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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/15/2017	.	
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	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

119.12 Attorney ~~Attorney's~~ fees.-

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



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12 ~~the agency responsible,~~ the reasonable costs of enforcement,
13 including reasonable attorney attorneys' fees, against the
14 responsible agency if the court determines that:

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

17 (b) The complainant provided written notice identifying the
18 public record request to the agency's custodian of public
19 records at least 5 business days before filing the civil action,
20 except as provided under subsection (2). The notice period
21 begins on the day the written notice of the request is received
22 by the custodian of public records, excluding Saturday, Sunday,
23 and legal holidays, and runs until 5 business days have elapsed.

24 (2) The complainant is not required to provide written
25 notice of the public record request to the agency's custodian of
26 public records as provided in paragraph (1)(b) if the agency
27 does not prominently post the contact information for the
28 agency's custodian of public records in the agency's primary
29 administrative building in which public records are routinely
30 created, sent, received, maintained, and requested and on the
31 agency's website, if the agency has a website.

32 (3) The court shall determine whether the complainant
33 requested to inspect or copy a public record or participated in
34 the civil action for an improper purpose. If the court
35 determines there was an improper purpose, the court may not
36 assess and award the reasonable costs of enforcement, including
37 reasonable attorney fees, to the complainant, and shall assess
38 and award against the complainant and to the agency the
39 reasonable costs, including reasonable attorney fees, incurred
40 by the agency in responding to the civil action. For purposes of



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41 this subsection, the term "improper purpose" means a request to
42 inspect or copy a public record or to participate in the civil
43 action primarily to harass or cause unnecessary delay in the
44 actions of the agency, for frivolous purpose, or to needlessly
45 increase the costs of the actions of the agency.

46 (4) This section does not create a private right of action
47 authorizing the award of monetary damages for a person who
48 brings an action to enforce the provisions of this chapter.
49 Payments by the responsible agency may include only the
50 reasonable costs of enforcement, including reasonable attorney
51 fees, directly attributable to a civil action brought to enforce
52 the provisions of this chapter.

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

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

56
57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause
60 and insert:

61 A bill to be entitled
62 An act relating to public records; amending s. 119.12,
63 F.S.; revising the circumstances under which a court
64 must assess and award the reasonable costs of
65 enforcement against an agency in a civil action to
66 enforce ch. 119, F.S.; specifying circumstances under
67 which a complainant is not required to provide certain
68 written notice of a public records request; requiring
69 a court to determine whether a complainant requested



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70 to inspect or copy a public record or participated in
71 a civil action for an improper purpose; prohibiting
72 the assessment and award of the reasonable costs of
73 enforcement to a complainant who acted with an
74 improper purpose; requiring the court to assess and
75 award reasonable costs against the complainant if he
76 or she is found to have acted with an improper
77 purpose; defining the term "improper purpose";
78 providing for construction and applicability;
79 providing an effective date.