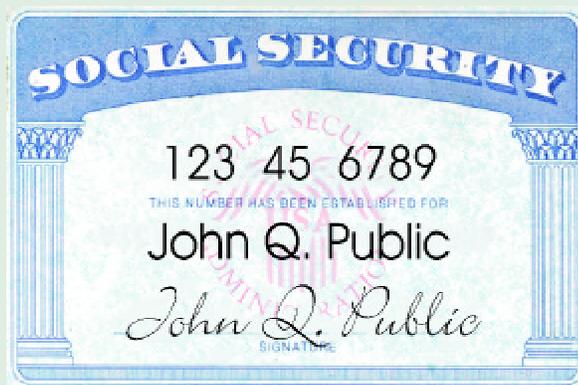


# Guidance on Public Records Laws

## CS/HB 1673 The Privacy of Social Security Numbers

Chapter 2002-256, Laws of Florida



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## Introduction

The original bill drafted and proposed by the Governor's Office required that all social security numbers contained in *any* public record in the custody of an agency, as defined in Chapter 119, F.S., its agents, employees or contractors were to be confidential and the disclosure of such numbers to a third party would be a felony.

**CS/HB 1673** went through extensive revision as it traveled through the legislative process. As passed, the bill contains specific provisions regarding records held by the Clerks of Court and Comptrollers. The bill also establishes a process for "commercial entities" to have access to social security numbers for legitimate "commercial activity" pursuant to a verified written request.

Additionally, the bill provides a broad range of penalties for the improper distribution of social security numbers.

In April 2002, Education Chair, Barbara T. Scott, named a group of Clerk/Comptroller staff to a workgroup to review this bill in more detail and provide guidance for the practical application and implementation of this bill by Florida's Clerks and Comptroller Offices.

The workgroup was comprised of the following members:

- Randy Long, Charlotte County, chair
- Don Allgood, Okaloosa County
- Becky Bradley, Polk County
- Debbie Bruce, Orange County Comptroller
- Elaine Coats, Nassau County
- Pat Hargraves, Hernando County
- Helene Marks, Hillsborough County
- Bernice Norton, Dade County
- Karl Youngs, Manatee County
- Fred W, Baggett, FACC General Counsel
- Beth Allman, FACC staff

The following guidance document represents the work product of this group.

GENERAL POINTS OF CLARIFICATION RE: CS/HB 1673:

- (1) **CS/HB 1673** relates to the redaction/removal of social security numbers from records contained in a court file or redaction/removal of such social security number from an image or copy of an Official Record on a "publicly available Internet website."
- (2) The redaction/removal of social security numbers from the actual Official Record maintained in the office by the Clerk/Comptroller or County Recorder is not authorized.
- (3) After October 1, 2002, the filer of a judgment or order containing a social security number is responsible to place such social security number on a separate sheet. However, this responsibility will be removed upon **SB 24-E** becoming law.
- (4) An "agency" that "collects" social security numbers when authorized by law, must segregate the social security number on a separate sheet.
- (5) The general public may not have access to "agency" records containing social security numbers.
- (6) Only government entities and commercial entities that submit a statutorily authorized written request may view the social security number contained on the separate sheet.
- (7) The Clerk/Comptroller is not authorized to refuse any filing which contains a social security number on, before or after October 1, 2002.
- (8) **CS/HB 1673** anticipates that after October 1, 2002, all court orders, judgments or docket sheets will be filed without social security numbers. However, if such number is included in a document filed in a court file, it is open and available to the general public. The redaction/removal of social security numbers from documents contained in the court files is authorized only by written request. (See Guidance Document.)
- (9) After October 1, 2002, documents presented for recording should not contain social security numbers unless one is required by law. However, if a document is presented for recording with a social security number in it, the Clerk/Comptroller is without authority to refuse to record it or alter the document in any manner to eliminate the social security number before filing or recording the document. The Clerk/Comptroller is not responsible to decide when the inclusion of social security numbers is authorized by law.

