



Written by [Michael Tennant](#) on May 12, 2011

N.J. Mulls Ban on Photographing Children at Public Events

The impetus for the bill, now being considered by the New Jersey Assembly Judiciary Committee, was an incident in which a 63-year-old man was seen videotaping young girls, most aged 8 to 10, at a swim meet. Approached by police, the man allegedly told them that he found young girls “sexy.” The man, who, [according to the *Star-Ledger*](#), “had a history of run-ins with police in similar situations,” was charged with trespassing and petty disorderly conduct; the charges were later dropped.



Outraged parents, singing the age-old refrain “There oughta be a law...,” appealed to the state Assembly, which is now considering legislation to “make it a third-degree crime to photograph or videotape a child without his or her parent’s consent,” the *Star-Ledger* reports. [According to the *New York Daily News*](#), “a third degree crime in New Jersey carries a maximum of three-to-five years in prison.”

Specifically, says the *Star-Ledger*, “the bill would ban taking pictures or taping children in situations in which ‘a reasonable parent or guardian would not expect his child to be the subject of such reproduction.’” “The bill also imposes a duty on a newspaper to verify the age of every person who is photographed or recorded, whether that person is the focus of the image or a person in the background,” Lauren James-Weir, an attorney for the New Jersey Press Association, told the paper.

James-Weir “said such a measure would make it nearly impossible for news outlets to publish photographs or film,” according to the *Star-Ledger*. She elaborated:

If a newspaper covers a high school track meet, before it could take any photographs it would have to verify the ages of all the persons who may be captured in those photographs. If any of these people are under 18, a photograph by the newspaper would be in violation of [the bill] unless the newspaper either obtains consent from all these parents or was confident that a reasonable parent would expect his or her child to be photographed.

The bill’s language, wrote Zac Croft at Law Help Center, is “dangerously ambiguous.”

First of all, what is a “reasonable parent?” With today’s helicopter parent syndrome, it sometimes seems as though there are very few reasonable parents out there in the world. Second, what is a situation where one can/should not expect his/her child to be taped? As for the incident that started this whole mess, a swim meet, I would think that, being a sporting event, there should be



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reasonable expectations that one's child would be taped there.

In like manner, Ed Barocas, legal director of the New Jersey chapter of the American Civil Liberties Union, told the *Star-Ledger* that the bill was "overly broad and far too vague."

"If you take a picture of your child at the Jersey Shore building a sand castle, and there were other children in the background, would that violate the law?" he asked.

A colleague of Barocas, New Jersey ACLU executive director Deborah Jacobs, was even more dismissive of the bill, calling it "ridiculous."

Thus far the bill has only been read in committee and has not otherwise been acted upon. Given that even its sponsor, Assemblyman David Russo (R), according to the *Star-Ledger*, "acknowledged that the legislation would need to be amended to pass constitutional muster," it seems unlikely that the measure will even get out of committee without some major changes. Assemblywoman Caroline Casagrande (R) suggested changing it to ban only the photographing of minors' genital areas, even if fully clothed; however, that would still present similar problems.

Croft believes the bill will "die in committee." With cameras, especially those in cellphones, becoming ubiquitous in society, the law risks turning most Garden State residents and visitors into criminals and virtually prohibiting news coverage in the state. On the other hand, the ubiquity of photography and videography equipment is likely to make the law unenforceable or, more disturbing, open to selective enforcement, available for authorities to use to harass those who have gotten on their bad side for other reasons.

Many observers believe this bill is a picture of bad law created to address a perceived crisis, and that its passage, in any form, would be a negative development for liberty in New Jersey.



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