

Burgos, Alexander N

Subject: FW: [External] 12 NCAC 10B SETSC Rules

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, November 14, 2022 4:48 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 12 NCAC 10B SETSC Rules

Hey all,

These are the final rules. Is it OK that they're in PDF format? If not, I know we have the word docs as well.

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Monday, November 14, 2022 4:39 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] 12 NCAC 10B SETSC Rules

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Attached is one document with the following rules and forms:

- 12 NCAC 10B .0205
- 12 NCAC 10B .0301
- 12 NCAC 10B .0302
- 12 NCAC 10B .0303
- 12 NCAC 10B .0304
- 12 NCAC 10B .0305
- 12 NCAC 10B .0306
- 12 NCAC 10B .0307
- 12 NCAC 10B .0408
- 12 NCAC 10B .0410

Thanks



Sirena Jones

Deputy Director

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

scjones@ncdoj.gov

1700 Tryon Park Drive, Raleigh, NC 27610

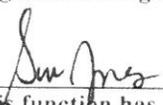
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SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0205 Period of Suspension, Revocation, or Denial	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138 SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriff's Education and Training Commission and the Criminal Justice Education and Training Standards Commission. Rule 12 NCAC 10B .0205 is affected by the amendment to Rule 12 NCAC 10B .0301 which details these uniform minimum standards for officers.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12NCAC 10B .0205 is proposed for ~~adoption amendment~~ with changes as published in 37:01 16-17 as follows:

2
3 **12 NCAC 10B .0205 PERIOD OF ~~SUSPENSION:~~ SUSPENSION, REVOCATION: REVOCATION, OR**
4 **DENIAL**

5 When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall
6 be:

- 7 (1) permanent where the cause of sanction is:
- 8 (a) commission or conviction of a felony;
 - 9 (b) commission or conviction of a crime for which authorized punishment included
10 imprisonment for more than two years; or
 - 11 (c) the second revocation, suspension, or denial of an officer's certification for any of the
12 causes requiring at least a five-year period of revocation, suspension, or denial as set out
13 in Item (2) of this Rule.
- 14 (2) not less than five years where the cause of sanction is:
- 15 (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);
 - 16 (b) material misrepresentation of any information required for certification or accreditation
17 from the Commission or the North Carolina Criminal Justice Education and Training
18 Standards ~~Commission;~~ Commission. A material misrepresentation is a false
19 representation of fact or omission of fact reported to or required to be reported to the
20 Commission that if the true fact were known would have induced or caused the
21 Commission to have treated the individual's certification or application for certification
22 differently;
 - 23 (c) knowingly and designedly by any means of false pretense, deception, fraud,
24 misrepresentation or ~~cheating whatsoever;~~ cheating, obtained or attempted to obtain credit,
25 training or certification from the Commission or the North Carolina Criminal Justice
26 Education and Training Standards Commission;
 - 27 (d) knowingly and designedly by any means of false pretense, deception, fraud,
28 misrepresentation or ~~cheating whatsoever;~~ cheating, aiding another in obtaining or
29 attempting to obtain credit, training, or certification from the Commission or the North
30 Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item
31 also applies to obtaining or attempting to obtain credit for in-service training as required
32 by 12 NCAC 10B .1700, .1800, .2000, ~~or .2100;~~ or .2100;
 - 33 (e) failure to make either of the notifications as required by ~~12 NCAC 10B .0301(a)(7);~~ 12
34 NCAC 10B .0301(13);
 - 35 (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;
36 ~~or~~

- 1 (g) a positive result on a drug screen, ~~or a~~ refusal to submit to drug testing as required by the
2 rules in this Chapter or the rules of the Criminal Justice Education and Training Standards
3 ~~Commission~~ ~~Commission~~, or ~~has refused~~ ~~refusal~~ to submit to an in-service drug screen
4 pursuant to the guidelines set forth in the Drug Screening Implementation Guide as
5 required by the employing agency through which the officer is certified.

6 The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of
7 probation in lieu of revocation, ~~suspension~~ ~~suspension~~, or denial following an administrative hearing. This authority
8 to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances
9 brought out at the administrative hearing warrant such a reduction or suspension.

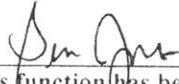
- 10 (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment
11 continues to exist, where the cause of sanction is:

- 12 (a) failure to meet or satisfy relevant basic training requirements pursuant to Sections .0500,
13 .0600, and .1300 of this Subchapter.
14 (b) failure to meet or maintain the minimum standards of employment or certification pursuant
15 to 12 NCAC .0301;
16 (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC
17 10B .2000 or .2100 or 12 NCAC 09E .0100;
18 (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4)
19 and (5); or
20 (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

21 The Commission may either reduce or suspend the periods of sanction where revocation, ~~denial~~ ~~denial~~, or suspension
22 of certification is based upon ~~the Subparagraphs set out in a finding of a violation of~~ 12 NCAC 10B .0204(d) or
23 substitute a period of probation in lieu of revocation, ~~suspension~~ ~~suspension~~, or denial following an administrative
24 hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when
25 extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

26
27 *History Note: Authority G.S. 17E-4; 17E-7; 17E-9;*
28 *Eff. January 1, 1991;*
29 *Recodified from 12 NCAC 10B .0208 Eff. January 1, 1992;*
30 *Amended Eff. January 1, 2013; January 1, 2009; January 1, 2008; January 1, 2007; January 1,*
31 *2006; March 1, 2005; January 1, 1995; January 1, 1994; January 1, 1993; January 1, 1992;*
32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
33 *2018;*
34 *Amended Eff. January 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0301 Minimum Standards for Justice Officers	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
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7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12NCAC 10B .0301 is amended **WITH CHANGES** as published in 37:01 NCR 17-19 as follows:

