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ROBERT SCHURMEIER  
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MEMORANDUM

TO: Rhian Merwald, Legislative Liaison  
FROM: J. Joy Strickland, Deputy General Counsel  
DATE: October 21, 2019  
RE: RapBack program

The FBI has created a program called RapBack which, in general, allows fingerprints of certain individuals to be stored and maintained and continuously compared to arrest records throughout the United States. This program has been implemented in a variety of ways in other states.

The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission have each voted to implement a form of the RapBack program for applicants for certification and for individuals currently holding certification through their Commissions. The goal is to quickly and efficiently identify when a certified individual is arrested in either North Carolina or any other state in the United States. The SBI, by and through, CIIS agrees that this program is worthwhile and the workload that will be created with this program will be manageable without increasing costs at this time.

In order to accomplish this for the Commissions, both the North Carolina General Statutes and the Administrative Code must be updated. I have drafted proposed legislative changes and administrative code provisions to authorize this program. Please review and let me know the next steps are to move this project forward, including working with DOJ's legislative liaison to possibly jointly seek a sponsor for this legislation.

Feel free to contact me if you have any questions about this matter.

cc: AD Jim Schandavel  
SAC Wyatt Pettingill  
ASAC Beth Desmond  
ASAC Ivy McMillan

**12 NCAC 09B .0103 FINGERPRINT RECORD CHECK**

(a) Each applicant for employment shall be fingerprinted twice, using FBI Form FD-258, Fingerprint Record Card.

(b) The employing agency shall check the applicant's fingerprints against local files and shall forward both completed fingerprint forms to the North Carolina State Bureau of Investigation for fingerprint and criminal history checks against state and federal files.

(c) The employing agency will receive a report of the results of the fingerprint check against state and federal files. Regardless of the disposition of the inquiry, the employing agency shall permanently retain the results of the fingerprint record check in the applicant's personnel file.

(d) An applicant for employment as a law enforcement officer may not be employed or placed in a sworn law enforcement position prior to the date on which the employing agency receives the report of the results of the fingerprint record check unless all of the following requirements are met:

- (1) The employing department head determines that the delay in receiving the fingerprint record check will result in undue hardship to the agency and certifies that determination to the Commission.
- (2) The preliminary criminal history investigation conducted by the employing agency has failed to disclose any disqualifying criminal record.
- (3) The applicant meets all of the minimum standards for employment and certification contained in this Subchapter.
- (4) The Fingerprint Record Cards have in fact been executed, delivered to, and received by the State Bureau of Investigation for the purpose of a criminal history search.
- (5) The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on the consistency of the fingerprint record check with the information provided in the Personal History Statement Form.

(e) An applicant for employment as a criminal justice officer other than a law enforcement officer may be employed prior to the date on which the employing agency receives the report of the results of the fingerprint record check, if all of the following requirements are met:

- (1) The completed Fingerprint Record Cards have been forwarded to and received by the State Bureau of Investigation.
- (2) The applicant meets all other minimum requirements for employment and certification.
- (3) The applicant's continued employment is contingent upon the agency's review and evaluation of the results of the fingerprint record check.

(f) The fingerprints and accompanying information of the application for certification pursuant to this rule may be maintained and stored electronically by the North Carolina State Bureau of Investigation for purposes of an ongoing assessment of certification status. Within fifteen business days of receipt of a Report of Separation Form 5B, the Sheriff's Standards Division shall notify the North Carolina State Bureau of Investigation of the separation.

*History Note: Authority G.S. 17C-6; 17C-10; G.S. 143B-972.  
Eff. January 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.*

**12 NCAC 10B .0303 FINGERPRINT 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) 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) 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) The fingerprints and accompanying information of the application for certification pursuant to this rule may be maintained and stored electronically by the North Carolina State Bureau of Investigation for purposes of an ongoing assessment of certification status. Within fifteen business days of receipt of a Report of Separation Form 5B, the Sheriff's Standards Division shall notify the North Carolina State Bureau of Investigation of the separation.

*History Note: Authority G.S. 17E-7; G.S. 143B-972  
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.*

§ 143B-972. Criminal record checks for the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission.

(a) The North Carolina State Bureau of Investigation may provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs Education and Training Standards Commission from the State and National Repositories of Criminal Histories, the criminal history of any person who applies for certification as a criminal justice officer or justice officer or any other position that requires certification with either Commission. The Commissions shall provide to the North Carolina State Bureau of Investigation along with the request, the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the North Carolina State Bureau of Investigation. The State Bureau of Investigation will search the State's criminal history record file, and shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commissions shall keep all information obtained pursuant to this section confidential. The North Carolina State Bureau of Investigation may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information

(b) The North Carolina State Bureau of Investigation may maintain the fingerprints of the applicant submitted pursuant to (a) of this section in the Statewide Automated Identification System (SAFIS) consistent with the North Carolina Administrative Code Title 12 Chapters 10B and 09B.

(c) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored pursuant to (b) of this statute has separated from employment and a Report of Separation Form F-5B has been filed with either Commission, the North Carolina State Bureau of Investigation will remove the fingerprints from SAFIS.