



510198

LEGISLATIVE ACTION

Senate

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House

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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.



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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.

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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.