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1                   A bill to be entitled  
2     An act relating to public records; amending s.  
3     119.0701, F.S.; requiring that a public agency  
4     contract for services include a statement providing  
5     the contact information of the public agency's  
6     custodian of records; prescribing the form of the  
7     statement; revising required provisions in a public  
8     agency contract for services regarding a contractor's  
9     compliance with public records laws; requiring that a  
10    public records request relating to records for a  
11    public agency's contract for services be made directly  
12    to the public agency; requiring a contractor to  
13    provide requested records to the public agency or  
14    allow inspection or copying of requested records under  
15    specified circumstances; specifying applicable  
16    penalties for a contractor who fails to provide  
17    requested records; specifying circumstances under  
18    which a court must assess reasonable costs of  
19    enforcement against a contractor; specifying  
20    applicable law for reasonable costs of enforcement  
21    assessed against a public agency; providing for  
22    applicability; creating s. 119.0702, F.S.; requiring  
23    each agency to provide training and information on the  
24    requirements of ch. 119, F.S., to agency employees;  
25    requiring each agency to publicly post contact  
26    information for the custodian of public records;  
27    specifying that a violation may not be used as a basis  
28    for an independent cause of action or recovering  
29    attorney fees; specifying that an agency is in

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30 compliance if certain conditions are met; amending s.  
31 119.12, F.S.; requiring a court to determine if a  
32 complainant provided certain written notice to an  
33 agency's custodian of public records in order to  
34 assess and award attorney fees in a civil action to  
35 enforce ch. 119, F.S.; providing an exception;  
36 providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 119.0701, Florida Statutes, is amended  
41 to read:

42 119.0701 Contracts; public records.—

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

44 (a) "Contractor" means an individual, partnership,  
45 corporation, or business entity that enters into a contract for  
46 services with a public agency and is acting on behalf of the  
47 public agency as provided under s. 119.011(2).

48 (b) "Public agency" means a state, county, district,  
49 authority, or municipal officer, or department, division, board,  
50 bureau, commission, or other separate unit of government created  
51 or established by law.

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

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

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59 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF  
60 SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO  
61 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT  
62 ...(custodian of public records)... AT ...(telephone number, e-  
63 mail address, and mailing address)....

64  
65 (b) A provision that requires the contractor to comply with  
66 public records laws, specifically to:

67 1.(a) Keep and maintain public records that ordinarily and  
68 necessarily would be required by the public agency in order to  
69 perform the service.

70 2.(b) Upon request from the public agency's custodian of  
71 public records, provide the public agency with a copy of the  
72 requested records or allow the access to public records to be  
73 inspected or copied within a reasonable time on the same terms  
74 and conditions that the public agency would provide the records  
75 and at a cost that does not exceed the cost provided in this  
76 chapter or as otherwise provided by law.

77 3.(c) Ensure that public records that are exempt or  
78 confidential and exempt from public records disclosure  
79 requirements are not disclosed except as authorized by law for  
80 the duration of the contract term and following completion of  
81 the contract if the contractor does not transfer the records to  
82 the public agency.

83 4.(d) Upon completion of the contract, Meet all  
84 requirements for retaining public records and transfer, at no  
85 cost, to the public agency all public records in possession of  
86 the contractor or keep and maintain public records required by  
87 the public agency to perform the service. If the contractor

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88 transfers all public records to the public agency upon  
89 completion of the contract, the contractor shall ~~upon~~  
90 ~~termination of the contract and~~ destroy any duplicate public  
91 records that are exempt or confidential and exempt from public  
92 records disclosure requirements. If the contractor keeps and  
93 maintains public records upon completion of the contract, the  
94 contractor shall meet all applicable requirements for retaining  
95 public records and provide requested records to a public agency  
96 pursuant to the requirements of this section. All records stored  
97 electronically must be provided to the public agency, upon  
98 request from the public agency's custodian of public records, in  
99 a format that is compatible with the information technology  
100 systems of the public agency.