2
3 **12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS**

4 Every ~~Justice Officer~~ justice officer employed or certified in North Carolina shall:

- 5 (1) be a citizen of the United States;
- 6 (2) be ~~24~~ at least 20 years of age for all deputies and detention officers ~~and or~~ be at least 18 years of
7 age for all ~~telecommunicators;~~ telecommunicators;
- 8 (3) be a high school graduate, or the equivalent (~~GED~~); as defined in 12 NCAC 10B .0302;
- 9 (4) have been fingerprinted by the employing agency; ~~agency~~ in the manner provided in 12 NCAC 10B
10 .0303;
- 11 (5) have had a medical examination as required by 12 NCAC 10B .0304;
- 12 (6) have produced a negative result on a drug screen administered ~~according to the following~~
13 ~~specifications: as described in 12 NCAC 10B .0410;~~
- 14 (A) ~~the drug screen shall be a urine test consisting of an initial screening test using an~~
15 ~~immunoassay method and a confirmatory test on an initial positive result using a gas~~
16 ~~chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests as may~~
17 ~~be authorized or mandated by the Department of Health and Human Services for Federal~~
18 ~~Workplace Drug Testing Programs [<https://www.samhsa.gov/workplace>];~~
- 19 (B) ~~a chain of custody shall be maintained on the specimen from collection to the eventual~~
20 ~~discarding of the specimen;~~
- 21 (C) ~~the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine~~
22 ~~(PCP), opiates, and amphetamines or their metabolites;~~
- 23 (D) ~~the test threshold values established by the Department of Health and Human Services for~~
24 ~~Federal Workplace Drug Testing Programs are incorporated by reference, including~~
25 ~~subsequent amendments and editions. Copies of this information may be obtained from the~~
26 ~~National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857~~
27 ~~[<http://www.drugabuse.gov/>] at no cost;~~
- 28 (E) ~~the test results shall be dated no more than 60 days before employment or appointment,~~
29 ~~whichever is earlier;~~
- 30 (F) ~~the laboratory conducting the test shall be certified for federal workplace drug testing~~
31 ~~programs, and shall adhere to applicable federal rules, regulations, and guidelines~~
32 ~~pertaining to the handling, testing, storage, and preservation of samples; and~~
- 33 (G) ~~each drug test laboratory report shall be reviewed by a medical review officer (MRO), who~~
34 ~~shall be a licensed physician;~~
- 35 (7) make the following notifications:
- 36 (A) ~~within five business days, notify the Standards Division and the appointing department~~
37 ~~head in writing of all criminal offenses with which the officer is charged. This shall include~~

1 all criminal offenses except minor traffic offenses. A minor traffic offense means any
2 offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20
3 offenses defined as either a Class A or B Misdemeanor in 12 NCAC 10B .0103(10). The
4 initial notification required must specify the nature of the offense, the date of offense, and
5 the arresting agency. Within five business days, notify the Standards Division of all
6 Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are
7 issued by a judicial official against the justice officer and that provide an opportunity for
8 both parties to be present;

9 (B) within 20 days of the date the case was disposed, notify the appointing department head of
10 the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil
11 No Contact Orders (G.S. 50C). The department head, provided he or she has knowledge of
12 the officer's charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders
13 (G.S. 50C), shall also notify the Division within 30 days of the date the case or order was
14 disposed of in court.

15 (C) within 30 days of the date the case was disposed, notify the Standards Division of the
16 adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil
17 No Contact Orders (G.S. 50C);

18 (D) the required notifications of adjudication shall specify the nature of the offense, the court
19 in which the case was handled, and the date of disposition and shall include a certified copy
20 of the final disposition from the Clerk of Court in the county of adjudication;

21 (E) receipt by the Standards Division of timely notification of the initial offenses charged and
22 of adjudication of those offenses, from either the officer or the department head, shall be
23 sufficient notice for compliance with this Subparagraph;

24 (7) have been administered a psychological screening examination as [described by] in accordance with
25 G.S. 17E-7. This psychological screening examination shall be valid for a period of one year from
26 the date on which it was administered;

27 (8) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal
28 dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325
29 N.C. 658, 386 S.E.2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In
30 re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647
31 (1983); and later court decisions that cite these cases as authority;

32 (8) have been interviewed as described in 12 NCAC 10B .0306;

33 (9) have a background investigation conducted by the employing [agency] agency, including a personal
34 interview prior to employment as required by Rules .0305 and .0306 of this Section. as required by
35 12 NCAC 10B .0305;

36 (10) not have committed or been convicted of a crime or crimes specified in 12 NCAC 10B .0307;

- 1 (11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily
2 complete the employing agency's in-service firearms training program as prescribed in 12 NCAC
3 10B .2103 and .2104. Such firearms training compliance must have occurred prior to submission of
4 the application for appointment to the Commission and must be completed using the agency
5 approved service ~~handgun(s)~~ handguns and any other ~~weapons(s)~~ weapons that the applicant has
6 been issued or authorized to use by the agency; and
- 7 (12) be of good moral character as defined in: In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989); State v.
8 Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); In re [Willis,] Willis, 288 N.C. 1, 215 S.E.2d 771
9 (1975), [appeal dismissed] appeal dismissed 423 U.S. 976 (1975); [State v. Harris,] State v. Harris,
10 216 N.C. 746, 6 S.E.2d 854 (1940); [In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989);] In re
11 Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); [in] In re [Applicants for License,] Applicants for
12 License 143 N.C. 1, 55 S.E. 635 (1906); [In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State
13 v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983);] and later court decisions.
- 14 (13) make the following notifications:
- 15 (a) within five business days of the qualifying event, ~~[outlined in this section of the Rule,]~~
16 notify the Standards Division and the appointing agency head in writing of all criminal
17 offenses for which the officer is ~~charged] or arrested.~~ charged, arrested, pleads no contest,
18 pleads guilty or of which the officer is found guilty. This shall include traffic offenses
19 identified in the Class B Misdemeanor Manual and offenses of driving under the influence
20 (DUI) or driving while impaired ~~[(DWI);] (DWI).~~
- 21 ~~[(b)]~~ ~~[within five business days of the qualifying event, notify the Standards Division and the~~
22 ~~appointing agency head in writing of all criminal offenses for which the officer pleads no~~
23 ~~contest, pleads guilty, or of which the officer is found guilty. This shall include traffic~~
24 ~~offenses identified in the Class B Misdemeanor Manual and offenses of driving under the~~
25 ~~influence (DUI) or driving while impaired (DWI);]~~
- 26 ~~[(e)]~~ (b) within five business days of service, officers shall notify the Standards Division of all
27 Domestic Violence Protective Order ~~[(G.S. 50B)]~~ pursuant to G.S. 50B and any Civil No
28 Contact ~~[Orders (G.S. 50C)]~~ Order pursuant to G.S. 50C that are issued by a judicial official
29 against the officer;
- 30 ~~[(d)]~~ (c) within five business days of the date the case was disposed of in court, the agency head,
31 provided he or she has knowledge of the officer's arrests or criminal charges and final
32 dispositions, shall also notify the Standards Division of arrests or criminal charges and final
33 disposition;
- 34 ~~[(e)]~~ (d) within five business days of the issuance of all Domestic Violence Protective ~~[Orders (G.S.~~
35 ~~50B)]~~ Orders pursuant to G.S. 50B and Civil No Contact ~~[Orders (G.S. 50C);] Orders~~
36 pursuant to G.S. 50C, the agency head, provided he or she has knowledge of the order,
37 shall also notify the Standards Division of these orders.

