

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4341

BY DELEGATES HOWELL, GEARHEART, BLAIR,
HOUSEHOLDER, WALTERS, O'NEAL, SUMMERS, WAXMAN,
AZINGER, ROHRBACH AND CADLE

[Introduced February 1, 2016; 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 §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act
 3 of 2016; 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:

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:

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

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

1 (a) Short title.-- This act shall be known and may be cited as the "West Virginia Monument
 2 and Memorial Protection Act of 2016."

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 shall 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.