

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2122

(BY DELEGATES AMBLER, COOPER, HOUSEHOLDER,

WALTERS, R. SMITH, CANTERBURY AND GEARHEART)

[Passed March 7, 2016; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-8-30, relating to making it illegal for first responders to photograph, film,
3 videotape, record or otherwise reproduce in any manner the image of a human corpse or
4 person being provided medical care or assistance except for enumerated purposes;
5 defining terms; creating a criminal offense for first responders to photograph, film,
6 videotape, record or otherwise reproduce in any manner the image of a human corpse or
7 person being provided public safety services, medical care or assistance unless it is for a
8 legitimate purpose associated with his or her employment; creating a criminal offense for
9 first responders to knowingly disclose any photograph, film, videotape, record or other
10 reproduction of the image of a human corpse or person being provided public safety
11 services, medical care or assistance unless disclosure is for a legitimate cause associated
12 with his or her employment; providing for exceptions to the criminal offenses; providing for
13 criminal penalties; providing for enhanced penalties for subsequent offenses; and
14 designating provision as “Jonathan’s Law”.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §61-8-30, to read as follows:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

**§61-8-30. Photography of a corpse or person being provided medical care or assistance;
prohibitions; exceptions; Jonathan’s Law.**

1 (a) As used in this section:

2 (1) “Disclose” means to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer,
3 publish, distribute, circulate, disseminate, present, exhibit, advertise, offer or otherwise
4 make available or make known to any third party.

5 (2) “First responder” means law-enforcement officers, firefighters, emergency medical
6 services personnel and other similar individuals authorized to respond to calls for public safety
7 services or emergency medical assistance.

8 (b)(1) A first responder who is present at a motor vehicle accident or other emergency
9 situation for the purpose of providing public safety services or medical care or assistance shall
10 not photograph, film, videotape, record or otherwise reproduce in any manner the image of a
11 human corpse or a person being provided medical care or assistance, except for a legitimate law-
12 enforcement purpose, public safety purpose, health care purpose, insurance purpose, legal
13 investigation or legal proceeding involving an injured or deceased person or pursuant to a court
14 order.

15 (2) A first responder shall not knowingly disclose any photograph, film, videotape, record
16 or other reproduction of the image of a human corpse or a person being provided medical care or
17 assistance at the scene of a motor vehicle accident or other emergency situation without prior
18 written consent of the injured person, the person's next-of-kin if the injured person cannot provide
19 consent, or personal representative under law of a deceased person, unless that disclosure is for
20 a legitimate law enforcement purpose, public safety purpose, health care purpose, insurance
21 purpose, legal investigation or legal proceeding involving an injured or deceased person or
22 pursuant to a court order.

23 (3) Any person who violates subdivision (1) or (2) of this subsection is guilty of a
24 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500.
25 For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall
26 be confined in jail for twenty-four hours and shall be fined not less than \$100 nor more than \$750.
27 For a third or subsequent offense, the person is guilty of a misdemeanor and, upon conviction
28 thereof, shall be confined in jail for not less than twenty-four hours nor more than six months and
29 shall be fined not less than \$1,000 nor more than \$5,000.

30 (c) This section shall be known as "Jonathan's Law".

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2016.

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Governor