1 ~~(f)~~ (e) The required notifications in this Rule shall be in writing and shall specify the nature of the
2 offense or order, the court in which the case was handled, the date of the arrest, criminal
3 charge, or service of the order, and the final disposition. The notification shall include a
4 certified copy of the order or court documentation and final disposition from the Clerk of
5 Court in the county of adjudication. The requirements of this Item shall be applicable at all
6 times during which the officer is employed and certified by the Commission and shall also
7 apply to all applicants for certification. Receipt by the Standards Division of a single
8 notification, from the officer or the agency head, shall be sufficient notice for compliance
9 with this Item.

10 (b) (14) **The** ~~the~~ requirements of this Rule shall apply to all applications for certification and shall also
11 apply at all times during which the justice officer is certified by the Commission.

12
13 *History Note: Authority G.S. 17E-7;*

14 *Eff. January 1, 1989;*

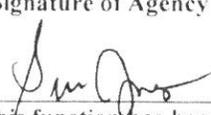
15 *Amended Eff. January 1, 2018; February 1, 2014; January 1, 2006; January 1, 2005; August 1,*
16 *2002; January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992; July 1, 1990; January*
17 *1, 1990;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *2018;*

20 *Amended Eff. January 1, 2023.*

21 ~~*Amended Eff. January 1, 2023.*~~

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0302 Documentation of Educational Requirement	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
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7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
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9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriff's Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12 NCAC 10B .0302 is amended with changes as published in 37:01 NCR 19 as follows:

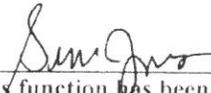
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12 NCAC 10B .0302 DOCUMENTATION OF EDUCATIONAL REQUIREMENT

- (a) Each applicant for ~~certification as a Justice Officer~~ justice officer certification shall furnish documentary evidence of high school, college, or university graduation to the employing agency. Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of state ~~agency~~; agency; or such documentation as described in Paragraphs (b), (c), (d), and (e) of this Rule. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located.
- (b) High School Diplomas earned through home school programs must be accompanied by a true and accurate or certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state statute.
- (c) Diplomas earned from ~~High Schools~~ high schools or equivalent institutions outside of the United States must be translated into English and be accompanied by an authentic transcript. The Division's staff shall evaluate the transcripts ~~Transcripts shall be evaluated~~ to ensure they are scholastically comparable to United States curriculum requirements.
- (d) The Division's staff shall evaluate high ~~High School~~ school diplomas earned through on-line or correspondence courses ~~shall be evaluated~~ on a case by case basis. Such diplomas must meet state and local requirements for the jurisdiction from which the diploma was issued.
- (e) Documentary evidence of having earned a High School Equivalency (HSE) ~~Diploma~~ diploma shall be satisfied by a certified copy of a high school equivalency credential or an adult high school diploma, recognized both of which must be recognized by the U.S. Department of Education, or the state ~~Department~~ department of ~~Education,~~ education, ~~in the issuing state~~ or educational agency that is authorized in the state to issue [a] High School Equivalency (HSE) diplomas.
- (f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's ~~DD214,~~ DD214, Certificate of Release from Active Duty.

*History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. January 1, 2019; January 1, 2008; August 1, 2000; January 1, 1992; January 1, 1990;
Readopted Eff. August 1, 2019;
Amended Eff. January 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0303 Fingerprint Criminal History Records Check	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12 NCAC 10B .0303 is amended with changes as published in 37:01 NCR 19-20 as follows:

2
3 **12 NCAC 10B .0303 FINGERPRINT CRIMINAL HISTORY RECORDS CHECK**

4 (a) Each applicant for certification shall submit electronic fingerprints in the Statewide Automated Fingerprint
5 Identification System (SAFIS). be fingerprinted. A criminal history records check against State and Federal files will
6 be conducted by both the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI) based on
7 those prints. Upon receipt from the SBI, the Division shall forward a copy of the results of the criminal history records
8 check, to the employing agency which shall be retained in the applicant's personnel file.

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

15 (c) The employing agency will receive a report of the results of the criminal history record check utilizing fingerprints
16 against state and federal files from the North Carolina State Bureau of Investigation. The employing agency shall
17 retain the results of the criminal history records check utilizing fingerprints in compliance with the North Carolina
18 Department of Natural and Cultural Resources Retention Schedule established pursuant to G.S. ~~[121]~~ 121-4 and G.S.
19 ~~[132]~~ 132-8.1. The employing agency shall include the results of the fingerprint criminal history record check with
20 the applications submitted to the Commission. ~~In compliance with 12 NCAC 10B .0404(a)(1), a justice officer shall~~
21 ~~not be eligible for general certification and shall remain on probationary certification until the requirements of this~~
22 ~~Rule have been met.~~

23 (d) Pursuant to 12 NCAC 10B ~~-.0301,~~ .0301(a)(4) an [An] applicant for certification as a justice officer may not
24 perform any action requiring certification by the Commission prior to the date on which the employing agency receives
25 the report of the result of the criminal history record check unitizing fingerprints.

26
27 *History Note: Authority G.S. 17E-7;*

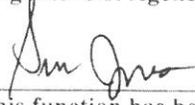
28 *Eff. January 1, 1989;*

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

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
31 *2018;*

32 *Amended Eff. January 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0304 Medical Examination	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriff's Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12 NCAC 10B .0304 is amended with changes as published in 37:01 NCR 20 as follows:

2
3 **12 NCAC 10B .0304 MEDICAL EXAMINATION**

4 (a) Each applicant for certification or ~~enrollee enrollment~~ in a Commission-certified basic training course shall
5 complete, sign, and date the Commission's Medical History Statement Form (F-1) and shall be examined by a either
6 a physician, surgeon, physician's assistant, or nurse practitioner, or other licensed independent practitioner practitioner,
7 who is licensed to practice in North ~~Carolina~~ Carolina, or who is authorized to practice medicine in accordance with
8 the rules and regulations of the United States Armed Forces, as outlined in 10 [U.S. Code] U.S.C. § 1094, to help
9 determine his or her fitness to carry out the physical requirements of the position of justice officer. ~~Effective January~~
10 ~~1, 2018, Telecommunicators who have not previously held certification with this Commission, but who have been~~
11 ~~continuously employed by an entity other than a Sheriff's Office, and who have previously provided a valid Medical~~
12 ~~History Statement (F-1) and Medical Examination Report (F-2) for admission into a Commission accredited~~
13 ~~Telecommunicator Certification Course shall not be required to submit additional F-1 and F-2 forms for the purpose~~
14 ~~of obtaining certification.~~

15 (b) Prior to conducting the examination, being examined, the applicant shall provide the examining surgeon, the
16 physician, surgeon, physician's assistant, or nurse practitioner, or other licensed independent practitioner shall: with:

17 (1) ~~read the "Medical Screening Guidelines Implementation Manual for Certification of Justice~~
18 ~~Officers" in the State of North Carolina as published by the North Carolina Department of Justice.~~
19 ~~Copies of this publication may be obtained at no cost~~ by contacting the North Carolina Department
20 of Justice, Sheriffs' Standards Division, PO Box 629, Raleigh, North Carolina 27602; [at
21 <https://ncdoj.gov/law-enforcement-training/sheriffs/>]

22 (1) the Medical History Statement Form (F-1) which must be read, completed, and signed; and

23 (2) ~~read, sign, and date the Medical History Statement Form (F-1); and~~

24 (3)(2) read the F-2A Instructions to Agency and Examiner for Completion of Medical Examination Report
25 Form (F-2A) attached to the Medical Examination Report Form (F-2).

