

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1321 Session of  
2020

INTRODUCED BY MASTRIANO, ARNOLD, ARGALL, J. WARD, BROOKS,  
GORDNER, PITTMAN AND STEFANO, SEPTEMBER 18, 2020

REFERRED TO JUDICIARY, SEPTEMBER 18, 2020

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in offenses against existence or  
3 stability of government, providing for the offense of  
4 desecration of public monument; and making an editorial  
5 change.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Chapter 21 heading of Title 18 of the  
9 Pennsylvania Consolidated Statutes is amended to read:

10 CHAPTER 21

11 OFFENSES AGAINST THE FLAG AND PUBLIC MONUMENTS

12 Section 2. Title 18 is amended by adding a section to read:

13 § 2104. Desecration of public monument.

14 (a) Offense defined.--A person is guilty of the offense of  
15 desecration of a public monument if the person:

16 (1) willfully destroys, mutilates, defaces, injures or  
17 removes a public monument; or

18 (2) willfully destroys, mutilates, defaces, injures or  
19 removes a fence, railing, enclosure or other work for the

1 protection of a public monument.

2 (b) Grading of offense.--Desecration of a public monument  
3 constitutes a:

4 (1) Misdemeanor of the first degree when the damage to  
5 the property is at least \$200 but less than \$2,000.

6 (2) Felony of the third degree when the damage to the  
7 property is more than \$2,000 but less than \$100,000.

8 (3) Felony of the second degree when the damage to the  
9 property is at least \$100,000 but less than \$500,000.

10 (4) Felony of the first degree when the damage to the  
11 property is \$500,000 or more.

12 (c) Restitution.--A person convicted of violating this  
13 section shall, in addition to any other fines or court fees  
14 imposed, be sentenced to pay restitution in an amount equal to  
15 the cost of the property damage, including the cost of  
16 replacement of the public monument or the fence, railing,  
17 enclosure or other work for the protection of the public  
18 monument, as applicable.

19 (d) Removal of public monument.--A public monument may not  
20 be permanently removed, except as specifically approved by an  
21 act of the General Assembly. This subsection applies to  
22 monuments erected by the Commonwealth or any municipality if any  
23 money of the Commonwealth was used in the construction or  
24 erection of the public monument.

25 (e) Jurisdiction to prosecute.--

26 (1) A district attorney shall have jurisdiction to  
27 prosecute an alleged violation under subsection (a) when the  
28 property on which the public monument is situated is owned by  
29 a municipality within the county.

30 (2) The Attorney General of the Commonwealth shall have

1 jurisdiction to prosecute an alleged violation under  
2 subsection (a) when the property on which the public monument  
3 is located is owned by the Commonwealth.

4 (3) The Attorney General shall have concurrent  
5 prosecutorial jurisdiction with the district attorney for a  
6 case arising under subsection (a) and may refer to the  
7 district attorney, with the district attorney's consent, a  
8 violation or alleged violation of subsection (a) which may  
9 come to the Attorney General's attention.

10 (4) When a district attorney elects not to prosecute  
11 under subsection (a), the Attorney General shall prosecute  
12 the case.

13 (f) Withholding of Commonwealth payments.--

14 (1) A municipality may not adopt a policy which  
15 prohibits the enforcement of this section. A municipality  
16 that prohibits enforcement of this section shall not be  
17 entitled to any payment of money from the State Treasury,  
18 including any State grants awarded by a State agency.

19 (2) A district attorney or the Attorney General may  
20 submit written notification to the State Treasurer of a  
21 municipality that refuses to enforce this section and seek  
22 prosecution. A copy of the notification shall be sent to the  
23 municipality.

24 (3) After receipt of the notification, the State  
25 Treasurer shall withhold payments due to the municipality  
26 until a notification under paragraph (5) or a court order  
27 mandating payment is received.

28 (4) Each State agency and executive department offering  
29 State grants shall require each municipality to verify under  
30 penalty of perjury that the municipality is in compliance

1 with this section.

2 (5) A municipality that has State funding withheld under  
3 paragraph (1) may be reinstated for eligibility for funding  
4 if the municipality agrees to enforce this section and seeks  
5 prosecution by the district attorney or Attorney General.  
6 Once prosecution has commenced for a violation, the district  
7 attorney or Attorney General shall submit written  
8 notification to the State Treasurer. After notification, the  
9 State Treasurer shall release any payment withheld under  
10 paragraph (1). A copy of the notification shall be sent to  
11 the municipality.

12 (g) Definitions.--As used in this section, the following  
13 words and phrases shall have the meanings given to them in this  
14 subsection unless the context clearly indicates otherwise:

15 "Municipality." Any county, city, borough, incorporated  
16 town, township, home rule municipality, optional plan  
17 municipality, optional charter municipality or any similar  
18 general purpose unit of government created or authorized by  
19 statute.

20 "Policy." An ordinance, resolution, regulation, rule,  
21 practice or any other action, whether formal or informal,  
22 promulgated or enforced by a municipality.

23 "Public monument." A marker, plaque, column, statue,  
24 memorial structure or work of art that commemorates a famous or  
25 notable person or event and is erected or placed on property  
26 owned, leased or controlled by the Commonwealth or a  
27 municipality.

28 Section 3. This act shall take effect in 60 days.