historic Preservation Office may grant such permit  
54 request and may include reasonable conditions and instructions to ensure that any items,  
55 structures, or areas are preserved to the greatest extent possible. An entity may lawfully remove,  
56 alter or relocate an item, structure or area under authority and in compliance of the terms of a  
57 permit issued pursuant to this subsection.

58 (f)(1) This section shall apply to items, structures, or areas described in subsection (c) in  
59 existence prior to January 1, 1970, and those lawfully erected, named or dedicated on or after  
60 January 1, 1970.

61 (2) This section does not apply to items, structures, or areas described in subsection (c)  
62 that are located on public property under the control of, or acquired by, the Department of  
63 Transportation which may interfere with the construction, maintenance, or operation of the public

64 transportation system. The department shall strive to ensure that any such items, structures, or  
65 areas are preserved to the greatest extent possible.

66 (g) Any person violating the provisions of this section is guilty of a misdemeanor and, upon  
67 conviction thereof, shall be fined not less than \$100, not more than the estimated cost of repair or  
68 replacement, or confined in jail for not more than six months, or both fined and confined.

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.