

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/28/13
A Bill

HOUSE BILL 2169

By: Representative Walker

For An Act To Be Entitled

AN ACT TO PROMOTE THE RIGHTS GUARANTEED BY THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION; TO PROTECT A CITIZEN'S RIGHT TO OBSERVE AND RECORD PUBLIC EVENTS; AND FOR OTHER PURPOSES.

Subtitle

TO PROMOTE THE RIGHTS GUARANTEED BY THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION; TO PROTECT A CITIZEN'S RIGHT TO OBSERVE AND RECORD PUBLIC EVENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 21, Chapter 1, Subchapter 1, is amended to add a new section to read as follows:

21-1-106. Public recording and deletion of electronic data.

(a) As used in this section, "prohibit" means to stop or constructively stop the use of a recording device from occurring by threat, duress, coercion, direct order, arrest, detention, use of force, or other means to achieve the cessation of recording.

(b)(1) A public officer or employee shall not:

(A) Prohibit a person from using a recording device in a public place or anywhere that person has a right to be unless the act of recording:

(i) Presents a genuine risk to the physical safety of anyone present not including the person making the recording; or



(ii) Constitutes an element of a criminal offense;

(B) Delete any electronic data or any other information derived by recording from a recording device against the wishes of the owner of the device or otherwise destroy information contained in the device unless the data are considered contraband; or

(C) Seize or confiscate a recording device unless it appears to be involved in the commission of a crime or unless the seizure is otherwise justified by an exigent circumstance.

(2) If a person uses a recording device to intrude upon the seclusion or solitude of another person or upon his or her private affairs or concerns, this subsection does not apply if the intrusion:

(A) Violates a reasonable expectation of privacy; and

(B) Would be highly offensive to a reasonable person.

(c)(1) A violation of this section constitutes a waiving of the sovereign immunity of the state and the qualified immunity of the public officer or employee.

(2) An individual who violates this section may be sued in his or her official capacity as well as personally.

/s/Walker