101 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.-

102 (a) A request to inspect or copy public records relating to  
103 a public agency's contract for services must be made directly to  
104 the public agency. In accordance with s. 119.07(1)(c), the  
105 request must be promptly acknowledged and responded to in good  
106 faith. If the public agency determines that it does not possess  
107 the requested records, the public agency shall immediately  
108 notify the contractor of the request, and the contractor must  
109 provide the records to the public agency or allow the records to  
110 be inspected or copied within a reasonable time.

111 (b) If a contractor does not comply with the public  
112 agency's ~~a public records~~ request for records, the public agency  
113 shall enforce the contract provisions in accordance with the  
114 contract.

115 (c) A contractor who fails to provide the public records to  
116 the public agency within a reasonable time may be subject to

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117 penalties under s. 119.10.

118 (4) CIVIL ACTION.—

119 (a) If a civil action is filed to compel production of  
120 public records relating to the public agency's contract for  
121 services, the court shall assess and award against the  
122 contractor the reasonable costs of enforcement, including  
123 reasonable attorney fees, if the party filing the action  
124 provides written notice of the public records request, including  
125 a statement that the contractor has not complied with the  
126 request. The notice must be sent by common carrier delivery  
127 service or by registered, Global Express Guaranteed, or  
128 certified mail, with postage or shipping paid by the sender and  
129 with evidence of delivery, which may be in an electronic format.  
130 The notice must be sent by the plaintiff at least 8 business  
131 days before the plaintiff files the civil action.

132 (b) An award of the reasonable costs of enforcement against  
133 a public agency must be in accordance with s. 119.12.

134 Section 2. A public agency has until October 1, 2015, to  
135 amend a public agency contract for services, if needed, in order  
136 to comply with the amendment made by this act to section  
137 119.0701, Florida Statutes.

138 Section 3. Section 119.0702, Florida Statutes, is created  
139 to read:

140 119.0702 Agency requirements for staff training and public  
141 postings.—

142 (1) Each agency shall determine and provide the appropriate  
143 amount of information or training on the requirements of this  
144 chapter for each agency employee, taking into consideration  
145 whether the employee's duties are performed in any office where

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146 public records are routinely created, sent, received,  
147 maintained, and requested.

148 (2) Each agency shall post the contact information for the  
149 agency's custodian of public records in any office to which the  
150 public has access in which public records are routinely created,  
151 sent, received, maintained, and requested, and shall post the  
152 contact information for the custodian of public records on the  
153 agency's website if the agency has a website.

154 (3) A violation of this section does not form the basis of  
155 an independent cause of action and may not be used to recover  
156 attorney fees under s. 119.12.

157 (4) If an agency provides information or training to agency  
158 staff and publicly posts contact information in accordance with  
159 the requirements of subsections (1) and (2), the agency is  
160 deemed to be in compliance with this section.

161 Section 4. Section 119.12, Florida Statutes, is amended to  
162 read:

163 119.12 Attorney ~~Attorney's~~ fees.—

164 (1) When ~~If~~ a civil action is filed against an agency to  
165 enforce the provisions of this chapter, and if the court  
166 determines that the agency was provided written notice of the  
167 public records request to the agency's custodian of public  
168 records, using contact information provided by the agency, at  
169 least 2 business days before filing the action and that the  
170 court determines that such agency unlawfully refused to permit a  
171 public record to be inspected or copied, the court shall assess  
172 and award, against the responsible agency ~~responsible~~, the  
173 reasonable costs of enforcement. The complainant is not required  
174 to provide written notice to the agency's custodian of public

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175 records if the agency failed to post contact information for its  
176 custodian of public records in accordance with s. 119.0702.

177 (2) The reasonable costs of enforcement include, but are  
178 not limited to, ~~including~~ reasonable attorney ~~attorneys'~~ fees.

179 Section 5. This act shall take effect upon becoming a law.