## Frequently Asked Questions

- (1) ***Should the Clerk/Comptroller notify the general public to review all documents for social security numbers before filing or recording a document?***

No. Notice to the public by the Clerk/Comptroller should be limited to the notice required under **CS/HB 1673** and **CS/HB 1679** as set forth in these Guidance Documents. It is very important that all Clerks/Comptrollers be consistent in this.

- (2) ***Should the Clerk/Comptroller keep a redaction/removal request confidential?***

There is no requirement to keep redaction/removal requests confidential. It is suggested that each Clerk/Comptroller use the request form attached to the relevant Guidance Document. This form does not contain a place to include the social security number sought to be redacted/removed. However, if for any reason a request for redaction/removal did include a social security number, then it should be kept confidential.

- (3) ***How can the Clerk/Comptroller redact/remove a social security number from an original court document so it is not discernible any longer, and is the Clerk/Comptroller responsible to annotate a document to show that redaction/removal was done pursuant to CS/HB 1673?***

It is recommended that each Clerk/Comptroller obtain blank labels with permanent adhesive and use such a label to cover the area on the front and back of a document where a social security number is found when redaction/removal has been requested. Although the Clerk/Comptroller is not responsible to annotate the document, these permanent adhesive labels could be preprinted with language similar to: "Redacted pursuant to Florida law on \_\_\_\_\_."

- (4) ***Do Clerks/Comptrollers have to review court documents for social security numbers?***

No. The responsibility is on the filer to make sure they comply with the law. However, it is a good idea to begin to develop a way to ensure that social security numbers are not placed on a "publicly available Internet website" by the Clerk/Comptroller. However, the Clerk/Comptroller is responsible to hold social security numbers exempt from disclosure to the general public when performing administrative functions.

**(5) *If a social security number is contained in a document because it is required by law, can the Clerk redact it upon written request?***

The bill is silent on that point. Upon the passage of **SB 24-E**, a separate sheet for social security numbers contained in orders and judgments will no longer be required and social security numbers included in a court file will be open and available unless redaction/removal is requested. There is no provision prohibiting redaction/removal from any particular court document. However, by contrast redaction/removal of social security numbers from the Official Record is limited to redaction/removal from a copy or image contained on a Clerk's/Comptroller's "publicly available Internet website"; consequently, redaction/removal from a court file should have little effect on the rights of judgment holders and lienors. In the absence of authority to the contrary, when a Clerk/Comptroller receives a legible, written request for redaction/removal of a social security number, which request includes all required identifying information, the Clerk/Comptroller should comply. The Clerk/Comptroller is not required to, and should not, inquire beyond the limits set forth by the Legislature.

**However, if Clerks/Comptrollers undertake to review documents and broaden their responsibilities, they run the risk of becoming liable for errors where no liability currently exists.**

**(6) *When the Clerk/Comptroller redacts a social security number from a court file, should an unredacted copy be maintained?***

No. **CS/HB 1673** does not authorize maintaining two sets of documents. Redaction/Removal from the court file is from the original document and is permanent.

**(7) *How do we know if an entity is a "commercial entity" and is "engaged in the performance of a commercial activity"?***

We accept that they are when they provide us with a verified written request containing the information set forth under the law that says they are. We have no duty to inquire further. (See Guidance Document.)

**(8) *There is some concern over the language in CS/HB 1673 which requires placing a social security number on a separate sheet when social security numbers are required to be included in both civil and criminal judgments under Sections 55.01 and 921.241, Florida Statutes, respectively.***

This concern should become moot upon **SB 24-E** becoming law since no separate sheet will be required for judgments.

