



510198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/14/2018	.	
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The Committee on Judiciary (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (j) is added to subsection (1) of
section 119.07, Florida Statutes, to read:

119.07 Inspection and copying of records; photographing
public records; fees; exemptions.—

(1)

(j)1. If an agency is uncertain as to whether an exemption
is applicable to the record that is the subject of a public



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12 records request, the agency must provide a written statement to
13 the requester of such determination and notify the requester of
14 the right to enter into mediation under the public records
15 mediation program created under s. 16.60 in order to facilitate
16 a resolution of the public records request. If the requester
17 declines to enter into mediation with the agency or if the
18 parties to the mediation fail to reach a mutually acceptable and
19 voluntary agreement regarding the public records request, the
20 requester may request that the agency seek a declaratory
21 interpretation as to whether the requested record is subject to
22 an exemption. Upon such request, the agency shall file the
23 petition for the declaratory interpretation in the circuit court
24 of the county in which the requester resides. Additionally, the
25 agency may seek a declaratory interpretation regardless of
26 whether the requester requests that the agency file such a
27 petition. The requester has standing to participate in any
28 proceeding regarding the declaratory interpretation, but the
29 agency is responsible for all court costs and attorney fees as
30 to the declaratory interpretation petition.

31 2. An agency may not initiate a civil action against a
32 requester in response to the request to inspect or copy a public
33 record, but is not prohibited from responding to a civil action
34 that is filed against the agency by the requester. This
35 subparagraph does not impair an agency's authority to initiate a
36 civil action against a requester in a matter that is unrelated
37 to the public records request.

38 3. Any declaratory interpretation issued pursuant to this
39 paragraph is binding on the parties to the public records
40 request but is subject to appeal by either of the parties.



41 4. For purposes of this paragraph, the term "declaratory
42 interpretation" means a petition filed with the circuit court in
43 which an agency seeks the opinion of the court as to the
44 applicability of an exemption to a record that is requested for
45 inspection or copying.

46 Section 2. This act shall take effect July 1, 2018.

47
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete everything before the enacting clause
51 and insert:

52 A bill to be entitled
53 An act relating to public records; amending s. 119.07,
54 F.S.; requiring an agency to provide a certain written
55 statement to a person seeking to inspect or copy a
56 record if the agency is uncertain as to whether the
57 requested record is subject to a public records
58 exemption; authorizing the requester of the record to
59 request that the agency seek a declaratory
60 interpretation, under specified circumstances;
61 requiring the agency to file a petition for a
62 declaratory interpretation upon receiving such
63 request; authorizing the agency to seek a declaratory
64 interpretation, regardless of whether having received
65 a request; providing that the requester has standing
66 to participate in any proceeding regarding the
67 declaratory interpretation; specifying that the agency
68 is responsible for court costs and attorney fees
69 regarding the petition for a declaratory



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70 interpretation; prohibiting an agency from initiating
71 a civil action against a requester in response to a
72 public records request; providing for construction;
73 specifying that a declaratory interpretation is
74 binding on the parties but is subject to appeal;
75 defining the term "declaratory interpretation";
76 providing an effective date.