



474230

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2015	.	
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The Committee on Judiciary (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 119.0701, Florida Statutes, is amended  
to read:

119.0701 Contracts; public records.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Contractor" means an individual, partnership,  
corporation, or business entity that enters into a contract for  
services with a public agency and is acting on behalf of the



474230

12 public agency as provided under s. 119.011(2).

13 (b) "Public agency" means a state, county, district,  
14 authority, or municipal officer, or department, division, board,  
15 bureau, commission, or other separate unit of government created  
16 or established by law.

17 (2) CONTRACT REQUIREMENTS.—In addition to other contract  
18 requirements provided by law, each public agency contract for  
19 services must include:

20 (a) The following statement, in substantially the following  
21 form, identifying the contact information of the public agency's  
22 custodian of public records in at least 14-point boldfaced type:

23  
24 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF  
25 SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO  
26 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT  
27 ...(custodian of public records)... AT ...(telephone number, e-  
28 mail address, and mailing address)....

29  
30 (b) A provision that requires the contractor to comply with  
31 public records laws, specifically to:

32 1.(a) Keep and maintain public records ~~that ordinarily and~~  
33 ~~necessarily would be~~ required by the public agency ~~in order~~ to  
34 perform the service.

35 2.(b) Upon request from the public agency's custodian of  
36 public records, provide the public agency with a copy of the  
37 requested records or allow the ~~access to public records to be~~  
38 ~~inspected or copied within a reasonable time on the same terms~~  
39 ~~and conditions that the public agency would provide the records~~  
40 ~~and~~ at a cost that does not exceed the cost provided in this



474230

41 chapter or as otherwise provided by law.

42 3.(e) Ensure that public records that are exempt or  
43 confidential and exempt from public records disclosure  
44 requirements are not disclosed except as authorized by law for  
45 the duration of the contract term and following completion of  
46 the contract if the contractor does not transfer the records to  
47 the public agency.

48 4.(d) Upon completion of the contract, Meet all  
49 requirements for retaining public records and transfer, at no  
50 cost, to the public agency all public records in possession of  
51 the contractor or keep and maintain public records required by  
52 the public agency to perform the service. If the contractor  
53 transfers all public records to the public agency upon  
54 completion of the contract, the contractor shall upon  
55 termination of the contract and destroy any duplicate public  
56 records that are exempt or confidential and exempt from public  
57 records disclosure requirements. If the contractor keeps and  
58 maintains public records upon completion of the contract, the  
59 contractor shall meet all applicable requirements for retaining  
60 public records and provide requested records to a public agency  
61 pursuant to the requirements of this section. All records stored  
62 electronically must be provided to the public agency, upon  
63 request from the public agency's custodian of public records, in  
64 a format that is compatible with the information technology  
65 systems of the public agency.

66 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.-

67 (a) A request to inspect or copy public records relating to  
68 a public agency's contract for services must be made directly to  
69 the public agency. If the public agency does not possess the



474230

70 requested records, the public agency shall immediately notify  
71 the contractor of the request, and the contractor must provide  
72 the records to the public agency or allow the records to be  
73 inspected or copied within a reasonable time.

74 (b) If a contractor does not comply with the public  
75 agency's ~~a public records~~ request for records, the public agency  
76 shall enforce the contract provisions in accordance with the  
77 contract.

78 (c) A contractor who fails to provide the public records to  
79 the public agency within a reasonable time may be subject to  
80 penalties under s. 119.10.

81 (4) CIVIL ACTION.—If a civil action is filed to compel  
82 production of public records relating to the public agency's  
83 contract for services, the court may assess and award against  
84 the responsible public agency or contractor the reasonable costs  
85 of enforcement, including reasonable attorney fees, if the party  
86 filing the action provides written notice of the public records  
87 request, including a statement that the public agency has not  
88 complied with the request. This notice must be sent by certified  
89 mail to the public agency's custodian of public records or  
90 general counsel at least 5 business days before filing the  
91 action, and must be provided to the contractor if the contractor  
92 is a named party in the action.

93 Section 2. This act shall take effect upon becoming a law.

94  
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete everything before the enacting clause  
98 and insert:



474230

99   A bill to be entitled  
100           An act relating to public records; amending s.  
101           119.0701, F.S.; requiring that a public agency  
102           contract for services include a statement providing  
103           the contact information of the public agency's  
104           custodian of records; prescribing the form of the  
105           statement; revising required provisions in a public  
106           agency contract for services regarding a contractor's  
107           compliance with public records laws; requiring that a  
108           public records request relating to records for a  
109           public agency's contract for services be made directly  
110           to the public agency; requiring a contractor to  
111           provide requested records to the public agency or  
112           allow inspection or copying of requested records under  
113           specified circumstances; specifying applicable  
114           penalties for a contractor who fails to provide  
115           requested records; specifying circumstances under  
116           which a court may assess and award reasonable costs of  
117           enforcement against a public agency or contractor;  
118           providing an effective date.