**(9) *Can the Clerk/Comptroller maintain a “secure website” containing court files and death certificates attorneys and title companies can view?***

Yes. The workgroup has interpreted the restrictions on the availability of documents to be limited to “publicly available Internet websites” which are available to the general public. This excludes subscription services and sites which are available within the Clerk’s/Comptroller’s offices; therefore, depending on how such information would be made available to attorneys and/or title companies, this should be permissible. (See Guidance Document.)

**(10) *If a “commercial entity” requests a document that contains a social security number, does that trigger our reporting requirement?***

Maybe. If a commercial entity requests a court document or a document from the Official Record where the social security number is open and available to the general public, they are treated like anyone else. If a commercial entity requests a document from the Clerk/Comptroller where the social security number is protected (*i.e.* when performing an administrative function), you should provide the requesting entity with the requested document with the social security number removed unless that commercial entity has given you the proper verified written request. It is this written request that triggers the reporting requirement. It is fair to assume that we will not receive written requests for documents in which the social security number is open and available to the general public.

Please be advised that if the redaction/removal of a social security number has been requested from a court document, a commercial entity will be receiving the redacted copy.

**(11) *Should the Clerk/County Recorder, redact social security numbers from IRS liens or other similar documents maintained on the Official Record?***

No. **CS/HB 1679** does not authorize redacting/removing social security numbers. It is limited to the removal of certain document images placed on a “publicly available Internet website.” An IRS lien is not one of the documents authorized for removal. **CS/HB 1673** does authorize redaction/removal of a social security number from an image of a document contained on a “publicly available Internet website,” but only after a written request has been made. Until January 1, 2006, there is no authority to remove a social security number from the Official Record maintained in the office of the County Recorder. (See Guidance Document on **CS/HB 1673**.)

## Definitions

“**Official records**” are defined in s. 28.001 (1), F. S. to mean each instrument that the Clerk/County Recorder is required or authorized to record in one general series called “Official Records” as provided for in s. 28.222.

“**Public records**” are defined in s. 28.001 (2), F.S., to have the same meaning as in s. 119.011, F.S., and includes each Official Record. Section 119.011 (1), F.S., provides that the term “**public records**” means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

“**Collecting**” or “**collection**” of a social security number by an agency means the agency has been given the number as a result of that agency’s request for such number. For instance, agencies must collect social security numbers from all employees for federal reporting purposes. This is a distinctly separate activity from “receiving” a social security number, such as when the Clerk/Comptroller is given a social security number as part of a record or other document.

“**Electronically available to the general public**” means any electronic mode of record publication external to the County Recorder’s office, such as a “publicly available Internet website,” which is available to the public at large at no charge. By way of example, but not by way of limitation, this definition does not include Intranet sites, in-office Internet sites, microfilm, in-office viewing of any type, or subscription services. (See Guidance Document on **SB 24-E**.)

“**Redaction**” means the permanent removal of identified information from a document.

“**Social security number**” means whatever number is given to the Clerk/Comptroller or County Recorder and identified as a person’s social security number in a redaction/removal request. The Clerk/Comptroller or County Recorder has no responsibility to determine whether the number identified in the request is actually a social security number.

## Summary

**CS/HB 1673** creates a new section of Chapter 119, Florida Statutes, for the purpose of providing an exemption to the public records laws for social security numbers. These exemptions are broken down into several categories. Specifically: (a) social security numbers held by an agency; (b) social security numbers contained in court files; (c) social security numbers contained on a County Recorder's publicly available Internet website; (d) social security numbers sought by "commercial entities" and/or "governmental entities"; and (e) social security numbers "collected" by agencies.

In performing his/her duties, the Clerk/Comptroller is impacted by all of these categories. Therefore, it is important to understand each separate set of responsibilities of the Clerk/Comptroller and how each relates to the provisions of this bill.

