

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2174

BY DELEGATES PHILLIPS, MCGEEHAN, J. JEFFRIES,

MANDT, BARNHART AND HANNA

[Originating in the Committee on Government

Organization; March 15, 2021]

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 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, natural disasters or accidents, Native American events,
7 figures, and organizations, historical religious significance; permitting any citizen of this
8 state to petition the governmental entity that has control of a statue, monument, memorial,
9 nameplate, or plaque; permitting a citizen a mechanism to petition the West Virginia State
10 Historical Preservation Office to remove a statue, monument, memorial, nameplate, or
11 plaque in certain circumstances; prohibiting any person from preventing the governmental
12 entity having responsibility for maintaining the items, structures, or areas from taking
13 proper measures to protect, preserve, care for, repair, or restore the items, structures, or
14 areas; and authorizing the West Virginia State Historic Preservation Office to grant waivers
15 under certain 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 2021”.

3 (b)(1) No statue, monument, memorial, nameplate, plaque, street, bridge, building, park,
4 preserve, or reserve which has been erected for, or named or dedicated in honor of events in our
5 military history or any historical military figure, historical military event, military organization, or
6 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 American Civil War, Spanish-American
8 War, the Mexican border period, World War I, World War II, the Korean Conflict, the Vietnam War,

9 Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation Just Cause
10 (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation Enduring
11 Freedom (Afghanistan), and Operation Iraqi Freedom (Persian Gulf War II), and is located on
12 public property, may be relocated, removed, altered, renamed, rededicated, or otherwise
13 disturbed.

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

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

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

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

33 (6) No statue, monument, memorial, nameplate, plaque, historical flag display, street,
34 bridge, building, park, preserve, or reserve which has been erected for, or named or dedicated in

35 honor of events of historical religious significance, and is located on public property, may be
36 relocated, removed, altered, renamed, rededicated, or otherwise disturbed.

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

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

44 (d) Any entity exercising control of public property on which an item, structure or area
45 described in subsection (b) is located may petition the West Virginia State Historic Preservation
46 Office for a permit to remove, alter or relocate the item, structure, or area. A petition for a permit
47 shall be in writing and shall state the reason, or reasons, upon which the permit is sought. Upon
48 good cause shown, the West Virginia State Historic Preservation Office may grant such permit
49 request and may include reasonable conditions and instructions to ensure that any items,
50 structures, or areas are preserved to the greatest extent possible. An entity may lawfully remove,
51 alter or relocate an item, structure or area under authority and in compliance of the terms of a
52 permit issued pursuant to this subsection: *Provided*, That a citizen or citizens of West Virginia
53 may petition for removal of an item, structure, or area described in subsection (b) to the entity
54 exercising control of public property on which an item, structure or area is located, and if the entity
55 refuses to apply for a permit, then that citizen or citizens may request the West Virginia State
56 Historic Preservation Office to issue the permit, and upon its issuance, the entity shall comply.

57 (e) This section does not apply to items, structures, or areas described in subsection (b)
58 that are located on public property under the control of, or acquired by, the Department of
59 Transportation which may interfere with the construction, maintenance, or operation of the public

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

62 (f) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
63 conviction thereof, shall be fined not more than \$500 or confined in jail for not more than six
64 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.