

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

HOUSE BILL 1569

5 By: Representatives L. Smith, Blair, Elliott, Chesterfield, Blount, W. Lewellen, Davis  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 16, CHAPTER  
10 63 TO ADD AN ADDITIONAL SUBCHAPTER 5 TO ESTABLISH  
11 A JUDICIAL PROCEDURE TO PROTECT THE RIGHTS OF THE  
12 CITIZENS OF THE STATE OF ARKANSAS TO PARTICIPATE  
13 IN GOVERNMENT ACTIONS AND DECISIONS; AND FOR  
14 OTHER PURPOSES.

## Subtitle

16 AN ACT TO ESTABLISH A JUDICIAL PROCEDURE  
17 TO PROTECT THE RIGHTS OF THE CITIZENS OF  
18 THE STATE OF ARKANSAS TO PARTICIPATE IN  
19 GOVERNMENT ACTIONS AND DECISIONS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 16, Chapter 63 is amended to add an  
26 additional subchapter to read as follows:

27 Subchapter 5. Citizen Participation in Government Act.

28 16-63-501. Title.

29 This subchapter shall be known as and may be cited as the "Citizen  
30 Participation in Government Act".

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32 16-63-502. Immunity from suit.

33 (a) Any person who, in furtherance of the person's right of free  
34 speech or right of petition under the Arkansas Constitution or United States  
35 Constitution in connection with a public or governmental issue, communicates  
36 information regarding another person or entity to any agency or any governing



1 body of the federal, state, or local government regarding a matter of concern  
 2 to that agency or governing body shall be immune from civil liability on any  
 3 judicial claims based upon the communication to the agency or governing body.

4 (b) The immunity conferred by this section shall not attach if the  
 5 person communicating the information:

6 (1) Knew the information to be false; or

7 (2) Communicated the information in willful or reckless  
 8 disregard of its falsity.

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 10 16-63-503. Motion and required procedures.

11 (a) This section applies to any motion disposing of a judicial claim  
 12 in a proceeding on the grounds that the judicial claim is based on, relates  
 13 to, or is in response to any action of the moving party in furtherance of the  
 14 moving party's rights as described in § 16-63-502.

15 (b) On the filing of any motion described in subsection (a) of this  
 16 section:

17 (1) The motion shall be treated by the circuit court as one for  
 18 summary judgment, and the circuit court shall use a time period appropriate  
 19 to an expedited motion to speed the proceedings;

20 (2) The appellate court may grant an expedited appeal from a  
 21 circuit court order denying a motion;

22 (3) The circuit court may suspend discovery in the judicial  
 23 claim until a decision is made on the final disposition of the motion  
 24 including any appeals that are made;

25 (4) A responding party shall have the burden of proof, the  
 26 burden of going forward with the evidence, and the burden of persuasion on  
 27 the motion; and

28 (5) The circuit court shall make its determination on the motion  
 29 based upon the facts contained in the pleadings and affidavits filed.

30 (c) The circuit court shall grant the motion and dismiss the judicial  
 31 claim unless the responding party has produced clear and convincing evidence  
 32 that the actions of the moving party are not immunized from liability by §  
 33 16-63-502.

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 35 16-63-504. Attorney's fees and costs of litigation.

36 If the moving party prevails on a motion described in § 16-63-503, the

1 circuit court shall award a moving party the costs of litigation, including  
2 any reasonable attorney's fees associated with bringing the motion.

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4 16-63-505. Additional provisions.

5 (a) Nothing in this subchapter shall limit or preclude any rights the  
6 moving party may have under any other constitutional, statutory, case or  
7 common law, or rule provisions.

8 (b) This subchapter shall be construed liberally to effectuate its  
9 purposes and intent fully.

10 (c) This subchapter shall take effect January 1, 2006.

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