

By the Committees on Judiciary; and Community Affairs; and
Senators Steube and Garcia

590-02441-17

201780c2

1 A bill to be entitled
2 An act relating to public records; amending s. 119.12,
3 F.S.; revising the circumstances under which a court
4 must assess and award the reasonable costs of
5 enforcement against an agency in a civil action to
6 enforce ch. 119, F.S.; specifying circumstances under
7 which a complainant is not required to provide certain
8 written notice of a public records request; requiring
9 a court to determine whether a complainant requested
10 to inspect or copy a public record or participated in
11 a civil action for an improper purpose; prohibiting
12 the assessment and award of the reasonable costs of
13 enforcement to a complainant who acted with an
14 improper purpose; requiring the court to assess and
15 award reasonable costs against the complainant if he
16 or she is found to have acted with an improper
17 purpose; defining the term "improper purpose";
18 providing for construction and applicability;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 119.12, Florida Statutes, is amended to
24 read:

25 119.12 Attorney ~~Attorney's~~ fees.—

26 (1) If a civil action is filed against an agency to enforce
27 the provisions of this chapter ~~and if the court determines that~~
28 ~~such agency unlawfully refused to permit a public record to be~~
29 ~~inspected or copied~~, the court shall assess and award, ~~against~~

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30 ~~the agency responsible,~~ the reasonable costs of enforcement,
31 including reasonable attorney attorneys' fees, against the
32 responsible agency if the court determines that:

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

35 (b) The complainant provided written notice identifying the
36 public record request to the agency's custodian of public
37 records at least 5 business days before filing the civil action,
38 except as provided under subsection (2). The notice period
39 begins on the day the written notice of the request is received
40 by the custodian of public records, excluding Saturday, Sunday,
41 and legal holidays, and runs until 5 business days have elapsed.

42 (2) The complainant is not required to provide written
43 notice of the public record request to the agency's custodian of
44 public records as provided in paragraph (1)(b) if the agency
45 does not prominently post the contact information for the
46 agency's custodian of public records in the agency's primary
47 administrative building in which public records are routinely
48 created, sent, received, maintained, and requested and on the
49 agency's website, if the agency has a website.

50 (3) The court shall determine whether the complainant
51 requested to inspect or copy a public record or participated in
52 the civil action for an improper purpose. If the court
53 determines there was an improper purpose, the court may not
54 assess and award the reasonable costs of enforcement, including
55 reasonable attorney fees, to the complainant, and shall assess
56 and award against the complainant and to the agency the
57 reasonable costs, including reasonable attorney fees, incurred
58 by the agency in responding to the civil action. For purposes of

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59 this subsection, the term "improper purpose" means a request to
60 inspect or copy a public record or to participate in the civil
61 action primarily to harass the agency, cause a violation of this
62 chapter, or for a frivolous purpose.

63 (4) This section does not create a private right of action
64 authorizing the award of monetary damages for a person who
65 brings an action to enforce the provisions of this chapter.
66 Payments by the responsible agency may include only the
67 reasonable costs of enforcement, including reasonable attorney
68 fees, directly attributable to a civil action brought to enforce
69 the provisions of this chapter.

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

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