12NCAC 10B .0303 Fingerprint Criminal History Records Check

Public Hearing
July 26, 2022 @ 9:00am
1700 Tryon Park Drive
Raleigh, NC 27610

Instructions for Oral and Written Comments
The public comment period begins on July 16, 2022 and ends on August 30, 2022. Public comments shall be in writing and shall be directed to:

Sirena Jones
North Carolina Department of Justice
Sheriffs’ Education and Training Standards Division
Post Office Box 629
Raleigh, NC 27602-0629

“Public Comment” is defined by NCGS 150B-21.3A(a)(5) as a written objection to all or part of a rule. Additionally, pursuant to NCGS 150B-21.3A(c)(2), in order for the Rules Review Commission to determine whether the public comment has merit, the public comment must address the specific substance of the rule and address any of the standards of Commission review, as set forth in NCGS 150B-21.9(a).

***If approved, this change would become effective January 1, 2023***
Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

***Statutory Authority for Proposed Rules Changes by the Sheriffs’ Commission is found in NCGS 17E***
12 NCAC 10B .0303 is proposed to be amended as follows:

**12 NCAC 10B .0303 FINGERPRINT CRIMINAL HISTORY RECORDS CHECK**

(a) Each applicant for certification shall be fingerprinted. A criminal history records check against State and Federal files will be conducted by both the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI) based on those prints. Upon receipt from the SBI, the Division shall forward a copy of the results of the criminal history records check to the employing agency which shall be retained in the applicant's personnel file.

(b) The employing agency shall forward the applicant's fingerprint record to the North Carolina State Bureau of Investigation for criminal history record check utilizing fingerprints against state and federal files. Certifications issued prior to the receipt by the Division of the fingerprint and criminal history records check of state and federal files, as conducted by the SBI and FBI, are conditional. Such conditional certifications may summarily be suspended by the Commission upon receipt from the SBI or FBI of a fingerprint or criminal history records check that indicates that the officer has been convicted of an offense as specified in 12 NCAC 10B .0307.

(c) The employing agency will receive a report of the results of the criminal history record check against state and federal files. The employing agency shall retain the results of the criminal history records check utilizing fingerprints in compliance with the North Carolina Department of Natural and Cultural Resources Retention Schedule established pursuant to G.S. 121 and G.S. 132. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission. In compliance with 12 NCAC 10B .0404(a)(1), a justice officer shall not be eligible for general certification and shall remain on probationary certification until the requirements of this Rule have been met.

(d) An applicant for certification as a justice officer may not perform any action requiring certification by the Commission prior to the date on which the employing agency receives the report of the result of the criminal history record check utilizing fingerprints.

**History Note:** Authority G.S. 17E-7;

Eff. January 1, 1989;

Amended Eff. August 1, 2000; January 1, 1993; January 1, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;