- First, the Clerk/Comptroller is the custodian of the court records and must implement the law as it relates to that function (*i.e.*, judgments, orders, docket sheets).
- Second, the Clerk/Comptroller is the County Recorder, and as such, maintains the Official Record. The law specifically addresses the inclusion of social security numbers in documents presented for recording, so procedures need to be established to respond to these provisions.
- Third, the Clerk/Comptroller is an employer and Clerk to the Board. In those capacities, the Clerk/Comptroller maintains records containing social security numbers. Those records fall within the general rule of law established under this bill, but do not fall within the special guidelines set forth for the Clerk/Comptroller in his/her other capacities. Therefore, when performing administrative or Clerk to the Board functions, the Clerk/Comptroller is treated as an "agency" as that term is defined under Chapter 119, Florida Statutes.

As revised by SB 24-E, CS/HB 1673 requires that social security numbers contained in court files and the Official Records are open and available until 2006, unless redaction (permanent removal) is requested. Social security numbers contained in "agency" documents are exempt from public disclosure.

### Upon request for redaction, the rule of thumb is:

**Court file**—redact the requested number from the original court file and on **any** copies made of the document containing the number. This includes microfilm, intranet, and the like. Remove the number permanently.

**Official Records**—remove the requested number from image of the record on the publicly available Internet website, that which is available outside your office.

**Administrative/Personnel/Board Records**—social security numbers are not to be disclosed. They are available to another governmental agency or to a commercial entity making a verified request.

No penalties are applicable for providing a social security number contained in a court file or an Official Record.

## Time Line of Effective Actions for CS/HB 1673

### ***Upon Becoming a Law***

- 1) The Clerks/Comptrollers must stop collecting social security numbers in their "agency" capacity in the absence of a requirement in law to do so (*i.e.* unless it is imperative to have that number to be able to perform the duties of such office).
- 2) Upon request, provide the person whose social security number is being collected with a written purpose statement specifying the reason(s) that the social security number is being collected.
- 3) Post signs throughout the offices and post a notice on a "publicly available Internet website" notifying the public that, as of October 1, 2002, there are limitations regarding the inclusion of a social security number in documents to be recorded in the Official Record unless such numbers are required by law, and further notifying the public of the ability to request redaction/removal of social security numbers from certain specified documents or images at no charge.
- 4) Keep social security numbers on a separate page/attachment in "agency" files.

### ***Prior to October 1, 2002***

The Recorder must run a newspaper notice stating that, as of October 1, 2002:

- a) documents offered for recording may not contain social security numbers, unless such numbers are required by law, and
- b) that a person has the ability to request redaction/removal of such social security number from certain specified documents and/or images contained on a "publicly available Internet website" at no charge.

THE COMMITTEE STRONGLY RECOMMENDS THAT ALL COUNTIES PUBLISH THE REQUIRED NOTICES BETWEEN JUNE 1<sup>ST</sup> AND JUNE 15<sup>TH</sup> IN AN APPROPRIATE PUBLICATION WITHIN THEIR COUNTY.

### ***October 1, 2002***

- 1) All social security numbers "collected" by an "agency" are confidential. (See Guidance Document on **SB 24-E**.)
- 2) Final judgments, court orders, or docket sheets containing a social security number must have the number placed on a separate attachment or page by the filer of such document. (See Guidance Document on **SB 24-E** regarding the removal of this requirement.)
- 3) A person preparing or filing a document to be filed in a court file or recorded in the Official Records may not include a person's social security number unless the number is required by law. If a social security number is included, the number is open and available. The document is recordable and the file is viewable.
- 4) Social security numbers in court files and on a "publicly available Internet website" are still available for public view, unless redaction/removal is requested. Redaction/removal is performed at no charge. (See Guidance Document on **SB 24-E**.)

### ***January 31, 2004***

An agency must make a report as to the commercial entity requests received over the prior calendar year.

## Agencies in General

The first part of **CS/HB 1673** relates to agencies. All agencies are defined in s. 119.07, F.S., as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law.” Under **CS/HB 1673**, all agencies are directed that social security numbers are confidential and exempt from the disclosure provisions of Chapter 119 and the Florida Constitution.

