

2A:58D-2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2012 **CHAPTER:** 28

NJSA: 2A:58D-2 (Prohibits first responders from photographing persons being assisted or disclosing photographs of such persons without their consent)

BILL NO: S199 (Substituted for A789)

SPONSOR(S) Connors and others

DATE INTRODUCED: January 10, 2012

COMMITTEE: **ASSEMBLY:** ---

SENATE: Law and Public Safety

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 21, 2012

SENATE: May 31, 2012

DATE OF APPROVAL: August 7, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate Substitute enacted)

S199

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A789

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2012, CHAPTER 28, *approved August 7, 2012*

Senate Substitute for

Senate, No. 199

1 **AN ACT** concerning invasion of privacy and supplementing Title 2A
2 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. As used in this section:

8 “Disclose” means to sell, manufacture, give, provide, lend, trade,
9 mail, deliver, transfer, publish, distribute, circulate, disseminate,
10 present, exhibit, advertise, or offer.

11 “First responder” means a law enforcement officer, paid or
12 volunteer firefighter, paid or volunteer member of a duly
13 incorporated first aid, emergency, ambulance, or rescue squad
14 association, or any other individual who, in the course of his
15 employment, is dispatched to the scene of a motor vehicle accident
16 or other emergency situation for the purpose of providing medical
17 care or other assistance.

18 b. A first responder who is dispatched to or is otherwise present
19 at the scene of a motor vehicle accident or other emergency
20 situation, for the purpose of providing medical care or other
21 assistance, shall not photograph, film, videotape, record, or
22 otherwise reproduce in any manner, the image of a person being
23 provided medical care or other assistance, except in accordance
24 with applicable rules, regulations, or operating procedures of the
25 agency employing the first responder.

26 c. A first responder shall not disclose any photograph, film,
27 videotape, record, or other reproduction of the image of a person
28 being provided medical care or other assistance at the scene of a
29 motor vehicle accident or other emergency situation without the
30 prior written consent of the person, or the person’s next-of-kin if
31 the person cannot provide consent, unless that disclosure was for a
32 legitimate law enforcement, public safety, health care, or insurance
33 purpose or pursuant to a court order.

34 d. A person who knowingly violates the provisions of subsection
35 c. of this section shall be guilty of a disorderly persons offense.

36 e. In addition to any other right of action or recovery otherwise
37 available under the laws of this State, a first responder who
38 knowingly violates the provisions of subsections b. or c. of this
39 section shall be liable to the person whose image was taken or
40 disclosed, who may bring a civil action in the Superior Court.

41 The court may award:

42 (1) actual damages, but not less than liquidated damages
43 computed at the rate of \$1,000 for each violation of this act;

- 1 (2) punitive damages upon proof of willful or reckless disregard
2 of the law;
- 3 (3) reasonable attorney's fees and other litigation costs
4 reasonably incurred; and
- 5 (4) such other preliminary and equitable relief as the court
6 determines to be appropriate.

7

8 2. This act shall take effect immediately.

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STATEMENT

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13 The Senate Substitute for Senate Bill No. 199 (1R) prevents first
14 responders from photographing persons whom they are assisting or
15 disclosing photographs of such persons without their consent.

16 The substitute defines:

17 "disclose" to mean to sell, manufacture, give, provide, lend,
18 trade, mail, deliver, transfer, publish, distribute, circulate,
19 disseminate, present, exhibit, advertise, or offer; and

20 "first responder" to mean a law enforcement officer, paid or
21 volunteer firefighter, paid or volunteer member of a duly
22 incorporated first aid, emergency, ambulance, or rescue squad
23 association, or any other individual who, in the course of his
24 employment, is dispatched to the scene of a motor vehicle accident
25 or other emergency situation for the purpose of providing medical
26 care or other assistance.

27 The substitute prohibits a first responder who is dispatched to or
28 is otherwise present at the scene of a motor vehicle accident or
29 other emergency situation, for the purpose of providing medical
30 care or other assistance, from photographing, filming, videotaping,
31 recording, or otherwise reproducing in any manner, the image of a
32 person being provided medical care or other assistance, except in
33 accordance with applicable rules, regulations, or operating
34 procedures of the agency employing the first responder.

35 The substitute also prohibits a first responder from disclosing
36 any photograph, film, videotape, record, or other reproduction of
37 the image of a person being provided medical care or other
38 assistance at the scene of a motor vehicle accident or other
39 emergency situation without the prior written consent of the person,
40 or the person's next-of-kin if the person cannot provide consent,
41 unless that disclosure was for a legitimate law enforcement, public
42 safety, health care, or insurance purpose or pursuant to a court
43 order. A person who knowingly violates this prohibition on
44 disclosure is guilty of a disorderly persons offense, which is
45 punishable by imprisonment for up to six months, a fine of up to
46 \$1,000, or both.

