

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 2122

(BY DELEGATES AMBLER, COOPER, HOUSEHOLDER,
WALTERS, R. SMITH, CANTERBURY AND GEARHEART)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §61-12-16, relating to making it illegal for first responders to photograph, film,
 3 videotape, record, or otherwise reproduce in any manner the image of a corpse or person
 4 being provided medical care or assistance; defining terms; creating a criminal offense for
 5 first responders to photograph, film, videotape, record, or otherwise reproduce in any
 6 manner the image of a corpse or person being provided medical care or assistance;
 7 creating a criminal offense for first responders to knowingly disclose any photograph, film,
 8 videotape, record, or other reproduction of the image of a corpse or person being provided
 9 medical care or assistance; providing for exceptions to the criminal offenses; providing for
 10 criminal penalties; providing for enhanced penalties for subsequent offenses; and
 11 designating as “Jonathon’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 §61-12-16, to read as follows:

ARTICLE 12. POSTMORTEM EXAMINATIONS.

**§61-12-16. Photography of a corpse or person being provided medical care or assistance;
 when prohibited; exceptions; penalties; Jonathon’s Law.**

1 (a)(1)“First responder” means law-enforcement officers, firefighters, emergency medical
 2 services personnel and other similar individuals authorized to respond to calls for emergency
 3 medical assistance.

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

7 (b)(1) A first responder who is dispatched to, or is otherwise present at, a motor vehicle
 8 accident or other emergency situation for the purpose of providing medical care or other
 9 assistance, shall not photograph, film, videotape, record, or otherwise reproduce in any manner,
 10 the image of a corpse or a person being provided medical care or assistance, except for a

11 legitimate law enforcement, public safety, health care, insurance purpose or legal investigation or
12 legal proceeding involving an injured or deceased person or pursuant to a court order.

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

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

28 (c) This shall be known as "Jonathon's Law".

NOTE: The purpose of this bill is to make it illegal for anyone to photograph a corpse except for certain legitimate purposes.

This section is new; therefore, it has been completely underscored.