The bill provides as follows:

Effective October 1, 2002 all social security numbers held by an agency or its agents, employees, or contractors are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to all social security numbers held by an agency and its agents, employees, or contractors before, on or after the effective date of this exemption.

The general exemption set forth above applies to all public records, in any form, held in the Clerks/Comptrollers Offices (*i.e.*, court records, Official Records, administrative records, personnel records, and any other records held in the Clerk/Comptroller Office). However, **CS/HB 1673** goes on to exclude the Clerk/Comptroller from these general exemptions. How this exclusion applies to the Clerk/Comptroller, and how it is implemented regarding court records and the Official Record is reviewed later in this guidance.

When performing administrative duties or duties as Clerk to the Board, files in the care, custody or control of the Clerk/Comptroller may qualify as records in which social security numbers must be kept confidential and exempt from public disclosure. Such records may include, but are not limited to:

- Personnel files of former or current employees or applicants
- Payroll records
- Accounts payable/receivable
- 1099's
- Internal Audit records, to include personnel, payroll, timecard copies, sole proprietor vendor records, accounts receivable/payable
- State or federal audit of depository records
- Outside annual audit sampling records
- Bid records
- Budget records including employee lists
- Citizen complaint files
- Invoices
- Insurance records
- Travel vouchers
- Worker's Compensation records
- Applications, evidence or minutes taken in board meetings
- Value Adjustment Board records

## Collection Requirements for All Agencies

### **The bill states that:**

*An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented.*

### **The bill further provides:**

*An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number be more easily redacted, if required, pursuant to a public records request.*

*An agency collecting a person's social security number shall, upon that person's request, at the time of or prior to the actual collection of the social security number by that agency, provide that person with a statement of the purpose or purposes for which the social security number is being collected and used.*

*Social security numbers collected by an agency shall not be used by that agency for any purpose other than the purpose stated. Social security numbers collected by an agency prior to the effective date of this act shall be reviewed for compliance with this subsection. If the collection of a social security number prior to the effective date of this act is found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose. (s.119.072(9), Florida Statutes)*

This section of the bill applies to the Clerk/Comptroller the same as it does to other agencies, but only when the Clerk is "collecting" social security numbers in his/her administrative capacity (e.g., as an employer) or when performing a Clerk to the Board function and "collecting" a social security number in conjunction with the submission of a payment. This section does not apply to the Clerk/Comptroller when performing the Clerk of Court or County Recorder functions and "receiving" court or other documents filed or recorded in the Official Record.

**This portion of the bill requires the Clerk/Comptroller to segregate the social security number on a separate page from the rest of a record for more ease in safekeeping or eventual redaction. (But see SB 24-E removing the separate sheet requirement for the Clerk/Comptroller when dealing with the court files and/or Official Record.)**

**The Clerk/Comptroller must provide persons with a notice, upon request, explaining why it is necessary for the Clerk/Comptroller to have the social security number. For instance, a social security number is required by the federal government for certain reporting purposes. (See sample generic form on next page.)**

**Social security numbers "collected" by an agency prior to the effective date of the act must be reviewed for compliance. If an agency finds that the collection of social security numbers in specific instances is unwarranted, then the practice must be discontinued immediately.**

## Sample Notice for Agencies

The collection of your social security number is authorized under federal or state law, or otherwise required by this agency and is imperative for the performance of our duties and responsibilities as prescribed by law.

This notice is provided at your request pursuant to CS/HB 1673.

\*\*NOTE: Each Clerk/Comptroller "collecting" a social security number should know the precise legal authority for such collection. This notice need only be provided if it is requested. You will want to tailor it to be more specific depending on the circumstance.

