

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 1622

TO CREATE A PROCEDURE FOR ADDRESSING BURDENSOME REQUESTS FOR DISCLOSURE; TO
AMEND THE FREEDOM OF INFORMATION ACT OF 1967; TO CREATE AN AFFIRMATIVE DEFENSE;
AND TO DECLARE AN EMERGENCY.

Amendment No. 1 to House Bill No. 1622

Amend House Bill No. 1622 as originally introduced:

Page 1, delete line 32 through 36, and substitute the following:

"in public activity and in making public policy;

(2) The right of a citizen to make a request for records under the Freedom of Information Act of 1967, § 25-19-101 et seq., should not be limited or infringed;

(3) In the case of certain large or complicated requests for public records, the maximum three (3) days for compliance with the Freedom of Information Act of 1967, § 25-19-101 et seq., is insufficient to locate, review, redact, and produce the requested documents;

(4) In the case of certain large or complicated requests for public records, compliance within three (3) days may be impracticable and require additional staff and resources for which a government entity does not have funds;

(5) Under current law, there is no defense to prosecution if a custodian is unable to comply in a timely manner with a request for public records despite his or her best efforts made in good faith to follow the law;

(6) If a custodian does not act in good faith to make his or her best efforts to comply with a request for public records, he or she should remain criminally liable under § 25-19-104; and

(7) If a government entity does not act in good faith to make its best efforts to comply with a request for public records, the government entity should remain civilly liable under § 25-19-107."

AND

Page 2, delete lines 1 through 12

AND

Page 3, delete lines 2 through 5, and substitute the following:

"(2)(A)(i) If production of the requested record within the time



provided under this section would be unduly burdensome to the government entity maintaining the public record, the government entity may take a reasonable amount of additional time not to exceed fifteen (15) business days to produce the record.

(ii)(a) The inability of a custodian to comply with a request within fifteen (15) business days under subdivision (e)(2)(A)(i) of this section shall be an affirmative defense that may be considered by a court.

(b) The custodian making the affirmative defense under subdivision (e)(2)(A)(ii)(a) of this section shall bear the burden of proof.

(c) A court may consider the factors under subdivision (e)(2)(C)(ii) of this section in making a determination as to the ability of a custodian to comply with a request for public records."

AND

Page 3, line 26, delete "without interfering" and substitute "without significantly interfering"

AND

Page 4, line 20, delete "such" and substitute "certain"

AND

Page 4, line 22, delete "from criminal" and substitute "from potential criminal"

The Amendment was read _____
By: Representative Johnson
SRC/SRC - 03-14-2017 16:44:04
SRC436 _____ Chief Clerk