26 (c) The "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of
27 North Carolina as published by the North Carolina Department of Justice may be obtained, at no cost, at
28 <https://ncdoj.gov/law-enforcement-training/sheriffs/>

29 (e) (d) The examining physician, surgeon, physician's assistant, or nurse practitioner, or other licensed independent
30 practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign
31 and date the form.

32 (d) (e) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid for
33 one year after the date the examination was conducted and shall be completed prior to:

34 (1) the applicant's beginning the Detention Officer Certification Course, the Basic Law Enforcement
35 Training Course, or the Telecommunicator Certification Course; and

36 (2) ~~the applicant's applying to the Commission for Certification.~~ the agency submission of application
37 for certification to the Commission.

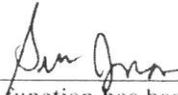
1 (f) Forms:

2 (1) Form F-1, Medical History Statement, is completed by an applicant and consists of the applicant's medical
3 information, present and past physical condition, injuries, diseases, or operations.

4 (2) Form F-2, Medical Examination Report, is a form provided to the examining physician to record the
5 results of the applicant's medical examination. The form consists of the applicant's biographical information,
6 vision, hearing, cardiovascular and circulator health, urinalysis, TB skin test, other medical conditions
7 relevant to the applicant's physical fitness to perform the duties of a justice officer, and the medical
8 professional's recommendation and concerns as to an applicant's physical fitness to perform the duties of a
9 justice officer.

10 *History Note: Authority G.S. 17E-7;*
11 *Eff. January 1, 1989;*
12 *Amended Eff. January 1, 1996; January 1, 1993; January 1, 1991; January 1, 1990;*
13 *Temporary Amendment Eff. March 1, 1998;*
14 *Amended Eff. January 1, 2018; January 1, 2009; August 1, 2002; April 1, 2001; August 1, 1998;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
16 *2018;*
17 *Amended Eff. January 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0305 Background Investigation	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12NCAC 10B .0305 is amended **WITH CHANGES** as published in 37:01 NCR 20-21 as follows:

2
3 **12 NCAC 10B .0305 BACKGROUND INVESTIGATION**

4 (a) ~~Prior to the background investigation conducted by the employing agency to determine the applicant's suitability~~
5 ~~for employment and certification, the applicant shall complete the Commission's Personal History Statement (F-3) to~~
6 ~~provide information regarding his or her former names, education, address(es), family, financial, employment, and~~
7 ~~military history, as well as any prior criminal or civil charges, actions, or behavior. The information provided on this~~
8 ~~form shall serve as a basis for the investigation. The Commission mandated Personal History Statement (F-3)~~
9 ~~submitted to the Division shall be completed no more than 120 days prior to the applicant's date of appointment. Prior~~
10 ~~to employment, an agency shall complete a background investigation on all applicants for certification. The~~
11 ~~investigation shall examine the applicant's character traits and habits relevant to performance as a justice officer and~~
12 ~~shall determine whether the applicant is of good moral [character.] character pursuant to 12 NCAC 10B .0301(a)(12).~~
13 ~~This examination includes completion of the Commission's Personal History Statement Form (F-3) and Mandated~~
14 ~~Background Investigation Form (F-8), ensuring the proper certification and criminal history record check required by~~
15 ~~each. The Personal History Statement (F-3) [and the Mandated Background Investigation (F-8) forms are] is available~~
16 ~~on the Commission's website at [https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-](https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/)~~
17 ~~publications/.~~

18 (b) ~~If the Personal History Statement (F-3) was completed more than 120 days prior to the applicant's date of~~
19 ~~appointment, the Personal History Statement (F-3) shall be updated by the applicant who shall initial and date all~~
20 ~~changes or a new Personal History Statement (F-3) must be completed.~~

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

25 (c) ~~The employing agency shall ensure the properly notarized and dated signatures are affixed to the Personal History~~
26 ~~Statement (F-3). It shall also certify that the results of the background investigation are consistent with the information~~
27 ~~provided by the applicant on the Personal History Statement (F-3); if not, the employing agency shall provide the~~
28 ~~applicant the opportunity to update the F-3 prior to submission to the Division. The agency shall utilize an investigator~~
29 ~~with prior experience or training in conducting background investigations. The investigator shall document the results~~
30 ~~of the investigation on the Mandated Background Investigation Form (F-8) and shall include in the report of~~
31 ~~investigation:~~

- 32 (1) biographical data;
- 33 (2) family data;
- 34 (3) scholastic data;
- 35 (4) employment data;
- 36 (5) criminal history data;
- 37 (6) interviews with the applicant's references; and

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

4 (d) ~~The employing agency, prior to employment, shall examine the applicant's character traits and habits displayed in~~
5 ~~his or her performance as a justice officer and shall determine whether the applicant is of good moral character as~~
6 ~~defined in Rule .0301(a)(8). The investigator shall summarize the results of the investigation on the Commission-~~
7 ~~mandated Background Investigation Form (F-8) which shall be signed and dated by the investigator. The Background~~
8 ~~Investigation Form (F-8) is available on the Commission's website. The employing agency shall include a [signed and~~
9 ~~notarized] Release Authorization Form signed and notarized by the applicant that authorizes the Division staff to~~
10 ~~obtain documents and records pertaining to the applicant for certification that may be required in order to determine~~
11 ~~whether certification may be granted.~~

12 (e) ~~The Background Investigation Form (F-8) shall include records checks from:~~

- 13 (1) ~~a Statewide search of the Administrative Office of the Courts (AOC) computerized system;~~
- 14 (2) ~~the national criminal record database accessible through the Division of Criminal Information (DCI)~~
15 ~~network;~~
- 16 (3) ~~the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license~~
17 ~~issued in North Carolina; and~~
- 18 (4) ~~out-of-state motor vehicles check obtained through the Division of Criminal Information or obtained~~
19 ~~through the any other state's Division of Motor Vehicles if the applicant held a license in that state(s)~~
20 ~~within the 10 year period prior to the date of appointment.~~

21 (f) ~~The background investigation must also include records checks from jurisdictions where the applicant resided~~
22 ~~within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:~~