## Governmental Entity Requests

A governmental entity may request documents containing social security numbers as long as the numbers are maintained confidential and exempt by the entity once received. **However, the Clerk/Comptroller has no responsibility to ensure that the requesting agency complies with the law.**

## Commercial Entity Requests

An agency shall not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers. The Clerk /Comptroller has no duty to determine if a request is from a valid commercial entity or to determine the legitimacy of the purpose for the request.

The commercial entity must make a written request for social security numbers. The request must be **legibly signed by an authorized officer or agent** of the commercial entity. The **verified written request** must contain the following information regarding the commercial entity:

- Name of authorized officer or agent
- Business addresses — both the mailing and location addresses
- Business telephone number
- Statement of the specific purposes for which it needs the social security numbers and how the information will be used in the normal course of business for legitimate business purposes

A commercial entity may choose to fulfill the verification requirement by signing a request containing the written declaration included on page 11, or by signing a request containing a notary or clerk attestation that an oath has been administered. **It is recommended that the Clerks/Comptrollers make available the attached form which includes the written declaration.**

An agency may request additional information reasonably necessary to verify the identity of the requesting commercial entity and further inquire regarding that entity and the specific purpose for which the number will be used; however, there is no requirement to request information other than that which is listed above. **If an agency does request more information from a commercial entity, there is risk of potential liability.**

**Again, an agency has no duty to inquire beyond the information contained in the written request.**

**The written request from a commercial entity must be VERIFIED** as provided in s. 92.525, F.S. According to that section, verification can be accomplished in the following manner:

- Under oath or affirmation taken or administered before an officer authorized under s. 92.50 to administer oaths; or
- By the signing of the written declaration prescribed [below].
- A written declaration means the following statement: "Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true," followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words "to the best of my knowledge and belief" may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.
- A person who knowingly makes a false declaration under subsection (2) is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The aggregate of the commercial entity requests will serve as the basis for the agency report required by the bill and discussed later in the guidance.

A commercial entity has clear authority to provide access to public records containing social security numbers as long as it is done in accordance with the provisions of the bill.

### REQUEST FORM FOR COMMERCIAL ENTITIES

Date: \_\_\_\_\_

Business Name: \_\_\_\_\_

Requestor's Name *(must be an authorized officer or agent)*: \_\_\_\_\_

Business Street Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

Statement of Specific Purpose for which Social Security number is needed and how the information will be used by requestor: *(check one)*

- Verification of the accuracy of personal information received by an entity in the normal course of business.*
- Use in a civil, criminal, or administrative hearing.*
- Insurance purposes.*
- Use in law enforcement and/or investigation of crimes.*
- Matching, verifying, or retrieving information.*
- Research activities.*
- Other. Please explain:*

I, the undersigned, agree that I am an authorized officer and/or agent of the above named entity and have requested social security number(s) for a purpose authorized under Florida law. I further agree that the above-stated purpose is true and accurate. Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.

\_\_\_\_\_  
Signature

**For Office Use Only:**

Date Request Received \_\_\_\_\_

Date Request Completed \_\_\_\_\_

Clerk Processing Request \_\_\_\_\_

**Any person who makes a false representation in order to obtain a social security number pursuant to ch. 2002-256, Laws of Florida, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, F.S.**

## Penalties

A public officer who violates the provisions of the bill is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500.

According to the bill, any person who makes a false representation in order to obtain a social security number pursuant to s. 119.072, F.S., or who *willfully* and *knowingly* violates the provisions of this section, commits a felony of the third degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. This penalty is the same as for a person who provides a false declaration in a verified request. It would be fair to conclude that a Clerk/County Recorder or his or her employee who “willfully” and “knowingly” violates the provisions of this bill may be found guilty of a third degree felony. It is generally held that criminal liability requires the act or participation of the charged individual; therefore, “knowing” violations of subordinates should not be imputed to supervisors or to the Clerk/Comptroller/County Recorder. It is an accurate statement that the third degree felony charge could apply in the event a Clerk/Comptroller/County Recorder, or his or her employee, “willfully” and “knowingly” violated the provisions of this bill.

