

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           119.0701, F.S.; defining the term "acting on behalf of  
 4           a public agency"; revising the definition of the term  
 5           "contractor"; requiring that a public agency contract  
 6           for services include a statement providing the name  
 7           and telephone number of the public agency's custodian  
 8           of records; prescribing the form of the statement;  
 9           revising contractual provisions in a public agency  
 10          contract for services regarding a contractor's  
 11          compliance with public records laws; specifying  
 12          circumstances under which a court may assess and award  
 13          reasonable costs of enforcement against a public  
 14          agency or contractor; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

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 18           Section 1.   Section 119.0701, Florida Statutes, is amended  
 19 to read:

20           119.0701   Contracts; public records.—

21           (1)   For purposes of this section, the term:

22           (a) "Acting on behalf of a public agency" means the  
 23 performance of a delegated function that is the responsibility  
 24 of the public agency.

25           (b) ~~(a)~~ "Contractor" means an individual, partnership,  
 26 corporation, or business entity that enters into a contract for

27 | services with a public agency and is acting on behalf of the  
 28 | public agency as provided under s. 119.011(2) or is performing a  
 29 | governmental function or a function that the public agency would  
 30 | otherwise perform.

31 | (c) ~~(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 identifying the name and  
 38 | telephone number of the public agency's custodian of public  
 39 | records in at least 14-point, boldface type:

40 |  
 41 | THE REQUIREMENTS OF SECTION 119.0701, FLORIDA STATUTES, MAY  
 42 | APPLY TO THIS CONTRACT. IF YOU HAVE QUESTIONS REGARDING THE  
 43 | APPLICATION OF SECTION 119.0701, FLORIDA STATUTES, TO YOUR DUTY  
 44 | TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT  
 45 | ...(name of custodian of public records)... AT ...(telephone  
 46 | number)....

47 |  
 48 | (b) A provision that requires the contractor to comply  
 49 | with public records laws, specifically to:

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

53        2.~~(b)~~ Provide the public with access to public records on  
54 the same terms and conditions that the public agency would  
55 provide the records and at a cost that does not exceed the cost  
56 provided in this chapter or as otherwise provided by law.

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

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

72        (3) If a contractor does not comply with a public records  
73 request, the public agency shall enforce the contract provisions  
74 in accordance with the contract.

75        (4) If a civil action is filed to compel production of  
76 public records relating to a public agency's contract for  
77 services against a public agency or a contractor that continues  
78 to possess such records, the court shall assess and award

79 against the responsible public agency or contractor the  
80 reasonable costs of enforcement, including reasonable attorney  
81 fees, if:

82 (a) The party filing the action provided written notice of  
83 the public records request, including a statement that the  
84 contractor has not complied with the request, by certified mail  
85 to the public agency's custodian of public records at least 5  
86 business days before filing the action, and provided such notice  
87 to the contractor if the contractor is a named party in the  
88 action.

89 (b) The court makes specific, written factual findings  
90 that the contractor acted in bad faith or willfully disregarded  
91 applicable law in refusing to allow a public record to be  
92 inspected or copied.

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