

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 signed or amended on or after a
 5 specified date include a statement providing the
 6 contact information of the public agency's custodian
 7 of public records; prescribing the form of the
 8 statement; revising required provisions in a public
 9 agency contract for services regarding a contractor's
 10 compliance with public records laws; requiring that a
 11 public records request relating to records for a
 12 public agency contract for services be made directly
 13 to the agency; requiring a contractor to produce
 14 requested records under specified circumstances;
 15 specifying applicable penalties for a contractor who
 16 fails to produce requested records; specifying
 17 circumstances under which a court may assess and award
 18 reasonable costs of enforcement against a public
 19 agency or contractor; providing an 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
 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 contact information of the
 39 public agency's custodian of public records in at least 14-point
 40 boldfaced type for each public agency contract for services
 41 signed or amended on or after July 1, 2015:

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 43 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICABILITY
 44 OF SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S
 45 DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT,
 46 CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT ...(telephone
 47 number, e-mail address, and mailing address)....

48
 49 (b) A provision that requires the contractor to comply
 50 with public records laws, specifically to:

51 1.-(a) Keep and maintain public records that ordinarily and
 52 necessarily would be required by the public agency in order to

53 perform the service.

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

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

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

74 (3) A request for public records relating to a public
75 agency contract for services must be made directly to the public
76 agency. If the public agency does not possess the requested
77 records, the public agency shall immediately notify the
78 contractor of the request, and the contractor must produce the

79 records within a reasonable time. A contractor who fails to
80 produce the records within a reasonable time is subject to
81 penalties under s. 119.10.

82 (4)~~(3)~~ If a contractor does not comply with a public
83 records request, the public agency shall enforce the contract
84 provisions in accordance with the contract.

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

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