Please note, the term *willfully* is generally defined as intentionally, knowingly and purposely, and is described as such in standard jury instructions. Additionally, Black’s Law Dictionary defines *knowingly* as “with knowledge, consciously, intelligently, willfully, intentionally.”

The penalty provisions of **CS/HB 1673** are made inapplicable to the Clerk/Comptroller/ and/or County Recorder by **SB 24-E**, but only with respect to court records and the Official Record. Therefore, the penalty provisions still apply to these offices when performing “administrative functions” in a general agency capacity as discussed earlier.

## Social Security Numbers in Court Documents

***Before October 1, 2002, all*** court documents, including judgments, orders, and docket sheets, containing social security numbers are open and available to the public, unless redaction is requested. This includes all court documents in whatever form they are maintained, whether they are paper, electronic, or microfilm.

***On or after October 1, 2002,*** if any final judgment, court order, or docket sheet contains a social security number, that number shall be entered on a separate page by the filer of the document, and maintained as a separate attachment. That separate sheet must not be filed or recorded in the Official Records. (But see **SB24-E** removing this requirement for court files.) **However, all court documents remain available for public inspection and copying unless redaction has been requested. The Clerk/Comptroller is without authority to refuse any document for its failure to comply with this law or other than as specifically authorized by Florida or other law. The Clerk/Comptroller is likewise without authority to redact/remove social security numbers from court documents except under the procedures set forth herein.**

The separate attachments with the social security numbers are available to other governmental entities and to commercial entities that fill out the suggested request form. Remember, separate sheets for social security numbers are not required for court document filings, but are still required when the Clerk/Comptroller is “collecting” a social security number in his or her general agency capacity.

In short:

- If a social security number is included in document, it is public,
- Unless redaction/removal is requested.

## Redaction of Social Security Numbers in Court Documents

Redaction of a social security number can be requested by the holder of the number or his or her attorney or legal guardian.

The request must be legibly written, signed, and it must identify the specific case name, case number, and the document heading and/or page number. The request must be delivered by mail, facsimile, or electronic transmission, or delivered in person to the Clerk/Comptroller. However, if your office does not, or has any policy against, accepting e-mail requests and/or e-mail attachments, then notify the public of the form in which your office can receive requests.

The Clerk has no duty to inquire beyond the written request to verify the identity of the person requesting redaction/removal.

For purposes of liability, a redaction/removal request should be kept as long as the redacted/removed record is required to be kept. A request will be made to the Bureau of Archives and Records Management for a retention determination.

## Social Security Numbers in Official Records

***On or after October 1, 2002***, a person preparing or filing a document to be recorded by the County Recorder in the Official Records **may not** include a person's social security number in the document, unless expressly required by law. That is, if the law requires a social security number to be captured as a part of the document, such as in a court pleading, then the document, complete with social security number, can be recorded.

***Before, on, or after October 1, 2002***, if a social security number is, or has been included in a document presented to a Clerk/County Recorder for recording, it is available as a part of the Official Record for public inspection and copying.

**Consequently, if a social security number is included by the filer, even if the inclusion of the social security number appears to violate this law, RECORD IT. The number will be open and available.**

In short:

- The filer may not include a social security number, unless required by law.
- If a social security number is included in the instrument, it is public,
- Unless redaction/removal is requested from a publicly available Internet website.

## Redaction in Official Records

Any person, or his or her attorney or legal guardian, has the right to request that a Clerk/County Recorder redact/remove his or her social security number from **an image or copy of an Official Record placed on the Clerk/County Recorder's publicly available Internet website** or a "publicly available Internet website" used by the a County Recorder to display public records, or otherwise made *electronically available to the general public*. Please recall from the definition of "electronically available to the general public" provided at the front of the document, that this implies a website external to your offices. For purposes of redaction/removal, after the enactment of **SB 24-E**, only the redaction/removal of social security numbers from images from a "publicly available Internet website." (See Guidance Document on **SB 24-E** for further clarification.)

