

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

# A Bill

HOUSE BILL 1326

4  
5 By: Representative L. Smith  
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## For An Act To Be Entitled

8  
9 AN ACT CONCERNING CLAIMS FOR ATTORNEY'S FEES AND  
10 LITIGATION EXPENSES AGAINST THE STATE OF ARKANSAS  
11 UNDER THE FREEDOM OF INFORMATION ACT OF 1967; AND  
12 FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 CONCERNING CLAIMS FOR ATTORNEY'S FEES  
16 AND LITIGATION EXPENSES AGAINST THE  
17 STATE OF ARKANSAS UNDER THE FREEDOM OF  
18 INFORMATION ACT OF 1967.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 19-10-204 is amended to add an additional  
24 subsection to read as follows:

25 (d) The commission shall have jurisdiction over claims to recover  
26 reasonable attorney's fees and other litigation expenses reasonably incurred  
27 by plaintiffs who substantially prevailed in actions under § 25-19-107.  
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29 SECTION 2. Arkansas Code § 25-19-107 is amended to read as follows:  
30 25-19-107. Appeal from denial of rights – Attorney's fees.

31 (a) Any citizen denied the rights granted to him or her by this  
32 chapter may appeal immediately from the denial to the Pulaski County Circuit  
33 Court or to the circuit court of the residence of the aggrieved party, if an  
34 agency of the state is involved, or to any of the circuit courts of the  
35 appropriate judicial districts when an agency of a county, municipality,  
36 township, or school district, or a private organization supported by or



1 expending public funds, is involved.

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

7 (c) Those who refuse to comply with the orders of the court shall be  
 8 found guilty of contempt of court.

9 (d)(1) ~~In~~ Except as provided in subsection (e) of this section, in any  
 10 action to enforce the rights granted by this chapter, or in any appeal  
 11 therefrom, the court shall assess against the defendant reasonable attorney's  
 12 fees and other litigation expenses reasonably incurred by a plaintiff who has  
 13 substantially prevailed ~~unless the court finds that the position of the~~  
 14 ~~defendant was substantially justified or that other circumstances make an~~  
 15 ~~award of these expenses unjust. However, no expenses shall be assessed~~  
 16 ~~against the State of Arkansas or any of its agencies or departments.~~

17 (2) If the defendant has substantially prevailed in the action,  
 18 the court may assess expenses against the plaintiff only upon a finding that  
 19 the action was initiated primarily for frivolous or dilatory purposes.

20 (e)(1) The court shall not assess expenses against the State of  
 21 Arkansas or any of its agencies or departments.

22 (2)(A) A plaintiff who substantially prevailed in an action  
 23 under this section against the State of Arkansas or any of its agencies or  
 24 departments may file a claim with the Arkansas State Claims Commission to  
 25 recover reasonable attorney's fees and other litigation expenses reasonably  
 26 incurred.

27 (B)(i) Except as provided by subdivision (e)(2)(B)(ii) of  
 28 this section, the claim shall be filed under § 19-10-201 et seq.

29 (ii) A claim for reasonable attorney's fees and  
 30 other litigation expenses reasonably incurred shall be filed within sixty  
 31 (60) days of the final disposition of the appeal under subdivision (a) of  
 32 this section.

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