

By Senator Simpson

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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 determining the reasonable costs of  
21      enforcement assessed against a public agency;  
22      requiring a public agency to amend a contract for  
23      services by a time certain to comply with the act;  
24      providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28       Section 1. Section 119.0701, Florida Statutes, is amended  
29      to read:

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30 119.0701 Contracts; public records.—

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

32 (a) “Contractor” means an individual, partnership,  
 33 corporation, or business entity that enters into a contract for  
 34 services with a public agency and is acting on behalf of the  
 35 public agency as provided under s. 119.011(2).

36 (b) “Public agency” means a state, county, district,  
 37 authority, or municipal officer, or department, division, board,  
 38 bureau, commission, or other separate unit of government created  
 39 or established by law.

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

43 (a) The following statement, in substantially the following  
 44 form, identifying the contact information of the public agency’s  
 45 custodian of public records in at least 14-point boldfaced type:

46  
 47 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF  
 48 SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO  
 49 PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT  
 50 ...(custodian of public records)... AT ...(telephone number, e-  
 51 mail address, and mailing address)....

52  
 53 (b) A provision that requires the contractor to comply with  
 54 public records laws, specifically to:

55 1.-(a) Keep and maintain public records that ordinarily and  
 56 necessarily would be required by the public agency in order to  
 57 perform the service.

58 2.-(b) Upon request from the public agency’s custodian of

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59 public records, provide the public agency with a copy of the  
60 requested records or allow the access to public records to be  
61 inspected or copied within a reasonable time on the same terms  
62 and conditions that the public agency would provide the records  
63 and at a cost that does not exceed the cost provided in this  
64 chapter or as otherwise provided by law.

65 3.(e) Ensure that public records that are exempt or  
66 confidential and exempt from public records disclosure  
67 requirements are not disclosed except as authorized by law for  
68 the duration of the contract term and following completion of  
69 the contract if the contractor does not transfer the records to  
70 the public agency.

71 4.(d) Upon completion of the contract, Meet all  
72 requirements for retaining public records and transfer, at no  
73 cost, to the public agency all public records in possession of  
74 the contractor or keep and maintain public records required by  
75 the public agency to perform the service. If the contractor  
76 transfers all public records to the public agency upon  
77 completion of the contract, the contractor shall upon  
78 termination of the contract and destroy any duplicate public  
79 records that are exempt or confidential and exempt from public  
80 records disclosure requirements. If the contractor keeps and  
81 maintains public records upon completion of the contract, the  
82 contractor shall meet all applicable requirements for retaining  
83 public records and provide requested records to a public agency  
84 pursuant to the requirements of this section. All records stored  
85 electronically must be provided to the public agency, upon  
86 request from the public agency's custodian of public records, in  
87 a format that is compatible with the information technology

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88 systems of the public agency.

89 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

90 (a) A request to inspect or copy public records relating to  
91 a public agency's contract for services must be made directly to  
92 the public agency. If the public agency does not possess the  
93 requested records, the public agency shall immediately notify  
94 the contractor of the request, and the contractor must provide  
95 the records to the public agency or allow the records to be  
96 inspected or copied within a reasonable time.

97 (b) If a contractor does not comply with the public  
98 agency's ~~a public records~~ request for records, the public agency  
99 shall enforce the contract provisions in accordance with the  
100 contract.

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

104 (4) CIVIL ACTION.—

105 (a) If a civil action is filed to compel production of  
106 public records relating to the public agency's contract for  
107 services, the court shall assess and award against the  
108 contractor the reasonable costs of enforcement, including  
109 reasonable attorney fees, if the party filing the action  
110 provides written notice of the public records request, including  
111 a statement that the contractor has not complied with the  
112 request. The notice must be sent by common carrier delivery  
113 service or by registered, Global Express Guaranteed, or  
114 certified mail, with postage or shipping paid by the sender and  
115 with evidence of delivery, which may be in an electronic format.  
116 The notice must be sent by the plaintiff at least 8 business

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117 days before the plaintiff files the civil action.

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

120 Section 2. A public agency has until October 1, 2016, to  
121 amend a public agency contract for services, if needed, in order  
122 to comply with the amendment made by this act to section  
123 119.0701, Florida Statutes.

124 Section 3. This act shall take effect upon becoming a law.