- 23 (1) ~~Where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall~~
24 ~~be acceptable;~~
- 25 (2) ~~Where the applicant resided in another country, an Interpol records check shall be acceptable~~
26 ~~provided the country is a member of Interpol; or if the applicant was in the United States military,~~
27 ~~a military records check shall be acceptable; or if neither, efforts shall be made and documented to~~
28 ~~attempt to obtain a records check from the country and submitted if available; and~~
- 29 (3) ~~Where the applicant resided in a state other than North Carolina, a records check through the~~
30 ~~Division of Criminal Information using the Out of State Computer Name Query (IQ) shall be~~
31 ~~acceptable provided the state will respond to that type of inquiry. If not, then either a records check~~
32 ~~response from both the municipality, city, or town where the applicant resided and the county-wide~~
33 ~~Sheriff's Office or Police Department obtained through traditional correspondence, or a records~~
34 ~~check from the appropriate county wide or state wide record holding agency shall be acceptable.~~

35 (g) ~~If the applicant had prior military service, the Background Investigation must also include a copy of the applicant's~~
36 ~~DD214 that shows the characterization of discharge for each discharge that occurred and military discipline received,~~

1 if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records
2 check shall also be required.

3 (h) All records checks shall be performed on each name by which the applicant for certification has ever been known
4 since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the
5 age of 12 years of age, then the name change shall be documented.

6 (i) The employing agency shall forward to the Division certified copies of any criminal charge(s) and disposition(s)
7 known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall explain
8 any charges or other violations that may result from the records checks required in Paragraph (e) of this Section that
9 do not pertain to the applicant for certification. This documentation shall be included with all other documentation
10 required in 12 NCAC 10B .0408.

11 (j) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the
12 Division staff to obtain documents and records pertaining to the applicant for certification that may be required in
13 order to determine whether certification may be granted.

14 (k)(e) The employing agency shall provide to the Division staff the results of a completed and processed form AOC-
15 CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-145.6,
16 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available on the
17 Commission's website. website at no cost [https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-](https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/)
18 publications/.

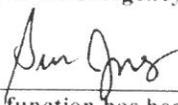
19 **(f) Forms**

20 (1) Form F-3, the (Personal History Statement), is completed by the applicant and consists of information
21 regarding the applicant's work, residential, military, criminal history, financial condition, and references.

22 (2) Form F-8, Background Summary, consists of the applicant for certification's biographical data, family
23 data, scholastic data, employment data, criminal history, interviews and references, and a summary of the
24 background investigator's findings.

25
26
27 *History Note: Authority G.S. 17E-7;*
28 *Eff. January 1, 1989;*
29 *Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1, 1994;*
30 *January 1, 1993; January 1, 1992; January 1, 1990;*
31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
32 *2018;*
33 Amended Eff. January 1, 2023

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0306 Employment Interview	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12 NCAC 10B .0306 is amended with changes as published in as published in 37:01 NCR 21-22 as follows:

2

3 **12 NCAC 10B .0306 EMPLOYMENT INTERVIEW**

4 (a) Prior to employment, the employing agency shall conduct an interview of the applicant to determine the applicant's
5 ~~abilities and potential for success as a justice officer.~~ knowledge, skills, and abilities for success as a justice officer.

6 (b) The sheriff ~~or agency head~~ may conduct the interview ~~personally, or he may delegate personally or~~ [by delegating]
7 delegate the responsibility to a qualified staff member or ~~panel.~~ panel, who is competent, whether by education,
8 training, or experience, to conduct the employment interview. The respective agency head identifies those individuals
9 he or she deems qualified.

10

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

12 *Eff. January 1, 1989;*

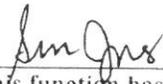
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
14 *2018;*

15 *Amended Eff. January 1, 2023.*

16

17

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0307 Criminal History Record	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriff's Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12 NCAC 10B .0307 is amended with changes as published in 37:01 NCR 22 as follows:

2
3 **12 NCAC 10B .0307 CRIMINAL HISTORY RECORD**

4 (a) Consistent with and subject to the requirements of 12 NCAC 10B .0204, every justice officer employed or certified
5 in North Carolina shall not have committed or been convicted by a local, state, ~~federal~~ federal, or military court of:

6 (1) a felony; ~~or~~

7 (2) a crime for which the punishment could have been imprisonment for more than two ~~years.~~ years;

8 ~~(b) Consistent with and subject to the requirements of 12 NCAC 10B .0204, every justice officer employed or certified~~
9 ~~in North Carolina should not have committed or been convicted by a local, state, federal or military court of:~~

10 (3) a crime or unlawful act defined as a "Class B Misdemeanor" [and] which occurred after the date of
11 appointment;

12 ~~(4)~~(4) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the
13 date of appointment; ~~or~~

14 ~~(2)~~(5) four or more crimes or unlawful acts defined as "Class B Misdemeanors" regardless of the date of
15 conviction or commission; ~~or~~

16 ~~(3)~~(6) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the applicant can
17 be employed if the last conviction or commission occurred more than two years prior to the date of
18 appointment; ~~or~~

19 ~~(4)~~(7) a combination of four or more "Class A or B Misdemeanors" regardless of the date. ~~date; or~~

20 (8) for personnel who are authorized to carry a firearm in the execution of their duties, an offense that,
21 pursuant to 18 USC 922 (g)(8), would prohibit the possession of a firearm or ammunition.

22 (b) 12 NCAC 10B .0103(16) defines "Commission" as a finding by the North Carolina Sheriffs' Education and
23 Training Standards Commission or an administrative body, pursuant to the provisions of G.S. 150B, that a person
24 performed the acts necessary to satisfy the elements of a specified criminal offense.

25 (c) The requirements of this Rule shall be applicable at all times during which the officer is certified by the
26 Commission and shall also apply to all applications for certification.

27
28 *History Note: Authority G.S. 17E-7;*

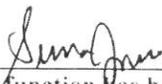
29 *Eff. January 1, 1989;*

30 *Amended Eff. August 1, 2002; January 1, 1996; January 1, 1993; January 1, 1992; January 1, 1991;*

31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
32 *2018;*

33 *Amended Eff. January 1, 2023.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0408 Verification of Records to the Division	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Added details to Rule 12 NCAC 10B .0408 based on the modification of Rule 12 NCAC 10B .0305 which was required to be changed by Senate Bill 300.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12NCAC 10B .0408 is amended **WITH CHANGES** as published in 37:01 NCR 22-23 as follows:

2
3 **12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION**

4 (a) Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, the
5 employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:

