

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

594-03758A-16

20161220c3

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.; prohibiting a court from  
7 assessing and awarding the reasonable costs of  
8 enforcement against an agency if certain conditions  
9 exist; specifying circumstances under which a  
10 complainant is not required to provide certain written  
11 notice of a public record request; providing an  
12 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 ~~such agency unlawfully refused to permit a public record to be~~  
22 ~~inspected or copied~~, the court shall assess and award, ~~against~~  
23 ~~the agency responsible~~, the reasonable costs of enforcement,  
24 including reasonable attorney attorneys' fees, against the  
25 responsible agency if the court determines that:

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

28 (b) The complainant provided written notice identifying the  
29 public record request to the agency's custodian of public  
30 records at least 5 business days before filing the civil action,  
31 except as provided under subsection (3).

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32       (2) The court may not assess and award any reasonable costs  
33 of enforcement, including reasonable attorney fees, against the  
34 responsible agency if the court determines that the request to  
35 inspect or copy the public record was made primarily to harass  
36 the agency or cause a violation of this chapter.

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

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