

FAQ's for 2002 Public Records Bills

Q: We have over 100 remote sites where a person can access our case management system. Those terminals are placed at law enforcement agencies, public libraries and the like. These terminals have view-only access. These terminals are directly attached to the clerk's mainframe; they are not Internet. At times there is a great deal of case information, other times there are just fields available. In light of the public records exemptions in the bills that recently passed, can we continue to keep these sites available to the public?

A: The bills relate solely to access of information from a "publicly available Internet website," and the intent has been to limit external access, but this described situation falls outside of the limitations of the bills. The workgroup respectfully refers you to your county attorney for an opinion as to your unique situation.



Q: While commercial entities for administrative records can submit the form to view SSN's, there is no such provision regarding bank account, credit and debit card numbers, so those are presumably exempt from public disclosure in all administrative records for individuals and commercial entities. As such, how will external auditors for the Clerk be able to perform their audit reviews of records that contain bank account, credit and debit card numbers? This question assumes that the clerk will be protecting its own account numbers and those of individuals and companies submitted to the clerk.

A: The external auditor is acting as the agent of the county or the clerk, whoever they are doing the audit for. It is suggested that language be added to the engagement letter or to the contract with the auditors requiring the auditor to hold the accounts confidential.



Q: If the law requires a social security number to be on a document, such as on an income deduction order, can a person ask for that number to be redacted from that document?

A: According to CS/HB 1673, a person can request his or her social security number redacted from original court records, and, in the Official Records, from the publicly available Internet image, not the "original" recorded copy retained in the courthouse.

Q: When SB 24E becomes law, we are wondering if the provisions relating to HB1673 requiring written request for removal of Social Security Numbers take effect immediately or on October 1, 2002?

A: While CS/HB 1673 provides for non-disclosure of social security numbers effective on October 1st, SB 24-E provides for redaction/removal requests upon the bill's becoming a law. Thus, if a redaction/removal request is received by your office prior to October 1, 2002, it should not be refused. It should be processed.



Q: When the Clerk collects certain information for personnel and benefits administration, forms dealing with deferred comp, health insurance, flex, etc., that require the provision of a social security number. Those forms are prescribed by the carriers, and a copy goes into the Clerk's personnel file. The question is how do we comply with the separate page requirement of the statute?

A: The law only requires the separate page requirement on numbers you collect. It does not address those you are collecting on behalf of another. If you eventually must provide these records to anyone other than the company requesting it, the social security number must be redacted on the copy.



Q: We often get employment verification requests from mortgage companies in our personnel department. These requests generally contain social security numbers. When we respond, should we have uniform language that states something like the following? " This information is provided without reference to the applicant's social security number. The applicant has been identified on the basis of name and address only."

A: No. Your response should simply be something to the effect that you have verified that this person is employed by the clerk/county, and that his or her salary is what he or she reported. There is no reason to mention the social security number.

Q: In our criminal justice computer system (which we presume would be considered "court records"), the defendant's social security number is included on the "Name" screen and used to look up any charges he or she might have. If a defendant comes in and requests removal of social security number, we would take the social security number off everything that is identified at that point. However, if the defendant is re-arrested AFTER the removal request, the social security number would show up again on the "Name" screen. Does the workgroup see any problem in putting social security number on a "non-public" access screen so that it can continue to be used as an identifier in the criminal justice system?

A: While it is not clear from your question what the "make-up" of your criminal justice system is, it is presumed that a local criminal justice system is a shared system containing information that is shared between local criminal justice agencies. Further, the agencies with which you share information are required by Florida law to obtain those numbers. The new laws allow for social security numbers to be shared between agencies as long as they are kept confidential. There is no provision in these laws for a person to request redaction from another agency's documents: the number must be kept confidential.



Q: With regard to subpoenae and other criminal documents - if a defendant comes in prior to trial and requests removal of banking numbers or social security numbers, are we to remove the number even though it could potentially cause a problem with the criminal prosecution? We understand this should be only a short term problem assuming the State Attorney and/or defense counsel complies with the law stating that this information should be removed from documents prior to filing.

A: The law must be read as it is written. The solutions to other entities' problems should be left to those entities. Please continue to make your criminal justice agency partners aware of the requirements of these new laws.



Q: If a person requests removal of information from court records, what do we do about microfilm or microfiche? Will we need to request the film back from Tallahassee to remove the information?

A: Yes. Wherever your original secure roll is stored and all in-house copies. The information should be removed from the record copy and all working copies.

Q: Has there been any resolution of the question of how (or if) we certify redacted documents?

A: When the information is redacted pursuant to law, then the result becomes the record copy. Certify it as you would any other record copy.



Q: Should marriage license records where we are required by law to collect social security numbers be treated as court documents or agency documents?

A: These documents should be handled as an agency document. The social security number is collected for the purpose of potentially enforcing child support. Therefore, it is a number that must be held confidential by the Clerk or Recorder's Office. The same would be true for processing requests for passport services.



Q: Should we comply with a request of a customer who asks that we remove from a court document a social security number that is required by law to appear — for instance on final judgments?

A: Yes. The law is clear. A person can ask for the number to be redacted from the court file or the image of an Official Record on a publicly available Internet website.



Q: How can we or should we remove information from court records that have been sealed? (Assuming the customer completes the request form with all needed information)

A: As with any other court document, it takes a court order to open the sealed portion. Thus, the burden must be placed on the requestor to have the case re-opened.