1 The substitute also provides that, in addition to any other right of
2 action or recovery otherwise available under the laws of this State, a
3 first responder who knowingly violates its prohibition on
4 photographing a person who is being provided medical care or other
5 assistance or on disclosing a photograph of that person without the
6 person's consent is liable to the person whose image was taken or
7 disclosed, who may bring a civil action in the Superior Court.

8 The court may award:

9 -- actual damages, but not less than liquidated damages
10 computed at the rate of \$1,000 for each violation of the bill;

11 -- punitive damages upon proof of willful or reckless disregard
12 of the law;

13 -- reasonable attorney's fees and other litigation costs reasonably
14 incurred; and

15 -- such other preliminary and equitable relief as the court
16 determines to be appropriate.

17 This Senate Substitute is identical to the Assembly Committee
18 Substitute for Assembly Bill No.789.

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23 Prohibits first responders from photographing persons being
24 assisted or disclosing photographs of such persons without their
25 consent.

SENATE, No. 199

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Prohibits first responders from disseminating photographs of accident victims and patients to public without consent of victim or patient.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/17/2012)

1 AN ACT concerning first responders and supplementing Title 2C of
2 the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Any first responder who takes one or more photographs or
8 electronic images or makes a video recording of an accident victim
9 or other person receiving emergency medical services and
10 distributes, disseminates, or otherwise makes available through any
11 means such photographs, images, or video recording to members of
12 the public without the prior written consent of the accident victim
13 or person receiving emergency medical services, or the victim's or
14 person's next-of-kin if the victim or person cannot provide consent,
15 is guilty of a crime of the fourth degree.

16 As used in this act, "first responder" means a law enforcement
17 officer, paid or volunteer firefighter, or other paid or volunteer
18 person who has been trained to provide emergency medical first
19 response services in a program recognized by the Commissioner of
20 Health and Senior Services.

21

22 2. This act shall take effect immediately.

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STATEMENT

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27 The purpose of this bill is to ensure the privacy of accident
28 victims and other persons receiving emergency medical services
29 from first responders.

30 This bill provides that any first responder who takes one or more
31 photographs or electronic images or makes a video recording of an
32 accident victim or other person receiving emergency medical
33 services and distributes, disseminates, or otherwise makes available
34 through any means such photographs, images, or video recording to
35 members of the public without the prior written consent of the
36 accident victim or person receiving emergency medical services, or
37 the victim's or person's next-of-kin if the victim or person cannot
38 provide consent, is guilty of a crime of the fourth degree. A fourth
39 degree crime is punishable by a fine of up to \$10,000, or a term of
40 imprisonment of up to 18 months, or both.

41 The bill defines "first responder" to mean a law enforcement
42 officer, paid or volunteer firefighter, or other paid or volunteer
43 person who has been trained to provide emergency medical first
44 response services in a program recognized by the Commissioner of
45 Health and Senior Services.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 199

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2012

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 199.

According to the sponsor, the purpose of this bill is to ensure the privacy of accident victims and other persons receiving emergency medical services from first responders.

As amended, this bill provides that it is a crime of the fourth degree for a first responder to take a photograph or electronic image or make a video recording of an accident victim or person receiving emergency medical services, and to distribute or disseminate the photograph, image, or video recording to the public without the written consent of the victim, or the victim's next-of-kin if the victim or person cannot provide consent. A fourth degree crime is punishable by a fine of up to \$10,000, a term of imprisonment of up to 18 months, or both. The committee amended the bill to permit a first responder to provide a photograph, image or video recording to an insurer or insurance-support organization for the sole purpose of processing an insurance claim.

The bill defines "first responder" as a law enforcement officer, paid or volunteer firefighter, or other paid or volunteer person who has been trained to provide emergency medical first response services in a program recognized by the Commissioner of Health and Senior Services.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 789

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblywoman CAROLINE CASAGRANDE

District 11 (Monmouth)

