

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **ENGROSSED**

#### **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 human corpse or a person being provided medical care or assistance, except for

11 a legitimate law enforcement, public safety, health care, insurance purpose or legal investigation  
12 or 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 human 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.