

By Senator Wright

8-00225-24

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.0701, F.S.; defining the term "service provider";
4 requiring that certain public agency contracts include
5 a requirement that service providers comply with
6 public records laws; requiring a public agency, upon
7 request to inspect or copy public records, to
8 immediately notify the service provider of the
9 request; requiring the service provider to provide or
10 make available the public records; requiring the
11 public agency to enforce the contract if a service
12 provider does not provide or make available public
13 records; providing criminal and civil penalties for
14 failure of a service provider to provide public
15 records; providing civil penalties; conforming
16 provisions to changes made by the act; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 119.0701, Florida Statutes, is amended
22 to read:

23 119.0701 Contracts; public records; request for contractor
24 and service provider records; civil action.—

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

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

8-00225-24

2024290__

30 (b) "Public agency" means a state, county, district,
31 authority, or municipal officer, or department, division, board,
32 bureau, commission, or other separate unit of government created
33 or established by law.

34 (c) "Service provider" means an individual, a partnership,
35 a corporation, or a business entity that enters into a contract
36 for services with a public agency and is not acting on behalf of
37 the public agency.

38 (2) CONTRACT REQUIREMENTS.—In addition to other contract
39 requirements provided by law, each public agency contract for
40 services entered into or amended on or after July 1, 2024 ~~2016~~,
41 must include:

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

45
46 IF THE CONTRACTOR OR SERVICE PROVIDER HAS QUESTIONS REGARDING
47 THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE
48 CONTRACTOR'S OR SERVICE PROVIDER'S DUTY TO PROVIDE PUBLIC
49 RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF
50 PUBLIC RECORDS AT ... (telephone number, e-mail address, and
51 mailing address)....

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

55 1. Keep and maintain public records required by the public
56 agency to perform the service.

57 2. Upon request from the public agency's custodian of
58 public records, provide the public agency with a copy of the

8-00225-24

2024290__

59 requested public records or allow the public records to be
60 inspected or copied within a reasonable time at a cost that does
61 not exceed the cost provided in this chapter or as otherwise
62 provided by law.

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

69 4. Upon completion of the contract, transfer, at no cost,
70 to the public agency all public records in possession of the
71 contractor or service provider or keep and maintain public
72 records required by the public agency to perform the service. If
73 the contractor or service provider transfers all public records
74 to the public agency upon completion of the contract, the
75 contractor or service provider must ~~shall~~ destroy any duplicate
76 public records that are exempt or confidential and exempt from
77 public records disclosure requirements. If the contractor or
78 service provider keeps and maintains public records upon
79 completion of the contract, the contractor or service provider
80 must ~~shall~~ meet all applicable requirements for retaining public
81 records pursuant to s. 119.021. All public records stored
82 electronically must be provided to the public agency, upon
83 request from the public agency's custodian of public records, in
84 a format that is compatible with the information technology
85 systems of the public agency.

86 (3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

87 (a) A request to inspect or copy public records relating to

8-00225-24

2024290__

88 a public agency's contract for services must be made directly to
89 the public agency. If the public agency does not possess the
90 requested records, the public agency must ~~shall~~ immediately
91 notify the contractor or service provider of the request, and
92 the contractor or service provider must provide the records to
93 the public agency or allow the records to be inspected or copied
94 within a reasonable time.

95 (b) If a contractor or service provider does not comply
96 with the public agency's request for records, the public agency
97 must ~~shall~~ enforce the contract provisions in accordance with
98 the contract.

99 (c) A contractor or service provider that ~~who~~ fails to
100 provide the public records to the public agency within a
101 reasonable time may be subject to penalties under s. 119.10.

102 (4) CIVIL ACTION.—

103 (a) If a civil action is filed against a contractor or
104 service provider to compel production of public records relating
105 to a public agency's contract for services, the court shall
106 assess and award against the contractor or service provider the
107 reasonable costs of enforcement, including reasonable attorney
108 fees, if:

109 1. The court determines that the contractor or service
110 provider unlawfully refused to comply with the public records
111 request within a reasonable time; and

112 2. At least 8 business days before filing the action, the
113 plaintiff provided written notice of the public records request,
114 including a statement that the contractor or service provider
115 has not complied with the request, to the public agency and to
116 the contractor or service provider.

8-00225-24

2024290__

117 (b) A notice complies with subparagraph (a)2. if it is sent
118 to the public agency's custodian of public records and to the
119 contractor or service provider at the contractor's or service
120 provider's address listed on its contract with the public agency
121 or to the contractor's or service provider's registered agent.
122 Such notices must be sent by common carrier delivery service or
123 by registered, Global Express Guaranteed, or certified mail,
124 with postage or shipping paid by the sender and with evidence of
125 delivery, which may be in an electronic format.

126 (c) A contractor or service provider that ~~who~~ complies with
127 a public records request within 8 business days after the notice
128 is sent is not liable for the reasonable costs of enforcement.

129 Section 2. This act shall take effect July 1, 2024.