The request must be legibly written, signed, and delivered by mail, facsimile, or electronic transmission, or delivered in person. The request must provide the identification page number that contains the social security number to be redacted/removed.

The Clerk/County Recorder has no duty to inquire beyond the written request to verify the identity of the person making the request. No fee is charged for the redaction/removal of the social security number.

Please note that this is **not** required to be a verified request. Only requests from commercial entities are required to be verified.

For purposes of liability, a redaction/removal request should be kept as long as the redacted/removed record is required to be kept. A request has been made to the Bureau of Archives and Records Management for a retention determination.

It would be most helpful if all redaction/removal requests were consolidated into one area of the office for several purposes, such as tracking such requests, forming the annual report, and providing documentation in the event of challenges.

## Notice Provisions

Upon becoming law, the Clerk/Comptroller and/or County Recorder must immediately post signs throughout the office and place notices on a "publicly available Internet website," or on any remote site made available by the Clerk/Comptroller and/or County Recorder and used for the **display or ordering of Official Records**.

Prior to October 1, 2002, the Clerk/Comptroller and/or County Recorder must also publish a notice in a newspaper of general circulation in the county where the County Recorder's office is located, as provided for in Chapter 50, Florida Statutes. The notice must be published on two separate dates.

THE COMMITTEE STRONGLY RECOMMENDS THAT ALL COUNTIES PUBLISH THE REQUIRED NOTICES BETWEEN JUNE 1<sup>ST</sup> AND JUNE 15<sup>TH</sup> IN AN APPROPRIATE PUBLICATION WITHIN THEIR COUNTY.

The following pages provide a generic notice for publication in the newspapers, a notice for the office, and a removal request form.

## Request Form for Social Security Number Removal

Date: \_\_\_\_\_

Name of Holder of Social Security Number: \_\_\_\_\_

Phone Number: (optional) \_\_\_\_\_

Relationship to Requester:

Self

Attorney, specify

Legal Guardian, specify

**For Redaction/Removal of Social Security Number from an Official Record Image on a Publicly Available Internet website, please provide:**

Instrument Number/Book and Page Number/Document Type

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For Redaction/Removal of Social Security Numbers from Court Records, please specify:**

Case Number/Document Name/Page Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

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**For Office Use Only:**

Date Request Received \_\_\_\_\_

Date Request Completed \_\_\_\_\_

Clerk Processing Request \_\_\_\_\_

## NOTICE

On or after October 1, 2002, any person preparing or filing a document for recording in the Official Record may not include a social security number in such document unless required by law.

Any person has the right to request the Clerk/County Recorder to redact/remove his or her social security number, from an **image** or **copy** of an Official Record that has been placed on such Clerk's/County Recorder's publicly available Internet website.

The request must be legibly written, signed, and delivered in person or by mail, facsimile or electronic transmission to the Clerk/County Recorder. The request must specify the identification page number that contains the social security number. No fee is charged for this service.

Place Office Name, Contact Person's Name and Address here

Also include e-mail address if one is available to receive these requests

**Note: If your office is not equipped to or does not accept e-mail requests and/or attachments, you may need to specifically tailor this notice.**

## Reporting Requirements

Beginning January 31, 2004, and each January 31<sup>st</sup> thereafter, *all agencies* must file a report with the Secretary of State, the President of the Senate, and the Speaker of the House. The report is to consist of a list of all the commercial entities that have requested documents containing social security numbers during the preceding calendar year and the specific purpose or purposes stated in the requests regarding the need for the social security numbers. If no disclosure requests were made, then the agency must so indicate.

Thus, the report must consist of all requests made by commercial entities from January 1, 2003 to December 31, 2003 which should include a list of the entities along with the reasons for which they attested to needing the documents with social security numbers.