

# Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

## Amendment Form

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### Subtitle of House Bill No. 1946

TO AMEND THE LAW CONCERNING ACCESS TO PUBLIC INFORMATION; AND TO AMEND THE  
FREEDOM OF INFORMATION ACT OF 1967.

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### Amendment No. 1 to House Bill No. 1946

Amend House Bill No. 1946 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 25, Chapter 19, Subchapter 1, is amended to add an additional section to read as follows:

25-19-111. Review panel – Creation.

(a) There is created a review panel to conduct independent and unbiased reviews of requests for records under this chapter.

(b)(1)(A) The panel shall consist of three (3) attorneys who are:

(i) Residents of this state;

(ii) Licensed to practice law in Arkansas; and

(iii) Knowledgeable in matters concerning the

Freedom of Information Act of 1967, § 25-19-101 et seq.

(B) One (1) panel attorney shall teach or have taught at a law school in this state.

(2) One (1) panel attorney shall be appointed by the Speaker of the House of Representatives.

(3) One (1) panel attorney shall be appointed by the Governor.

(4) One (1) panel attorney be appointed by the President Pro Tempore of the Senate.

(c)(1) Each panel attorney shall serve staggered six-year terms.

(2) A vacancy on the panel shall be filled in the manner of the original appointment.

(d)(1)(A) The review of the panel shall be conducted in private.

(B) The review of the panel is confidential and not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) The meetings of the panel may be conducted telephonically.

(e)(1)(A) A requestor of records under this chapter may ask the panel to review a request for records that was denied by the custodian of the records.

(B)(i) A requestor under subdivision (e)(1)(A) of this section may submit his or her request for review to the panel regardless of whether the requestor is also pursuing an appeal under § 25-19-107.



(ii) A review of the request for records by the panel shall be considered separate from any pending matter before a court, and the decision and process of review by the panel has no bearing on the pace or outcome of a judicial remedy.

(2) A custodian shall submit the records in question to the panel and for each record in question shall supply the authority under the Freedom of Information Act of 1967, § 25-19-101 et seq., that is the basis of the custodian's refusal to supply the records in question.

(f)(1) A custodian may ask for a decision from the panel concerning an original request for records, but this does not place a burden on the panel to comply with the time period under § 25-19-105.

(2) If the panel cannot render a decision within the timeframe under § 25-19-105, the custodian shall still comply with the time period under § 25-19-105.

(g)(1)(A) The panel may make rules that specify what facts and arguments the custodian and the requestor shall bring to the panel regarding the records in question.

(B) Rules promulgated by the panel are exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) The rules under subdivision (g)(1) of this section are binding and shall be enforced by the panel.

(h) The panel shall follow governing Arkansas law under the Freedom of Information Act of 1967, § 25-19-101 et seq., and the law applied by Arkansas courts in conducting reviews requested under this section.

(i)(1) The decisions of the panel shall be final and binding.

(2) Either the requestor or the custodian may appeal the decision of the panel to a court under § 25-19-107.

(3) A conflict between a decision of the panel and the decision of the court under § 25-19-107 shall be resolved in favor of the decision by the court.

(j) A custodian who denies a request under this chapter shall advise the requestor of the option to:

(1) Seek review by the panel under this section; and

(2) Appeal the decision of the custodian under § 25-19-107.

(k) A panel attorney is not subject to personal liability due to his or her participation on the panel.

(l) The three (3) panel attorneys may each receive a stipend of up to eighty-five dollars (\$85.00) per meeting under § 25-16-904.

(m) The panel attorneys shall be appointed within thirty (30) days of the effective date of this act.

SECTION 2. Arkansas Code § 25-16-904, concerning stipend authorization, is amended to add an additional subdivision to read as follows:

(24) The review panel under the Freedom of Information Act of 1967, § 25-19-101 et seq."

The Amendment was read \_\_\_\_\_

**By: Representative Tucker**  
**SRC/SRC - 03-13-2017 16:14:53**  
**SRC390**

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**Chief Clerk**