
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 289 Session of
2023

INTRODUCED BY MASTRIANO, ARGALL, J. WARD, BROOKS, STEFANO, DUSH
AND ROBINSON, JANUARY 31, 2023

REFERRED TO JUDICIARY, JANUARY 31, 2023

AN ACT

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

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

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

9 CHAPTER 21

10 OFFENSES AGAINST THE FLAG AND PUBLIC MONUMENTS

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

12 § 2104. Desecration of public monument.

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

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

17 (2) willfully destroys, mutilates, defaces, injures or
18 removes a fence, railing, enclosure or other work for the
19 protection of a public monument.

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

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

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

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

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

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

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

24 (e) Jurisdiction to prosecute.--

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

29 (2) The Attorney General shall have jurisdiction to
30 prosecute an alleged violation under subsection (a) when the

1 property on which the public monument is located is owned by
2 the Commonwealth.

3 (3) The Attorney General shall have concurrent
4 prosecutorial jurisdiction with the district attorney for a
5 case arising under subsection (a).

6 (4) When a district attorney elects not to prosecute
7 under subsection (a), and has not taken action within 60
8 days, the Attorney General shall prosecute the case.

9 (f) Withholding of Commonwealth payments.--

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

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

20 (3) After receipt of the notification, the State
21 Treasurer shall withhold payments due to the municipality
22 until a notification under paragraph (5) or a court order
23 mandating payment is received.

24 (4) Each State agency and executive department offering
25 State grants shall require each municipality to verify under
26 penalty of perjury that the municipality is in compliance
27 with this section.

28 (5) A municipality that has State funding withheld under
29 paragraph (1) may be reinstated for eligibility for funding
30 if the municipality agrees to enforce this section and seeks

1 prosecution by the district attorney or Attorney General.
2 Once prosecution has commenced for a violation, the district
3 attorney or Attorney General shall submit written
4 notification to the State Treasurer. After notification, the
5 State Treasurer shall release any payment withheld under
6 paragraph (1). A copy of the notification shall be sent to
7 the municipality.

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

11 "Municipality." Any county, city, borough, incorporated
12 town, township, home rule municipality, optional plan
13 municipality, optional charter municipality or any similar
14 general purpose unit of government created or authorized by
15 statute.

16 "Policy." An ordinance, resolution, regulation, rule,
17 practice or any other action, whether formal or informal,
18 promulgated or enforced by a municipality.

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

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