
DIGEST

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HB 279 Original

2017 Regular Session

Jordan

Abstract: Prohibits a public official or employee from: prohibiting a person from recording the activities of a public official or employee in the conduct of or while performing the duties of his public position, deleting data on a recording device, or confiscating a recording device except under certain circumstances.

Proposed law prohibits a public official or employee from:

- (1) Prohibiting a person from using a recording device to record the activities of a public official or employee in the conduct of or performing the duties of his public position in a place that is open to and accessible to the general public or any private property where the person is lawfully present unless the act of recording or the location of the person making the recording:
 - (a) Presents a risk to the physical safety of anyone present, not including the person making the recording.
 - (b) Constitutes an element of a criminal offense.
 - (c) Could reasonably be expected to lead to the infringement of copyrighted material.
- (2) Deleting any electronic data or any other information derived by recording from a recording device carried on or near the person without the express written permission of the person owning or possessing the recording device or otherwise destroy information contained in the recording device.
- (3) Seizing or confiscating a recording device unless the recording device appears to be involved in the commission of a crime.

Proposed law specifies that it shall not be interpreted to allow a person to use a recording device to intrude upon the seclusion or solitude of another person or upon the other person's private affairs or concerns if the intrusion violates the person's reasonable expectation of privacy, including any violation of the person's privacy rights under the Health Insurance Portability and Accountability Act of 1996.

Proposed law further provides that it shall not affect the authority of a court of competent jurisdiction to issue binding orders or to regulate the absence, presence, or conduct of citizens occupying buildings or property under the jurisdiction of the court or the authority of a public body to adopt reasonable rules to maintain order during its meetings.

Proposed law provides that the attorney general shall enforce proposed law throughout the state and he may institute enforcement proceedings on his own initiative and shall institute proceedings upon a complaint filed with him by any person, unless he provides written reasons why the suit should not be filed, and provides that any person who has reason to believe that the provisions of proposed law have been violated may institute enforcement proceedings.

Proposed law provides that if the court finds that a public official or employee violated proposed law, it shall award the person who brought the enforcement proceeding reasonable attorney fees and other costs of litigation. Proposed law further provides that if the court finds that the actions of the public official or employee were unreasonable or malicious, it may award the person who brought the enforcement proceeding or, if the enforcement proceeding was brought by the attorney general on the basis of a complaint, the person who filed the complaint any actual damages proven by him to have resulted from the actions of the public official or employee, and further authorizes the court in such situations to award such person civil penalties not to exceed \$30,000 per violation.

Proposed law specifies that these remedies shall not be exclusive and shall be in addition to any other applicable penalties or any other remedy or relief provided by law.

Proposed law defines the terms "prohibit", "public employee", "public official", and "recording device" for its purposes.

(Adds R.S. 42:341-345)