



## CATHY'S LAW – SOCIAL MEDIA BEST PRACTICES

In 2012, Governor Chris Christie enacted Cathy's Law which took effect immediately. There are two main provisions of the Law:

*1. 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, shall not photograph, film, videotape, record, or otherwise reproduce 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.*

This paragraph, in effect, prohibits all video recording or picture-taking by first responders unless the responding agency has a policy or procedure. Since fire agencies take pictures at emergency scenes for legitimate reasons (such as cause and origin investigations, training, and public relations), fire agencies must have a written digital image policy. The MEL Safety Institute (MSI) provides a model Digital Image and Social Media Policy on the [Fire and EMS Page](#) under the Model Policies section.

*2. A first responder shall not disclose any photograph, film, videotape, record, or other reproduction of the image of a person being provided medical care or other assistance at the scene of a motor vehicle accident 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.*

The policy should clearly define how photographs of victims will be handled. A person should be identified who will oversee that the disclosure of any photograph or video that shows or could show a victim meets the needs of legitimate law enforcement, public safety, healthcare, or insurance purpose or that written consent is obtained before the imagery is disseminated.

The Law spells out the significant penalties for violations.

*A person who knowingly violates the provisions of this section shall be guilty of a disorderly persons offense. In addition, a first responder who knowingly violates the provisions shall be liable to the person whose image was taken or disclosed, who may bring a civil action. The court may award: (1) actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each violation of this act; (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.*

Fire and EMS agencies should educate their members on the agency's policy and procedures and their legal and financial exposure for violating Cathy's Law.

**Universal Citation: NJ Rev Stat § 2A:58D-2 (2013)**

**2A:58D-2 definitions relative to invasion of privacy relative to first responders; violations, penalties.**

a. As used in this section:

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

"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 or 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 or 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, 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.

c. A first responder shall not disclose any photograph, film, videotape, record, or other reproduction of the image of a person being provided medical care or other assistance at the scene of a motor vehicle accident 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 disorderly persons offense.

e. In addition to any other right of action or recovery otherwise available under the laws of this State, 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, but not less than liquidated damages computed at the rate of \$1,000 for each violation of this act;
- (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.

L.2012, c.28, s.1.

**Disclaimer:** *These codes may not be the most recent version. New Jersey may have more current or accurate information. Please check with your Municipal Attorney about the accuracy, completeness, or adequacy of the information contained in this Bulletin.*