



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5769

by Rep. John D. Anthony

SYNOPSIS AS INTRODUCED:

720 ILCS 5/26-4.1 new

Amends the Criminal Code of 2012. Creates the offense of unlawful photography of an assisted person by a first responder. Provides that a person commits the offense when he or she is a first responder who is dispatched to or is otherwise present at the scene of a motor vehicle accident or other emergency situation, for the purpose of providing medical care or other assistance, and knowingly photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of a person being provided medical care or other assistance, except in accordance with applicable rules, regulations, or operating procedures of the agency employing the first responder. Also prohibits the disclosure of the photograph, film, videotape, record, or other reproduction 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 under a court order. Provides that a violation is a Class B misdemeanor. Provides for a civil cause of action for violations.

LRB098 18205 RLC 53335 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding
5 Section 26-4.1 as follows:

6 (720 ILCS 5/26-4.1 new)

7 Sec. 26-4.1. Unlawful photography of an assisted person by
8 a first responder.

9 (a) As used in this Section:

10 "Disclose" means to sell, manufacture, give, provide,
11 lend, trade, mail, deliver, transfer, publish, distribute,
12 circulate, disseminate, present, exhibit, advertise, or
13 offer.

14 "First responder" means a law enforcement officer,
15 paid or volunteer firefighter, paid or volunteer member of
16 a duly incorporated first aid, emergency, ambulance, or
17 rescue squad association, or any other individual who, in
18 the course of his or her employment, is dispatched to the
19 scene of a motor vehicle accident or other emergency
20 situation for the purpose of providing medical care or
21 other assistance.

22 (b) A person commits unlawful photography of an assisted
23 person by a first responder when he or she is a first responder

1 who is dispatched to or is otherwise present at the scene of a
2 motor vehicle accident or other emergency situation, for the
3 purpose of providing medical care or other assistance, and
4 knowingly photographs, films, videotapes, records, or
5 otherwise reproduces in any manner, the image of a person being
6 provided medical care or other assistance, except in accordance
7 with applicable rules, regulations, or operating procedures of
8 the agency employing the first responder.

9 (c) A person commits unlawful photography of an assisted
10 person by a first responder when he or she is a first responder
11 and knowingly discloses any photograph, film, videotape,
12 record, or other reproduction of the image of a person being
13 provided medical care or other assistance at the scene of a
14 motor vehicle accident or other emergency situation without the
15 prior written consent of the person, or the person's
16 next-of-kin if the person cannot provide consent, unless that
17 disclosure was for a legitimate law enforcement, public safety,
18 health care, or insurance purpose or under a court order.

19 (d) Sentence. Unlawful photography of an assisted person by
20 a first responder is a Class B misdemeanor.

21 (e) In addition to any other right of action or recovery
22 otherwise available under the laws of this State, a first
23 responder who violates the provisions of subsection (b) or (c)
24 of this Section shall be liable to the person whose image was
25 taken or disclosed, who may bring a civil action in the circuit
26 court. The court may award:

1 (1) actual damages, but not less than liquidated
2 damages computed at the rate of \$1,000 for each violation
3 of this Section;

4 (2) punitive damages upon proof of willful or reckless
5 disregard of the law;

6 (3) reasonable attorney's fees and other litigation
7 costs reasonably incurred; and

8 (4) any other preliminary and equitable relief as the
9 court determines to be appropriate.