



**TEMPORARY RULE-MAKING
FINDINGS OF NEED**
[Authority G.S. 150B-21.1]

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VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name: 12 NCAC 10B .0301 Minimum Standards for Justice Officer Certification	
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 10/26/2021 b. Proposed Temporary Rule published on the OAH website: 11/1/2021 c. Public Hearing date: 11/10/2021 d. Comment Period: 11/3/2021 - 11/29/2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 10/26/2021 f. Adoption by agency on: 12/10/2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 1/1/2022 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Session Law 2021-138, Senate Bill 300, NCGS 17E-7(c) Effective date: 1/1/2022 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: Explain: Session Law 2021-138, Senate Bill 300, NCGS 17E-7(c) is amended to require the administration of a psychological screening examination prior to the justice officer's initial certification or prior to the justice officer performing any action requiring certification by the Commission. This change becomes effective 1/1/2022.	

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Session Law 2021-138, Senate Bill 300, NCGS 17E-7(c) is amended to require the administration of a psychological screening prior to the justice officer's initial certification or prior to the justice officer performing any action requiring certification by the Commission. This change becomes effective 1/1/2022.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Diane Konopka

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Agency contact, if any:

Phone:

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Alan Cloninger

Title: Chair, Sheriff's Education & Training Standards Commission

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RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 12 NCAC 10B .0301 is proposed for amendment **with changes** under temporary rules procedures as follows:

3 **12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS**

4 (a) Every Justice Officer employed or certified in North Carolina shall:

- 5 (1) be a citizen of the United States;
- 6 (2) be 21 years of age for all deputies and detention officers and be at least 18 years of age for all
7 telecommunicators;
- 8 (3) be a high school graduate, or the equivalent (GED);
- 9 (4) have been fingerprinted by the employing agency;
- 10 (5) have had a medical examination as required by 12 NCAC 10B .0304;
- 11 ~~(6) have been administered a psychological screening examination.~~ **examination as described by G.S.**
12 **17E-7.**

13 ~~_____ (A) If a face to face, in person interview is not practicable, the face to face may be virtual as~~
14 ~~long as both the audio and video allow for a professional clinical evaluation in a clinical environment.~~

15 ~~_____ (B) The psychological screening examination shall be given prior to the initial certification or~~
16 ~~prior to the justice officer performing any action requiring certification by the Commission.~~

17 ~~_____ (C) The This~~ **This** psychological screening shall be valid for a period of one year prior to the
18 justice's officer's initial appointment and applies to any justice officer seeking initial or probationary
19 certification effective January 1, 2022 or later.

20 ~~(6) (7)~~ have produced a negative result on a drug screen administered according to the following
21 specifications:

- 22 (A) the drug screen shall be a urine test consisting of an initial screening test using an
23 immunoassay method and a confirmatory test on an initial positive result using a gas
24 chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests as
25 may be authorized or mandated by the Department of Health and Human Services for
26 Federal Workplace Drug Testing Programs ~~[http://workplace.samhsa.gov/];~~
27 **[https://www.samhsa.gov/workplace];**
- 28 (B) a chain of custody shall be maintained on the specimen from collection to the eventual
29 discarding of the specimen;
- 30 (C) the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine
31 (PCP), opiates, and amphetamines or their metabolites;
- 32 (D) the test threshold values established by the Department of Health and Human Services for
33 Federal Workplace Drug Testing Programs are incorporated by reference, including
34 subsequent amendments and editions. Copies of this information may be obtained from

- 1 the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857
2 [http://www.drugabuse.gov/] at no cost;
- 3 (E) the test results shall be dated no more than 60 days before employment or appointment,
4 whichever is earlier;
- 5 (F) the laboratory conducting the test shall be certified for federal workplace drug testing
6 programs, and shall adhere to applicable federal rules, regulations, and guidelines
7 pertaining to the handling, testing, storage, and preservation of samples; and
- 8 (G) each drug test laboratory report shall be reviewed by a medical review officer (MRO),
9 who shall be a licensed physician;
- 10 ~~(7)~~ (8) make the following notifications:
- 11 (A) within five business days, notify the Standards Division and the appointing department
12 head in writing of all criminal offenses with which the officer is charged. This shall
13 include all criminal offenses except minor traffic offenses. A minor traffic offense means
14 any offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20
15 offenses defined as either a Class A or B Misdemeanor in 12 NCAC 10B .0103(10). The
16 initial notification required must specify the nature of the offense, the date of offense, and
17 the arresting agency. Within five business days, notify the Standards Division of all
18 Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are
19 issued by a judicial official against the justice officer and that provide an opportunity for
20 both parties to be present;
- 21 (B) within 20 days of the date the case was disposed, notify the appointing department head
22 of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and
23 Civil No Contact Orders (G.S. 50C). The department head, provided he or she has
24 knowledge of the officer's charges, Domestic Violence Orders (G.S. 50B), and Civil No
25 Contact Orders (G.S. 50C), shall also notify the Division within 30 days of the date the
26 case or order was disposed of in court.
- 27 (C) within 30 days of the date the case was disposed, notify the Standards Division of the
28 adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil
29 No Contact Orders (G.S. 50C);
- 30 (D) the required notifications of adjudication shall specify the nature of the offense, the court
31 in which the case was handled, and the date of disposition and shall include a certified
32 copy of the final disposition from the Clerk of Court in the county of adjudication;
- 33 (E) receipt by the Standards Division of timely notification of the initial offenses charged and
34 of adjudication of those offenses, from either the officer or the department head, shall be
35 sufficient notice for compliance with this Subparagraph;

1 ~~(8)~~ (9) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal
2 dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg,
3 325 N.C. 658, 386 S.E.2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635
4 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308
5 S.E.2d 647 (1983); and later court decisions that cite these cases as authority;
6 ~~(9)~~ (10) have a background investigation conducted by the employing agency, including a personal
7 interview prior to employment as required by Rules .0305 and .0306 of this Section;
8 ~~(10)~~ (11) not have committed or been convicted of a crime or crimes specified in 12 NCAC 10B .0307.
9 (b) The requirements of this Rule shall apply to all applications for certification and shall also apply at all times
10 during which the justice officer is certified by the Commission.

11
12 *History Note: Authority G.S. 17E-7;*
13 *Eff. January 1, 1989;*
14 *Amended Eff. January 1, 2018; February 1, 2014; January 1, 2006; January 1, 2005; August 1,*
15 *2002; January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992; July 1, 1990;*
16 *January 1, 1990;*
17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
18 *2018.*