- 6 (1) **verification documentation consisting of diplomas, school transcripts, or certificates from the**
7 **educational institution attended by the applicant confirming of** the applicant's compliance with the
8 educational requirement pursuant to 12 NCAC 10B .0302(a);
- 9 (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- 10 (3) the applicant's Medical History Statement (F-1);
- 11 (4) the applicant's Medical Examination Report (F-2 and F-2A);
- 12 (5) the applicant's notarized Personal History Statement (F-3);
- 13 (6) the Commission-mandated Background Investigation Form (F-8) with all accompanying
14 documentation set out in 12 NCAC 10B .0305;
- 15 (7) documentation of negative results on a drug screen pursuant to **12 NCAC 10B .0301(6); 12 NCAC**
16 **10B .0301 (6);** and
- 17 (8) **verification documentation** of the applicant's compliance with the probationary certification
18 requirements pursuant to 12 NCAC 10B .0403(b), if the applicant is a deputy sheriff or a detention
19 officer: **officer and is authorized by the agency to carry a firearm.**

20 (b) Compliance with this Rule is waived, with the exception of the requirements of 12 NCAC 10B .0408(a)(8), for
21 officers applying for dual certification as defined in 12 NCAC 10B .0103(12) provided that:

- 22 (1) the officer holds a valid certification **issued by this Commission,** as either a deputy sheriff, detention
23 officer, or telecommunicator with the employing agency requesting dual certification; and
- 24 (2) the officer ~~has not had a break in service since initial certification with the employing agency~~ **has**
25 **continuously been employed as a justice officer with the agency.**

26 (c) Where the Division has previously received a complete Background Investigation Form (F-8) with all
27 accompanying documentation set out in 12 NCAC 10B .0305 in connection with another application for certification
28 to this Commission, the Background Investigation need only be updated from the date of the last background
29 investigation on file in the Division with documentation of compliance with 12 NCAC 10B .0305(e)(1), (2), (3), and
30 a **certified criminal record check from each jurisdiction in which the person has resided in and for county-wide and**
31 ~~certified records check for~~ each name ~~used by~~ the applicant **has used for each jurisdiction where the applicant has**
32 ~~resided in North Carolina~~ since the initial Background Investigation (Form F-8) was completed. **The criminal record**
33 **check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity**
34 **that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by**
35 **the entity providing the record with either a raised seal or other visible verification that the document is an authentic**
36 **copy.** In addition:

1 (1) ~~If if~~ the applicant has been issued an out-of-state driver=s driver's license by a state other than North
2 Carolina since obtaining certification, then compliance with 12 NCAC 10B .0408(f)(4), is required;
3 and

4 (2) ~~If if~~ the applicant has resided in a state other than North Carolina since obtaining certification, a
5 certified ~~and county-wide~~ criminal record check from each jurisdiction ~~(if available)~~ shall be
6 ~~provided.~~ provided, if available. ~~The criminal record check shall be from the Clerk of Court, a law~~
7 ~~enforcement agency within the jurisdiction, or other governmental entity that maintains or has~~
8 ~~access to criminal records for the jurisdiction. The criminal record check shall be certified by the~~
9 ~~entity providing the record with either a raised seal or other visible verification that the document is~~
10 ~~an authentic copy.~~

11 (d) If the Personal History Statement (F-3) required in Subparagraph (a)(5) of this Rule was completed more than 120
12 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the
13 ~~[applicant]~~ applicant, who shall initial and date all ~~[changes]~~ changes, or a new Personal History Statement (F-3) shall
14 be completed.

15 (e) If the Mandated Background Investigation Form (F-8) required in Subparagraph (a)(6) of this Rule was completed
16 more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form ~~[(F-~~
17 ~~8),]~~ (F-8) shall be updated by the background investigator who shall initial and date all changes or a new Mandated
18 Background Investigation Form (F-8), must be completed.

19 (f) The Background Investigation Form (F-8) shall have the following ~~[include]~~ records checks from: ~~attached to it~~
20 ~~when submitted:~~

- 21 (1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;
- 22 (2) the national criminal record database accessible through the Division of Criminal Information (DCI)
23 network;
- 24 (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license
25 issued in North Carolina; and
- 26 (4) ~~an~~ out-of-state motor vehicles check obtained through the Division of Criminal Information or
27 obtained through ~~[the other]~~ another state's ~~[Division of Motor Vehicles if the applicant held a~~
28 ~~license]~~ division of motor vehicles agency for any state in which the applicant held a license ~~[in that~~
29 ~~state(s)]~~ within the 10 year period prior to the date of appointment.

30 (g) The Background Investigation shall include records checks from jurisdictions where the applicant resided within
31 the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:

- 32 (1) ~~[Where]~~ where the applicant resided in jurisdictions in North Carolina, Clerk of Court records
33 checks shall be acceptable;
- 34 (2) ~~[Where]~~ where the applicant resided in another ~~[country,]~~ country: ~~[an Interpol records check shall~~
35 ~~be acceptable provided the country is a member of Interpol; or if the applicant was in the United~~
36 ~~States military, a military records check shall be acceptable; or if neither, efforts shall be made and~~
37 ~~documented to attempt to obtain a records check from the country and submitted if available; and]~~

1 (A) an Interpol records check shall be acceptable provided the country is a member of Interpol;

2 (B) if the applicant was in the United States military, a military records check shall be
3 acceptable; or

4 (C) if neither an Interpol or United States military record check are available, subject to the
5 limits of United States and North Carolina law, the employing agency shall make a good
6 faith effort to obtain a records check from the national law enforcement authority, judicial
7 authority, or other governmental entity charged with maintaining criminal records for the
8 country where the applicant resided and submit the record check if available. If the
9 employing agency cannot obtain the records check it must submit documentation
10 consisting of the correspondence with the foreign governmental entity and a written report
11 from the assigned background investigator explaining the employing agency's efforts to
12 obtain the record and why the record could not be obtained. The following steps are
13 required to show a good faith effort to obtain the record check:

14 (i) contacting and requesting the record from the foreign governmental
15 entity or entities the employing agency believes are likely to possess the
16 records by mail, telegram, telephone, facsimile or electronic mail;

17 (ii) if referred to another foreign governmental entity, contacting and
18 requesting the record from that foreign governmental entity; and

19 (iii) if requested, providing and submitting any formal requests, forms, or
20 documentation required by the foreign governmental entity before it will
21 provide the record check;

22 (3) [Where] where the applicant resided in a state other than North Carolina, a records check through
23 the Division of Criminal Information using the Out-of-State Computer Name Query (IQ) shall be
24 acceptable provided the state will respond to ~~[that type of inquiry.]~~ an Out-of-State Computer Name
25 Query. If not, then either a records check response from both the municipality, city, or town where
26 the applicant resided and the county-wide Sheriff's Office or Police Department obtained ~~[through~~
27 ~~traditional correspondence.]~~ by mail, telegram, facsimile, or electronic mail, or a records check from
28 the ~~[appropriate]~~ county-wide or state-wide record holding agency shall be acceptable.

