

ACT NO. 8796

BILL NO. 35-0127

THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2023

An Act amending title 14 Virgin Islands Code, chapter 89 relating to the invasion of privacy of accident and crime victims by first responders

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 14 Virgin Islands Code, chapter 89 is amended by adding section 1785 to read as follows:

“§ 1785. Definitions relative to invasion of privacy by first responders; violation, penalty; liability, civil action, damages

(a) As used in this section:

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

(2) “First responder” means 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, crime, or any other emergency situation for the purpose of providing medical care or other assistance or any other employee of the Government of the Virgin Islands on the scene acting as a part of the investigative or emergency response efforts.

(b) A first responder who is dispatched to or is otherwise present at the scene of a motor vehicle accident, crime, or any other emergency situation, for the purpose of providing medical care or other assistance, shall not photograph, film, videotape, record, or otherwise reproduce in any manner, or by any means, including, but not limited to, by use of a personal electronic device or a device belonging to their employing agency, the image of a person receiving

medical care or other assistance, except in accordance with applicable rules, regulations, or operating procedures of the agency employing the first responder.

(c) A first responder shall not disclose any photograph, film, videotape, record, or other reproduction of an image by any means, including, but not limited to, by use of a personal electronic device or a device belonging to their employing agency, of a person receiving medical care or other assistance at the scene of a motor vehicle accident, crime, 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.

(d) A person who knowingly violates the provisions of subsection (c) of this section shall be guilty of a misdemeanor and subject to a fine of not less than \$1,000 per violation.

(e) In addition to any other right of action or recovery otherwise available under the laws of this territory, a first responder who knowingly violates the provisions of subsection (b) or (c) of this section shall be liable to the person whose image was taken or disclosed, who may bring a civil action in the Superior Court. The court may award:

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

(f)(1) Law enforcement agencies and agencies that employ first responders shall:

(A) Promulgate regulations consistent with this section, including, but not limited to, a policy on the use of personal and government issued cameras and recording devices used at emergency and crime scenes and a policy on the confidentiality of images of emergency and crime scenes and images related to a criminal investigation;

(B) Provide law enforcement officers and other first responders with copies of the adopted policies; and

(C) Cause a copy of this section to be posted at a location in the agencies that is readily accessible to all first responder and law enforcement officers.


(2) The failure of any law enforcement agency or an agency that employs first responders to implement any of the requirements under subsection (a) is not a defense for a violation of this section.

(g) The Virgin Islands Police Department, the Virgin Islands Fire and Emergency Medical Services and the Rescues shall include a course on the requirements of this section in the curriculum of their respective training academies.

Thus passed by the Legislature of the Virgin Islands on December 19, 2023.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 9th day of January, A.D., 2024.




Novelle E. Francis, Jr.
President


Carla J. Joseph
Secretary

Bill No. 35-0127 is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 20th day of January 2024 A.D.




Albert Bryan, Jr.
Governor