

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 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

HOUSE BILL 1049

5 By: Representatives Greenberg, Lea  
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## For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR REVIEW BY THE ATTORNEY  
10 GENERAL'S OFFICE OF A DENIAL OF ACCESS UNDER THE  
11 FREEDOM OF INFORMATION ACT OF 1967; AND FOR OTHER  
12 PURPOSES.  
13

## Subtitle

15 AN ACT TO PROVIDE FOR REVIEW BY THE  
16 ATTORNEY GENERAL'S OFFICE OF A DENIAL OF  
17 ACCESS UNDER THE FREEDOM OF INFORMATION  
18 ACT OF 1967.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 25-19-107 is amended to read as follows:

22 25-19-107. ~~Appeal from denial of rights — Attorney's fees~~ Denial of  
23 rights — Remedies.

24 (a) Any citizen denied the rights granted to him or her by this  
25 chapter may:

26 (1) appeal ~~appeal~~ Appeal immediately from the denial to:

27 (A) the ~~The~~ The Pulaski County Circuit Court or to the  
28 circuit court of the residence of the aggrieved party, if an agency of the  
29 state is involved; or

30 (B) to any ~~Any~~ Any of the circuit courts of the  
31 appropriate judicial districts when an agency of a county, municipality,  
32 township, or school district, or a private organization supported by or  
33 expending public funds, is involved; or

34 (2) Seek an opinion of the Attorney General, who, within  
35 five (5) working days of receipt of the request, shall issue an opinion  
36 stating whether the denial is consistent with this chapter.



1        (b) A citizen who elects to seek an opinion of the Attorney General is  
2 not precluded from also filing an appeal with the appropriate circuit court  
3 for judicial review of the custodian’s decision or the decision of the  
4 Attorney General.

5        ~~(b)~~ (c) Upon written application of the person denied the rights  
6 provided for in this chapter, or any interested party, it shall be mandatory  
7 upon the circuit court having jurisdiction to fix and assess a day the  
8 petition is to be heard within seven (7) days of the date of the application  
9 of the petitioner, and to hear and determine the case.

10       ~~(e)~~ (d) Those who refuse to comply with the orders of the court shall  
11 be found guilty of contempt of court.

12       ~~(d)~~ (e) In any action to enforce the rights granted by this chapter, or  
13 in any appeal therefrom, the court shall assess against the defendant  
14 reasonable attorney’s fees and other litigation expenses reasonably incurred  
15 by a plaintiff who has substantially prevailed unless the court finds that  
16 the position of the defendant was substantially justified or that other  
17 circumstances make an award of these expenses unjust. However, no expenses  
18 shall be assessed against the State of Arkansas or any of its agencies or  
19 departments. If the defendant has substantially prevailed in the action, the  
20 court may assess expenses against the plaintiff only upon a finding that the  
21 action was initiated primarily for frivolous or dilatory purposes.

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23       SECTION 2. Arkansas Code § 25-19-105 (c)(3)(B)(i), concerning  
24 requesting an Attorney General’s opinion regarding a denial of access to  
25 personnel records under the Freedom of Information Act of 1967, is amended to  
26 read as follows:

27                                (B)(i) If the subject of the records cannot be contacted  
28 in person or by telephone within the twenty-four-hour period, the custodian  
29 shall send written notice via overnight mail to the subject of the records at  
30 his or her last known address. Either the custodian, requester, or the  
31 subject of the records may immediately seek an opinion from the Attorney  
32 General, who, within ~~three (3)~~ five (5) working days of receipt of the  
33 request, shall issue an opinion stating whether the decision is consistent  
34 with this chapter.

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