

By the Committee on Governmental Oversight and Accountability;
and Senators Simpson, Margolis, Gibson, and Hays

585-01484-15

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.0701, F.S.; requiring that a public agency
4 contract for services include a statement providing
5 the name and contact information of the public
6 agency's custodian of records; prescribing the form of
7 the statement; revising required provisions in a
8 public agency contract for services regarding a
9 contractor's compliance with public records laws;
10 requiring that a public records request relating to
11 records for a public agency's contract for services be
12 made directly to the agency; requiring a contractor to
13 produce requested records under specified
14 circumstances; specifying applicable penalties for a
15 contractor who fails to produce requested records;
16 specifying circumstances under which a court may
17 assess and award reasonable costs of enforcement
18 against a public agency or contractor; providing an
19 effective date.

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

22
23 Section 1. Section 119.0701, Florida Statutes, is amended
24 to read:

25 119.0701 Contracts; public records.—

26 (1) For purposes of this section, the term:

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

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30 public agency as provided under s. 119.011(2).

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

35 (2) In addition to other contract requirements provided by
36 law, each public agency contract for services must include:

37 (a) The following statement, in substantially the following
38 form, identifying the name and contact information of the public
39 agency's custodian of public records in at least 14-point,
40 boldface type:

41
42 THE REQUIREMENTS OF SECTION 119.0701, FLORIDA STATUTES, APPLY TO
43 THIS CONTRACT UNLESS ...(name of public agency)... HAS
44 DETERMINED AND EXPRESSLY STATED IN THIS CONTRACT THAT ...(name
45 of individual, partnership, corporation, or business entity)...
46 IS NOT A CONTRACTOR. IF YOU HAVE QUESTIONS REGARDING THE
47 APPLICATION OF SECTION 119.0701, FLORIDA STATUTES, TO YOUR DUTY
48 TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT
49 ...(name of custodian of public records)... AT ...(telephone
50 number, e-mail address, and mailing address)....

51
52 (b) A provision that requires the contractor to comply with
53 public records laws, specifically to:

54 1.(a) Keep and maintain public records that ordinarily and
55 necessarily would be required by the public agency in order to
56 perform the service.

57 2.(b) Upon request from the public agency's custodian of
58 public records, provide the public with access to public records

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59 on the same terms and conditions that the public agency would
60 provide the records and at a cost that does not exceed the cost
61 provided in this chapter or as otherwise provided by law.

62 3.(e) Ensure that public records that are exempt or
63 confidential and exempt from public records disclosure
64 requirements are not disclosed except as authorized by law.

65 4.(d) Keep and maintain public records, upon completion of
66 the contract, which ordinarily would be required by the public
67 agency in order to perform the service, or ~~Meet all requirements~~
68 ~~for retaining public records and~~ transfer, at no cost, to the
69 public agency all public records in possession of the contractor
70 ~~upon termination of the contract~~ and destroy any duplicate
71 public records that are exempt or confidential and exempt from
72 public records disclosure requirements. Upon request from the
73 public agency's custodian of public records, all records stored
74 electronically must be provided to the public agency in a format
75 that is compatible with the information technology systems of
76 the public agency.

77 (3) A records request for public records relating to a
78 public agency's contract for services must be made directly to
79 the public agency. If the public agency does not possess the
80 requested records, the public agency shall immediately notify
81 the contractor of the request, and the contractor must produce
82 the records within a reasonable time. A contractor who fails to
83 produce the records within a reasonable time is subject to
84 penalties under s. 119.10.

85 (4) ~~(3)~~ If a contractor does not comply with a public
86 records request, the public agency shall enforce the contract
87 provisions in accordance with the contract.

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88 (5) If a civil action is filed against a public agency or a
89 contractor who continues to possess public records to compel
90 production of such records relating to the public agency's
91 contract for services, the court shall assess and award against
92 the responsible public agency or contractor the reasonable costs
93 of enforcement, including reasonable attorney fees, if the party
94 filing the action provided written notice of the public records
95 request, including a statement that the contractor has not
96 complied with the request. This notice must be sent by certified
97 mail to the public agency's custodian of public records at least
98 3 business days before filing the action, and must be provided
99 to the contractor if the contractor is a named party in the
100 action.

101 Section 2. This act shall take effect upon becoming a law.