

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to public records  
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 4, “Public Records and Fair Information Practices,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 305.15 and 307.12.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 22.4 and 804.29.

*Purpose and Summary*

This proposed rule making conforms Chapter 4 with recent amendments to the Iowa Code. 2020 Iowa Acts, House File 2627, section 33, amends Iowa Code section 22.4 to clarify that public records may be requested in person, in writing, by telephone, or by electronic means. The Department’s practice already allows for these methods. 2020 Iowa Acts, House File 2474, section 1, amends Iowa Code section 804.29 regarding the confidentiality of information filed with the court used to secure an arrest warrant. During the confidentiality period, access to such information can be expressly restricted by court order.

The proposed amendments also clarify subrule 4.3(6) concerning security of records to state that, without permission from the custodian, a record copy may not be removed from the place where it is available and the custodian shall place at least one certified copy in the file if the original record is released.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 24, 2020. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy Bureau  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

### *Public Hearing*

If requested, a public hearing to hear oral presentations will be held on November 30, 2020, via conference call from 1 to 2 p.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on November 24, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **4.3(1)“b”** as follows:

*b.* Notwithstanding paragraph “a” of this subrule, any request that may be related to a potential or an actual tort claim or other litigation shall be submitted to ~~the following address~~: General Counsel, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian shall forward the request to the department's general counsel.

ITEM 2. Amend subrule 4.3(3) as follows:

**4.3(3) Form of request.** A request for access to a record shall reasonably describe the record requested. A request for access to an open record may be made ~~orally or in person~~, in writing, by telephone, or by electronic means. A requester shall not be required to give reasons for requesting an open record.

ITEM 3. Amend subrule 4.3(6) as follows:

**4.3(6) Security of records.** No person may, without permission from the custodian, search agency files or remove any record copy from the place where it is made available. The custodian shall supervise the examination and copying of records and protect the records from damage and disorganization. Original paper records shall be released from department custody only upon court order. ~~At The custodian shall place at least one certified copy shall be retained~~ in the file if the original record is released.

ITEM 4. Amend subrule 4.9(6) as follows:

**4.9(6)** Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

*a.* However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29 unless access to such information is expressly denied by court order.

*b.* Reserved.