

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.

9

10

11

STATEMENT

12

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.

19

20

21

22

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