29 (h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's
30 ~~[DD214]~~ DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each
31 discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of
32 any type other than Honorable, then a military records check shall also be required.

33 (i) All records checks shall be performed on each name by which the applicant for certification has ever been known
34 since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the
35 age of 12 years of age, then ~~[the name change shall be documented.]~~ a copy of the legal document effecting the name
36 change with either a raised seal or other visible verification that the document is an authentic copy from the

1 governmental entity that issued the document or is charged with maintaining the record of the document shall be
2 submitted by the employing agency.

3 (j) The employing agency shall forward to the Division certified copies of any criminal [charge(s)] charges and
4 [disposition(s)] dispositions known to the agency or listed on the applicant's Personal History Statement (F-3). The
5 employing agency shall [explain] identify any charges or other violations [that may result from] on the records checks
6 required in Paragraph (f) of this Rule that [do not pertain to] are for individuals other than the applicant for
7 [certification.] certification and explain why the employing agency believes another individual is responsible for the
8 charge or violation.

9 (d)(k) All information maintained pursuant to the requirements of this Rule shall be subject to all state and federal
10 laws governing confidentiality. Forms:

11 (1) Form F-1, Medical History Statement, is completed by an applicant and shall contain the applicant's
12 medical information, present and past physical condition, injuries, diseases, or operations.

13 (2) Form F-2, Medical Examination Report, is a form provided to the examining physician to record the
14 results of the applicant's medical examination. The form shall contain of the applicant's biographical
15 information, vision, hearing, cardiovascular and circulator health, urinalysis, TB skin test, other medical
16 conditions relevant to the applicant's physical fitness to perform the duties of a justice officer, and the medical
17 professional's recommendation and concerns as to an applicant's physical fitness to perform the duties of a
18 justice officer.

19 (3) Form F-3, the (Personal History Statement), is completed by the applicant and shall contain information
20 regarding the applicant's work, residential, military, criminal history, financial condition, and references.

21 (4) Form F-4 and F-4T, Report of Appointment, is completed by the reporting agency for the appointment
22 of justice officers and shall contain a checklist indicating the applicant's progress toward completing the
23 requirements for certification, the applicant appointment date, position title and status, the applicant's contact
24 information, and prior certification history.

25 (5) Form F-8, Background Summary, shall contain the applicant for certification's biographical data, family
26 data, scholastic data, employment data, criminal history, interviews and references, and a summary of the
27 background investigator's findings.

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

29 Eff. January 1, 1989;

30 Recodified from 12 NCAC 10B .0407 Eff. January 1, 1991;

31 Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992;

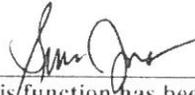
32 Temporary Amendment Eff. March 1, 1998;

33 Amended Eff. August 1, 2002; August 1, 1998;

34 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,
35 2018;

36 Amended Eff. January 1, 2023.

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0410 Agency Reporting of Drug Screening Results	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: sejones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  <hr/> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 12NCAC 10B .0410 is amended **WITH CHANGES** as published in 37:01 NCR 23-24 as follows:

2
3 **12 NCAC 10B .0410 AGENCY REPORTING OF DRUG SCREENING RESULTS**
4

5 (a) Every justice officer ~~[shall be examined and certified by a licensed surgeon, physician, physician assistant, nurse~~
6 ~~[practitioner] practitioner, or other licensed independent practitioner to meet physical requirements necessary to fulfill~~
7 ~~the officer's particular responsibilities and]~~ shall have ~~produced~~ produce a negative result on a drug screen
8 administered according to the following specifications:

- 9 (1) the drug screen shall be a urine test consisting of an initial screening test using an
10 immunoassay method and a confirmatory test on an initial positive result using a gas
11 chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests
12 authorized or mandated by the Department of Health and Human Services for Federal
13 Workplace Drug Testing Programs;
- 14 (2) a chain of custody shall be maintained on the specimen from collection to the eventual
15 discarding of the specimen; **specimen. If the specimen is handled only by a medical**
16 **professional or a third party provider the laboratory utilize federally mandated chain of**
17 **custody procedures, then the agency does not need an inter-agency chain of custody**
18 **procedure. If agency staff will be handling the urine specimen at any point, then agency**
19 **staff shall document the collection, storage, and processing of the specimen for testing**
20 **purposes.**
- 21 (3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine
22 (PCP), opiates, and amphetamines or their metabolites;
- 23 (4) the test threshold values meet the requirements established by the Department of Health
24 and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR
25 7920 (2017) incorporated by reference, including later amendments and editions found at
26 no cost at [https://www.federalregister.gov/documents/2017/01/23/2017-](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs)
27 [00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs);
- 28 (5) the test conducted shall be not more than 60 days old, calculated from the time when the
29 laboratory reports the results to the date of employment; and
- 30 (6) the laboratory conducting the test shall be certified for federal workplace drug testing
31 **[programs,] programs** and shall adhere to applicable federal rules, regulations, and
32 guidelines pertaining to the handling, testing, storage, and preservation of samples.

33 (a)(b) Each agency that is required to report individuals to the Commission for certification, or that voluntarily reports
34 telecommunicators to the Commission for certification, shall report in writing to the Division all refusals and all
35 positive results of **required** drug screening obtained from applicants and lateral transfers pursuant to 12 NCAC 10B
36 .0301(6) unless transfers. If the positive result has been explained **by the applicant or lateral transfer** to the satisfaction

1 of the agency's medical review officer [officer,] Medical Review Officer, who shall be a licensed ~~physician~~ physician,
2 the positive results are not required to be reported.

3 ~~(b)~~(c) Each agency that is required to report individuals to the Commission for certification, or that voluntarily reports
4 telecommunicators to the Commission for certification, and that if it conducts a drug screen for in-service officers,
5 shall report in writing positive results or refusals to submit to an in-service drug screening to the [Sheriffs' Standards]
6 Division within 30 days of the positive result or refusal, unless the officer has explained the positive result has been
7 explained to the satisfaction of the agency's [medical review officer,] Medical Review Officer, who shall be a licensed
8 physician to the extent the drug screen conducted conforms to the specifications of ~~provided the drug screen~~
9 ~~conducted conforms to~~ this Rule. 12 NCAC 10B 0410 .0301(6)(a), (b), (c), (d) and (f).

10 ~~(e)~~(d) For reporting purposes, a result ~~will be~~ is considered "positive" only in the cases where the drug screen
11 reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the
12 Department of Health and Human Services for Federal Workplace Drug Testing Programs and adopted by reference
13 in 12 NCAC 0301(6) this Rule.

14 (e) For reporting purposes, a result is considered "negative" only in those cases where the drug screen reveals the
15 presence of an illegal drug at a level less than the threshold value as established by the Department of Health and
16 Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

17 (f) All written reports required to be submitted to the Division by this Rule shall contain the individual's name, date
18 of birth, either the date the test was administered or the date of the refusal, and a copy of the drug screen panel with
19 the results of the medical officer review.

