

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H3/14/17*

# A Bill

HOUSE BILL 1946

5 By: Representative Tucker  
6 By: Senator Bond  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING ACCESS TO PUBLIC  
10 INFORMATION; TO AMEND THE FREEDOM OF INFORMATION ACT  
11 OF 1967; AND FOR OTHER PURPOSES.  
12  
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## Subtitle

15 TO AMEND THE LAW CONCERNING ACCESS TO  
16 PUBLIC INFORMATION; AND TO AMEND THE  
17 FREEDOM OF INFORMATION ACT OF 1967.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 *SECTION 1. Arkansas Code Title 25, Chapter 19, Subchapter 1, is*  
23 *amended to add an additional section to read as follows:*

24 *25-19-111. Review panel – Creation.*

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

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

28 *(i) Residents of this state;*

29 *(ii) Licensed to practice law in Arkansas; and*

30 *(iii) Knowledgeable in matters concerning the*

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

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

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

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



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

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

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

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

7 (B) The review of the panel is confidential and not  
8 subject to disclosure under the Freedom of Information Act of 1967, § 25-19-  
9 101 et seq.

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

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

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

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

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

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

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

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

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

36 (2) The rules under subdivision (g)(1) of this section are

1 binding and shall be enforced by the panel.

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

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

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

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

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

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

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

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

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

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

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

25 (24) The review panel under the Freedom of Information Act of  
26 1967, § 25-19-101 et seq.

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29 /s/Tucker  
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