

BILL NO. 35-0127

Thirty-Fifth Legislature of the Virgin Islands

September 12, 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

PROPOSED BY: Senator Marvin A. Blyden

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.

(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

1 medical care or other assistance, shall not photograph, film, videotape, record, or otherwise
2 reproduce in any manner, or by any means, including, but not limited to, by use of a personal
3 electronic device or a device belonging to their employing agency, the image of a person
4 receiving medical care or other assistance, except in accordance with applicable rules,
5 regulations, or operating procedures of the agency employing the first responder.

6 (c) A first responder shall not disclose any photograph, film, videotape, record, or
7 other reproduction of an image by any means, including, but not limited to, by use of a personal
8 electronic device or a device belonging to their employing agency, of a person receiving
9 medical care or other assistance at the scene of a motor vehicle accident, crime, or other
10 emergency situation without the prior written consent of the person, or the person's next-of-
11 kin if the person cannot provide consent, unless that disclosure was for a legitimate law
12 enforcement, public safety, health care, or insurance purpose or pursuant to a court order.

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

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

- 19 (1) actual damages, but not less than liquidated damages computed at the rate of
20 \$1,000 for each violation of this act;
- 21 (2) punitive damages upon proof of willful or reckless disregard of the law;
- 22 (3) reasonable attorney's fees and other litigation costs reasonably incurred; and
- 23 (4) such other preliminary and equitable relief as the court determines to be
24 appropriate.

25 **BILL SUMMARY**

26 This bill amends title 14, chapter 89 of the Virgin Islands Code which regulates official
27 records, documents, and reports. The bill adds as new section 1785 that prohibits first

1 responders from the disclosure of any photograph, film, videotape, record, or other
2 reproduction of an image by any means, including, but not limited to, by use of a personal
3 electronic device or a device belonging to their employing agency, of a person being provided
4 medical care or other assistance at the scene of a motor vehicle accident, crime, or other
5 emergency situation without the prior written consent of the person, or the person's next-of-
6 kin if the person cannot provide consent. This bill makes such a disclosure a misdemeanor and
7 allows for a fine not to exceed \$1,000. It further provides a civil remedy for those persons
8 damaged by the misdemeanor disclosure.

9 **BR23-0166/August 22, 2023/LMW**