

By the Committees on Judiciary; and Governmental Oversight and Accountability; and Senator Garcia

590-03314-16

20161220c2

1 A bill to be entitled

2 An act relating to public records; amending s. 119.12,  
3 F.S.; requiring a complainant to provide specified  
4 written notice to an agency's custodian of public  
5 records in order to be awarded the reasonable costs of  
6 enforcement in a civil action for enforcement of ch.  
7 119, F.S.; specifying circumstances under which a  
8 court may not assess and award the reasonable costs of  
9 enforcement against a responsible agency; providing an  
10 exception to the requirement that a complainant  
11 provide written notice before filing a civil action;  
12 providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Section 119.12, Florida Statutes, is amended to  
17 read:

18 119.12 Attorney ~~Attorney's~~ fees.—

19 (1) If a civil action is filed against an agency to enforce  
20 the provisions of this chapter and ~~if~~ the court determines that  
21 the complainant provided written notice clearly and  
22 conspicuously identifying the public record request to the  
23 agency's custodian of public records at least 5 business days  
24 before filing the civil action, except as provided under  
25 subsection (3), and that the ~~such~~ agency unlawfully refused to  
26 permit a public record to be inspected or copied, the court  
27 shall assess and award, ~~against the agency responsible,~~ the  
28 reasonable costs of enforcement, including reasonable attorney  
29 ~~attorneys'~~ fees, against the responsible agency.

30 (2) The court may not assess and award any reasonable costs  
31 of enforcement, including reasonable attorney fees, against the

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32 responsible agency if the court determines that:

33 (a) The civil action or the request to inspect or copy a  
34 public record was frivolous, malicious, or reasonably appears to  
35 have been intended to harass the agency, or was brought or made  
36 for the primary purpose of causing a violation of this chapter;  
37 or

38 (b) Any alleged delay or error in permitting a public  
39 record to be inspected or copied was a technical violation of  
40 this chapter which constituted harmless error under the  
41 circumstances.

42 (3) 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 subsection (1) if the agency does  
45 not post the contact information for the agency's custodian of  
46 public records in the agency's primary administrative building  
47 in which public records are routinely created, sent, received,  
48 maintained, and requested or on the agency's website.

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