

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H3/28/13

# A Bill

HOUSE BILL 2169

5 By: Representative Walker  
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## For An Act To Be Entitled

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

14 TO PROMOTE THE RIGHTS GUARANTEED BY THE  
15 FIRST AMENDMENT OF THE UNITED STATES  
16 CONSTITUTION; TO PROTECT A CITIZEN'S  
17 RIGHT TO OBSERVE AND RECORD PUBLIC  
18 EVENTS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 *SECTION 1. Arkansas Code Title 21, Chapter 1, Subchapter 1, is amended*  
25 *to add a new section to read as follows:*

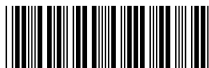
26 *21-1-106. Public recording and deletion of electronic data.*

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

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

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

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



1                    (ii) Constitutes an element of a criminal offense;  
2                    (B) Delete any electronic data or any other information  
3 derived by recording from a recording device against the wishes of the owner  
4 of the device or otherwise destroy information contained in the device unless  
5 the data are considered contraband; or

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

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

12                    (A) Violates a reasonable expectation of privacy; and

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

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

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

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/s/Walker