

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 public records; prescribing the
 7 form of the statement; revising required provisions in
 8 a 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 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.

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

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

52

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

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

58 2.~~(b)~~ Upon request from the public agency's custodian of
 59 public records, provide the public with access to public records
 60 on the same terms and conditions that the public agency would
 61 provide the records and at a cost that does not exceed the cost
 62 provided in this chapter or as otherwise provided by law.

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

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

78 (3) A request for public records relating to a public

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

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

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

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