

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

State of Arkansas
91st General Assembly
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As Engrossed: H3/3/17 S3/14/17
A Bill

HOUSE BILL 1665

By: Representatives Vaught, Ballinger, Bentley, Boyd, Brown, Cavanaugh, Coleman, Davis, C. Douglas, Drown, Eubanks, Fortner, Gates, M. Gray, G. Hodges, Hollowell, Lundstrum, Maddox, McNair, Pilkington, Richmond, Rye, B. Smith, Sullivan
By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO CREATE A CAUSE OF ACTION FOR UNAUTHORIZED ACCESS TO ANOTHER PERSON'S PROPERTY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A CAUSE OF ACTION FOR UNAUTHORIZED ACCESS TO ANOTHER PERSON'S PROPERTY.

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

SECTION 1. Arkansas Code Title 16, Chapter 118, is amended to add an additional section to read as follows:

16-118-113. Civil cause of action for unauthorized access to property.

(a) As used in this section:

(1) "Commercial property" means:

(A) A business property;

(B) Agricultural or timber production operations,

including buildings and all outdoor areas that are not open to the public;
and

(C) Residential property used for business purposes; and

(2) "Nonpublic area" means an area not accessible to or not intended to be accessed by the general public.

(b) A person who knowingly gains access to a nonpublic area of a



commercial property and engages in an act that exceeds the person's authority to enter the nonpublic area is liable to the owner or operator of the commercial property for any damages sustained by the owner or operator.

(c) An act that exceeds a person's authority to enter a nonpublic area of commercial property includes an employee who knowingly enters a nonpublic area of commercial property for a reason other than a bona fide intent of seeking or holding employment or doing business with the employer and without authorization subsequently:

(1) Captures or removes the employer's data, paper, records, or any other documents and uses the information contained on or in the employer's data, paper, records, or any other documents in a manner that damages the employer;

(2) Records images or sound occurring within an employer's commercial property and uses the recording in a manner that damages the employer;

(3) Places on the commercial property an unattended camera or electronic surveillance device and uses the unattended camera or electronic surveillance device to record images or data for an unlawful purpose;

(4) Conspires in an organized theft of items belonging to the employer; or

(5) Commits an act that substantially interferes with the ownership or possession of the commercial property.

(d) A person who knowingly directs or assists another person to violate this section is jointly liable.

(e) A court may award to a prevailing party in an action brought under this section one (1) or more of the following remedies:

(1) Equitable relief;

(2) Compensatory damages;

(3) Costs and fees, including reasonable attorney's fees; and

(4) In a case where compensatory damages cannot be quantified, a court may award additional damages as otherwise allowed by state or federal law in an amount not to exceed five thousand dollars (\$5,000) for each day, or a portion of a day, that a defendant has acted in violation of subsection (b) of this section, and that in the court's discretion are commensurate with the harm caused to the plaintiff by the defendant's conduct in violation of this section.

(f) This section does not:

(1) Diminish the protections provided to employees under state or federal law; or

(2) Limit any other remedy available at common law or provided by law.

(g) This section does not apply to a state agency, a state-funded institution of higher education, a law enforcement officer engaged in a lawful investigation of commercial property or of the owner or operator of the commercial property, or a healthcare provider or medical services provider.

/s/Vaught