

**NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING
STANDARDS COMMISSION**



12 NCAC 10B .0305 Background Investigation

Public Hearing

November 6, 2024 @ 9:00am
1700 Tryon Park Drive
Raleigh, NC 27610

Reason for rule change:

The requirements for the type of criminal history record checks that were previously housed in 12 NCAC 10B .0408 are being moved to 12 NCAC 10B .0305 as these records are a part of the background investigation process.

Instructions for Oral and Written Comments

The public comment period begins on October 15, 2024 and ends at 5:00 p.m. on December 16, 2024. Public comments shall be in writing and shall be directed to:

Melissa Bowman
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 February 1, 2025*****

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****

1 12 NCAC 10B .0305 is proposed for amendment as follows:

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3 **12 NCAC 10B .0305 BACKGROUND INVESTIGATION**

4 (a) Prior to employment, an agency shall complete a background investigation on all applicants for certification. The
5 investigation shall examine the applicant's character traits and habits relevant to performance as a justice officer and
6 shall determine whether the applicant is of good moral character pursuant to ~~12 NCAC 10B .0301(a)(12)~~. Rule
7 .0301(12) of this Subchapter. This examination includes completion of the Commission's Personal History Statement
8 Form (F-3) and Mandated Background Investigation Form (F-8), ensuring the proper certification and criminal history
9 record check required by each.

10 (b) Prior to the investigation, the applicant shall complete the Commission's Personal History Statement Form (F-3)
11 to provide a basis for the investigation. The agency shall certify that the results of the background investigation are
12 consistent with the information provided by the applicant on the Personal History Statement Form (F-3) and give the
13 applicant the opportunity to update the Personal History Statement Form (F-3) prior to submission to the Division.

14 (c) The agency shall utilize an investigator with ~~prior~~ experience or training in conducting background investigations.
15 The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-
16 8) ~~and shall include in the report of investigation:~~ which shall include information concerning the following:

17 (1) ~~biographical data;~~ information;

18 (2) ~~family data;~~ family;

19 (3) ~~scholastic data;~~ education;

20 (4) ~~employment data;~~ employment;

21 (5) ~~criminal history data;~~ including:

22 (A) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;

23 (B) a search of the national criminal record database accessible through the Division of
24 Criminal Information (DCI) network;

25 (C) where the applicant resided in a state other than North Carolina, a records check through
26 the Division of Criminal Information (DCI) using the Out-of-State Computer Name Query
27 (IQ) shall be acceptable provided the state will respond to an Out-of-State Computer Name
28 Query. If not, then either a records check response from both the municipality, city, or
29 town, where the applicant resided and the county-wide Sheriff's Office or Police
30 Department obtained by mail, facsimile, or electronic mail, or a records check from the
31 county-wide or state-wide record holding agency shall be acceptable.

32 (D) if a criminal record is found, criminal records shall be obtained from the Clerk of Court, a
33 law enforcement agency within the jurisdiction, or other governmental entity that maintains
34 or has access to criminal records for the jurisdiction;

35 (E) records checks shall be performed on each name by which the applicant for certification
36 has been known since obtaining the age of majority. If the applicant has had an official

1 name change that occurred after the applicant reached the age of majority, then a copy of
2 the legal document effecting the name change shall be obtained by the employing agency;

3 (6) military service history. If the applicant had prior military service, the background investigation
4 shall include a copy of the applicant's DD214, Certificate of Release from Active Duty, that shows
5 the characterization of discharge for each discharge that occurred and military discipline received,
6 if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then
7 a military records check shall also be required;

8 (7) credit history;

9 (8) fingerprints;

10 (9) driving history including a search of:

11 (A) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a
12 driver's license in North Carolina; and

13 (B) an out-of-state- motor vehicles check obtained through the Division of Criminal
14 Information (DCI) or obtained through another state's division of motor vehicles agency
15 for any state in which the applicant held a license;

16 (10) prior applications to law enforcement agencies;

17 (11) civil court history;

18 (12) applicant interview;

19 ~~(6)~~(13) interviews with the applicant's references; and

20 ~~(7)~~(14) a summary of the investigator's findings and conclusions regarding the applicant's moral character
21 known to the agency or listed on the applicant's Personal History Statement (F-3). ~~This~~
22 documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

23 (d) The Mandated Background Investigation Form (F-8) shall be completed within 120 days of employment. If the
24 investigator signs the form more than 120 days prior to the applicant's date of employment, then the investigator will
25 certify with a notarized statement on their agency letterhead that all information on the form has been updated or a
26 new F-8 shall be completed.

27 ~~(d)~~(e) The employing agency shall include a Release Authorization Form signed and notarized by the applicant that
28 authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be
29 required in order to determine whether certification may be granted.

30 ~~(e)~~(f) The employing agency shall provide to the Division staff the results of a completed and processed form AOC-
31 CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6,
32 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the
33 Commission's website at no cost [https://ncdoj.gov/law-enforcement-training/sheriffs/all-commision-forms-](https://ncdoj.gov/law-enforcement-training/sheriffs/all-commision-forms-publications/)
34 publications/.

35 (g) The applicant's notarized Personal History Statement (F-3) shall be completed within 120 days of employment.
36 If the form is completed more than 120 days prior to the applicant's date of employment, the Personal History

1 Statement (F-3) shall be updated by the applicant, who shall initial and date all changes no more than 120 days prior
2 to employment or a new Personal History Statement (F-3) shall be completed.

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

5 *Eff. January 1, 1989;*

6 *Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1, 1994;*

7 *January 1, 1993; January 1, 1992; January 1, 1990;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
9 *2018;*

10 *Amended Eff. February 1, 2025; April 1, 2023; January 1, 2023; June 1, 2021.*

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