

1 State of Arkansas *As Engrossed: H3/3/17 S3/14/17*

2 91st General Assembly

# A Bill

3 Regular Session, 2017

HOUSE BILL 1665

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5 By: Representatives Vaught, Ballinger, Bentley, Boyd, Brown, Cavanaugh, Coleman, Davis, C. Douglas,

6 Drown, Eubanks, Fortner, Gates, M. Gray, G. Hodges, Hollowell, Lundstrum, Maddox, McNair,

7 Pilkington, Richmond, Rye, B. Smith, Sullivan

8 By: Senator G. Stubblefield

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## For An Act To Be Entitled

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AN ACT TO CREATE A CAUSE OF ACTION FOR UNAUTHORIZED

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ACCESS TO ANOTHER PERSON'S PROPERTY; AND FOR OTHER

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PURPOSES.

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## Subtitle

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TO CREATE A CAUSE OF ACTION FOR

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UNAUTHORIZED ACCESS TO ANOTHER PERSON'S

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PROPERTY.

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

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

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

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(a) As used in this section:

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(1) "Commercial property" means:

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(A) A business property;

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(B) Agricultural or timber production operations,

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

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and

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(C) Residential property used for business purposes; and

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(2) "Nonpublic area" means an area not accessible to or not

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intended to be accessed by the general public.

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



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

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

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

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

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

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

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

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

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

27 (1) Equitable relief;

28 (2) Compensatory damages;

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

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

1 (f) This section does not:

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

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

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

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12 /s/Vaught

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15 **APPROVED: 03/23/2017**

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