



304888

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/15/2017	.	
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The Committee on Judiciary (Steube) recommended the following:

1           **Senate Substitute for Amendment (304520) (with title**  
2 **amendment)**

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4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 119.12, Florida Statutes, is amended to  
7 read:

8           119.12 Attorney ~~Attorney's~~ fees.-

9           (1) If a civil action is filed against an agency to enforce  
10 the provisions of this chapter ~~and if the court determines that~~  
11 ~~such agency unlawfully refused to permit a public record to be~~



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12 ~~inspected or copied~~, the court shall assess and award, ~~against~~  
13 ~~the agency responsible~~, the reasonable costs of enforcement,  
14 including reasonable attorney attorneys' fees, against the  
15 responsible agency if the court determines that:

16 (a) The agency unlawfully refused to permit a public record  
17 to be inspected or copied; and

18 (b) The complainant provided written notice identifying the  
19 public record request to the agency's custodian of public  
20 records at least 5 business days before filing the civil action,  
21 except as provided under subsection (2). The notice period  
22 begins on the day the written notice of the request is received  
23 by the custodian of public records, excluding Saturday, Sunday,  
24 and legal holidays, and runs until 5 business days have elapsed.

25 (2) The complainant is not required to provide written  
26 notice of the public record request to the agency's custodian of  
27 public records as provided in paragraph (1)(b) if the agency  
28 does not prominently post the contact information for the  
29 agency's custodian of public records in the agency's primary  
30 administrative building in which public records are routinely  
31 created, sent, received, maintained, and requested and on the  
32 agency's website, if the agency has a website.

33 (3) The court shall determine whether the complainant  
34 requested to inspect or copy a public record or participated in  
35 the civil action for an improper purpose. If the court  
36 determines there was an improper purpose, the court may not  
37 assess and award the reasonable costs of enforcement, including  
38 reasonable attorney fees, to the complainant, and shall assess  
39 and award against the complainant and to the agency the  
40 reasonable costs, including reasonable attorney fees, incurred



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41 by the agency in responding to the civil action. For purposes of  
42 this subsection, the term "improper purpose" means a request to  
43 inspect or copy a public record or to participate in the civil  
44 action primarily to harass the agency, cause a violation of this  
45 chapter, or for frivolous purpose.

46 (4) This section does not create a private right of action  
47 authorizing the award of monetary damages for a person who  
48 brings an action to enforce the provisions of this chapter.

49 Payments by the responsible agency may include only the  
50 reasonable costs of enforcement, including reasonable attorney  
51 fees, directly attributable to a civil action brought to enforce  
52 the provisions of this chapter.

53 Section 2. This act applies only to public records requests  
54 made on or after the effective date of this act.

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

56

57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause  
60 and insert:

61 A bill to be entitled

62 An act relating to public records; amending s. 119.12,  
63 F.S.; revising the circumstances under which a court  
64 must assess and award the reasonable costs of  
65 enforcement against an agency in a civil action to  
66 enforce ch. 119, F.S.; specifying circumstances under  
67 which a complainant is not required to provide certain  
68 written notice of a public records request; requiring  
69 a court to determine whether a complainant requested



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70 to inspect or copy a public record or participated in  
71 a civil action for an improper purpose; prohibiting  
72 the assessment and award of the reasonable costs of  
73 enforcement to a complainant who acted with an  
74 improper purpose; requiring the court to assess and  
75 award reasonable costs against the complainant if he  
76 or she is found to have acted with an improper  
77 purpose; defining the term "improper purpose";  
78 providing for construction and applicability;  
79 providing an effective date.