Assemblyman ROBERT SCHROEDER

District 39 (Bergen and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

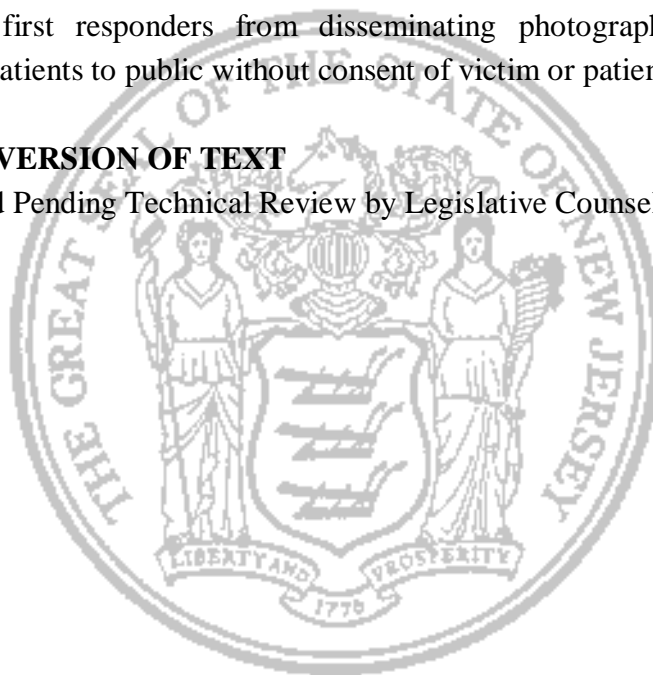
Assemblywoman Gove, Assemblymen Rumpf, Coutinho and O'Scanlon

SYNOPSIS

Prohibits first responders from disseminating photographs of accident victims and patients to public without consent of victim or patient.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/6/2012)

1 AN ACT concerning first responders and supplementing Title 2C of
2 the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Any first responder who takes one or more photographs or
8 electronic images or makes a video recording of an accident victim
9 or other person receiving emergency medical services and
10 distributes, disseminates, or otherwise makes available through any
11 means such photographs, images, or video recording to members of
12 the public without the prior written consent of the accident victim
13 or person receiving emergency medical services, or the victim's or
14 person's next-of-kin if the victim or person cannot provide consent,
15 is guilty of a crime of the fourth degree.

16 As used in this act, "first responder" means a law enforcement
17 officer, paid or volunteer firefighter, or other paid or volunteer
18 person who has been trained to provide emergency medical first
19 response services in a program recognized by the Commissioner of
20 Health and Senior Services.

21

22 2. This act shall take effect immediately.

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STATEMENT

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27 The purpose of this bill is to ensure the privacy of accident
28 victims and other persons receiving emergency medical services
29 from first responders.

30 This bill provides that any first responder who takes one or more
31 photographs or electronic images or makes a video recording of an
32 accident victim or other person receiving emergency medical
33 services and distributes, disseminates, or otherwise makes available
34 through any means such photographs, images, or video recording to
35 members of the public without the prior written consent of the
36 accident victim or person receiving emergency medical services, or
37 the victim's or person's next-of-kin if the victim or person cannot
38 provide consent, is guilty of a crime of the fourth degree. A fourth
39 degree crime is punishable by a fine of up to \$10,000, or a term of
40 imprisonment of up to 18 months, or both.

41 The bill defines "first responder" to mean a law enforcement
42 officer, paid or volunteer firefighter, or other paid or volunteer
43 person who has been trained to provide emergency medical first
44 response services in a program recognized by the Commissioner of
45 Health and Senior Services.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 789

STATE OF NEW JERSEY

DATED: MARCH 5, 2012

The Assembly Health and Senior Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 789.

The purpose of this committee substitute is to prevent first responders from photographing persons whom they are assisting or disclosing photographs of such persons without their consent.

The substitute defines:

“disclose” to mean to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, or offer; and

“first responder” to mean a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of his employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

The substitute prohibits a first responder who is dispatched to or is otherwise present at the scene of a motor vehicle accident or other emergency situation, for the purpose of providing medical care or other assistance, from photographing, filming, videotaping, recording, or otherwise reproducing in any manner, the image of a person being provided medical care or other assistance, except in accordance with applicable rules, regulations, or operating procedures of the agency employing the first responder.

The substitute also prohibits a first responder from disclosing any photograph, film, videotape, record, or other reproduction of the image of a person being provided medical care or other assistance at the scene of a motor vehicle accident or other emergency situation without the prior written consent of the person, or the person’s next-of-kin if the person cannot provide consent, unless that disclosure was for a legitimate law enforcement, public safety, health care, or insurance purpose or pursuant to a court order. A person who knowingly violates this prohibition on disclosure is guilty of a disorderly persons offense (which is punishable by imprisonment for up to six months, or a fine of up to \$1,000, or both).

The substitute also provides that, in addition to any other right of action or recovery otherwise available under the laws of this State, a first responder who knowingly violates its prohibition on photographing a person who is being provided medical care or other assistance or on disclosing a photograph of that person without the person's consent is liable to the person whose image was taken or disclosed, who may bring a civil action in the Superior Court.

The court may award:

- actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each violation of the bill;
- punitive damages upon proof of willful or reckless disregard of the law;
- reasonable attorney's fees and other litigation costs reasonably incurred; and
- such other preliminary and equitable relief as the court determines to be appropriate.