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SENATE BILL NO. 1429

Offered January 17, 2025

A BILL to amend and reenact §§ 15.2-1812, 15.2-1812.1, and 18.2-137 of the Code of Virginia, relating to protection of memorials for war veterans.

Patron—Sturtevant

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1812, 15.2-1812.1, and 18.2-137 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1812. Memorials for war veterans.

A. A locality may, within the geographical limits of the locality, authorize and permit the erection of monuments, *markers*, or memorials for the American veterans, or their allies, of any war or conflict, or any engagement of such war or conflict, to include the following : Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), Civil War (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-). ~~Notwithstanding any other provision of law, general or special, a locality may remove, relocate, contextualize, or cover any such monument or memorial on the locality's public property, not including a monument or memorial located in a publicly owned cemetery, regardless of when the monument or memorial was erected, after complying with the provisions of subsection B.~~ *Notwithstanding when such monuments, markers, or memorials were erected, it is unlawful for an official of a locality, or any other person, to disturb or interfere with any monuments, markers, or memorials so erected, or to prevent its citizens from taking proper measures and exercising proper means for the protection, preservation, and care of the monuments, markers, or memorials. For purposes of this section, "disturb or interfere with" includes removing, damaging, or defacing monuments, markers, or memorials, or, in the case of the Civil War, placing Union markings or monuments on previously designated Confederate memorials or placing Confederate markings or monuments on previously designated Union memorials.*

B. ~~Prior to removing, relocating, contextualizing, or covering any such publicly owned monument or memorial, the local governing body shall publish notice of such intent in a newspaper having general circulation in the locality. The notice shall specify the time and place of a public hearing at which interested persons may present their views, not less than 30 days after publication of the notice. After the completion of the hearing, the governing body may vote whether to remove, relocate, contextualize, or cover the monument or memorial. If the governing body votes to remove, relocate, contextualize, or cover the monument or memorial, the local governing body shall first, for a period of 30 days, offer the monument or memorial for relocation and placement to any museum, historical society, government, or military battlefield. The local governing body shall have sole authority to determine the final disposition of the monument or memorial.~~

C. ~~Forty years after a monument, marker, or memorial for any veteran has been erected or re-erected, a locality may, prior to initiating the provisions of subsection B,~~ petition the judge of a circuit court having jurisdiction over the locality for an advisory referendum to be held on the question of ~~the whether any~~ proposal to remove, relocate, ~~contextualize,~~ or cover any monument or memorial located on the locality's public property *shall be undertaken*. Upon the receipt of such petition, the circuit court shall order an election to be held thereon at a time that is in conformity with § 24.2-682. The ballots shall be prepared, distributed, and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684. *Should the certified election results indicate that two-thirds of those voting in the referendum agree to remove, relocate, or cover any monument, marker, or memorial located on the locality's public property, such action may thereafter be undertaken if approved by a two-thirds vote of the locality's governing body.*

~~D. The C.~~ Consistent with subsections A and B, the governing body may appropriate a sufficient sum of money out of its funds to complete or aid in the erection, removal, relocation, ~~contextualizing,~~ or covering of monuments, *markers*, or memorials to the veterans of such wars or conflicts, or any engagement of such wars or conflicts. The governing body may also make a special levy to raise the money necessary for the erection or completion of any such monuments, *markers*, or memorials, or to supplement the funds already raised or that may be raised by private persons, Veterans of Foreign Wars, the American Legion, or other organizations. It may also appropriate, out of any funds of such locality, a sufficient sum of money to permanently care for, protect, *repair*, and preserve such monuments, *markers*, or memorials and may expend the same thereafter as other funds are expended.

§ 15.2-1812.1. Action for damage to memorials for war veterans.

A. If any monument, *marker*, or memorial for war veterans as designated in § 15.2-1812 or 18.2-137 is damaged or defaced, an action for the recovery of damages may be commenced as follows:

1. For a publicly owned monument, *marker*, or memorial, such action may be commenced against a person ~~other than~~ or a locality or its duly authorized officers, employees, or agents by the attorney for the locality in which it is located ~~with or, if no such action has commenced within 60 days following any such damage or defacement, by any person having an interest in the matter without~~ the consent of the governing body or public officer having control of the monument, *marker*, or memorial; and

2. For a privately owned monument, *marker*, or memorial on a locality's public property, such action may be commenced by the private owner of such monument, *marker*, or memorial. ~~No locality or its officers, employees, or agents shall be liable for damages pursuant to this section when taking action pursuant to § 15.2-1812 except for gross negligence by a duly authorized officer, employee, or agent of the locality.~~

Damages may be awarded in such amounts as necessary for the purposes of rebuilding, repairing, preserving, and restoring such memorials, *markers*, or monuments. Damages other than those litigation costs recovered from any such action shall be used exclusively for said purposes.

B. Punitive damages may be recovered for reckless, willful, or wanton conduct resulting in the defacement of, malicious destruction of, unlawful removal of, or placement of improper markings, monuments, *markers*, or statues on memorials for war veterans.

C. The party who initiates and prevails in an action authorized by this section shall be entitled to an award of the cost of the litigation, including reasonable attorney fees. The provisions of this section shall not be construed to limit the rights of any person, organization, society, or museum to pursue any additional civil remedy otherwise allowed by law.

§ 18.2-137. Injuring, etc., any property, monument, etc.

A. If any person unlawfully destroys, defaces, damages, or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages, or removes without the intent to steal, any monument, *marker*, or memorial for war veterans, not his own, described in § 15.2-1812; any monument or *marker* erected to mark the site of any engagement fought during the Civil War, or any memorial or *marker* to designate the boundaries of any city, town, tract of land, or any tree marked for that purpose, he ~~shall be~~ is guilty of a Class 3 misdemeanor, provided that the court may, in its discretion, dismiss the charge if the locality or organization that owns or is responsible for maintaining the injured property, monument, *marker*, or memorial files a written affidavit with the court stating it has received full payment for the injury.

B. If any person who is not the owner of such property intentionally causes such injury, he is guilty of (i) a Class 1 misdemeanor if the value of or damage to the property, memorial, *marker*, or monument is less than \$1,000 or (ii) a Class 6 felony if the value of or damage to the property, memorial, *marker*, or monument is \$1,000 or more. The amount of loss caused by the destruction, defacing, damage, or removal of such property, memorial, *marker*, or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.