20
21 *History Note: Authority G.S. 17E-4; 17E-7;*
22 *Eff. July 1, 1990;*
23 *Recodified from 12 NCAC 10B .0409 Eff. January 1, 1991;*
24 *Amended Eff. January 1, 2013;*
25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
26 *2018.*
27 *Amended Eff. January 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] Sheriffs' Standards rules for next week

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, November 8, 2022 3:37 PM
To: Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

Hi Sirena,

Yes, the deadline is Thursday, 5:00 PM. As I said earlier, I'm happy to sit down with you guys, but really, it makes more sense for you to submit responses before we do, because if the responses are good, then there's really no need for a meeting.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Tuesday, November 8, 2022 1:28 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

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Good afternoon.

We left off with scheduling a meeting before our submission. I would still like to have a meeting before they are submitted.

Is my deadline this Thursday 11/10 for these to go before the Commission on the 17th?

Sirena

Burgos, Alexander N

From: Liebman, Brian R
Sent: Monday, November 14, 2022 9:55 AM
To: Burgos, Alexander N
Subject: FW: [External] Draft of 12 NCAC .0408

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Thursday, November 10, 2022 3:38 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: [External] Draft of 12 NCAC .0408

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Thanks!

I made the changes to section (k), as well as the correction to "United States."

(c)(2): You are correct. The language explains what we are already requiring. It provides clarification to "certified" and what is acceptable for the criminal record check, which is also referenced in (g).

(g)(2) we provided a breakdown and clarification by listing it out in A-C. We are specifying what is already required.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, November 10, 2022 2:27 PM
To: Jones, Sirena <Scjones@ncdoj.gov>
Subject: RE: [External] Draft of 12 NCAC .0408

Hey Sirena,

This looks good. I went issue by issue below, in red.

As for the Forms language in (k), I think this is good. My only suggestion is to say that these forms "shall contain" the information you're requiring, rather than "consists of". That way you're actually requiring something, rather than explaining it.

Thanks for sending these over. I haven't gotten a chance yet to complete my review of the parallel CJETS/SETSC rules, but I will make all efforts to do so before 5:00 today.

Best,
Brian

Brian Liebman
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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Thursday, November 10, 2022 12:20 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] Draft of 12 NCAC .0408

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Thanks again for speaking with me this morning.

Attached is a **draft** of 12 NCAC 10B .0408.

I am including some of the responses to the request for changes in the body of this email. It is not final, but hopefully this will help in your review.

Bob Pickett is our legal counsel and he is working with me on these responses.

Thanks!

Responses:

Also in (c)(2), line 33, I'm not sure I understand what you're requiring. What is a "certified" records check? Also, when you say "county-wide" do you mean the county that the applicant resided in? Please clarify.

A certified record check is a term well understood within the law enforcement community as a record of someone's history of criminal charges and the disposition of those charges including convictions that is certified by the entity producing the record. The record check and certification is most often done by the clerk of court for the jurisdiction and certified by a raised seal of the office, but it may be done by other law enforcement agencies or other governmental entities that have access to criminal records. The record may be certified by means of a visual certification on the document such as an official stamp, a written statement of certification, an electronic certification, or several other means. Given the variety of certifications we may receive from different governmental some flexibility of language is necessary. The language of the proposed regulation has been changed to "The criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check shall be certified by the entity providing the record with either a raised seal or other visible verification that the document is an authentic copy." The term county-wide has been changed to clarify that it is a record check from the county in which the applicant has resided.

OK, looks good to me. To be clear, the language you've added to the rule merely specifies what you were already requiring? Or are these new requirements that you're enforcing for the first time?

In (g)(2), line 20, what “efforts” must be made and documented? Who shall make such efforts? How must they be documented? Please clarify.

The proposed regulation has been changed to specify what an employing agency must do. They must provide the record check from the foreign country in which the applicant lived or provide correspondence with the foreign government and a report from the appointed background investigator explaining the efforts made by the agency to obtain the record and an explanation as to why the record could not be obtained. There are innumerable reasons the record may be unobtainable. For example, records may not be kept, the records may have been destroyed, the country’s laws may prohibit their release, diplomatic problems with the country, etc. Flexibility is necessary and it is impossible and inappropriate to specify all acceptable reasons. However, as long as the hiring agency contacted the national judicial authority, law enforcement authority, or other governmental entity charged with maintaining the records, followed up with any other governmental entity, and complete any forms required and submit documentation to get a record check they will have a safe harbor. If there are no referrals made or requests for forms or documentation then they will have a safe harbor also.

This also looks good to me. Note a typo on line 4, where it says “United Stated” that should be fixed.

Again, I have to ask, because this is a fairly extensive change, are you simply specifying what you were already requiring? Or are these new requirements that you’re enforcing for the first time?

In (i), line 34, how shall the name change be documented? Please specify.

Changed to specify that “a copy of the legal document effecting the name change with either a raised seal or other visible verification that the document is an authentic copy from the governmental entity that issued the document or is charged with maintaining the record of the document.” Different states and countries have different legal instruments that effect name changes and different entities maintain these records. The requirement is to have the legal document that had the effect of changing the name.

Again, looks good to me.

In (j), what are you requiring? What “charges or other violations” would result from a records check but not pertain to the applicant? How would the agency “explain” those charges, and what is a satisfactory explanation?

Criminal record database searches used to run criminal record checks often return records for criminal charges on individuals who are not the individual who is being searched for due to imprecision in the entries and the search capabilities of the database. There are a wide range of reasons this may happen such as similarities in the name of the person searched and the name in the record. Oftentimes these false returns may be easily ruled out by comparison of personal identifying information, the date and location of the offense and known age or whereabouts of the applicant, or several other factors. If the hiring agency does not believe a charge or violation relates to the applicant, they should give the reason for the belief but the possible acceptable reasons are innumerable due to the variations in people’s personal histories and database entries. The Commission will make a final determination on whether the offense is applicable to the applicant. Providing an explanation will expedite this process. The language has been changed to help clarify this requirement.

Got it. Makes sense now.



Sirena Jones

Deputy Director

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

scjones@ncdoj.gov

1700 Tryon Park Drive, Raleigh, NC 27610

Post Office Box 629, Raleigh, NC 27602-0629

www.ncdoj.gov

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Burgos, Alexander N

From: Liebman, Brian R
Sent: Monday, November 14, 2022 9:54 AM
To: Burgos, Alexander N
Subject: FW: [External] Draft of 12 NCAC .0408

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Liebman, Brian R
Sent: Thursday, November 10, 2022 2:27 PM
To: Jones, Sirena <Scjones@ncdoj.gov>
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Thanks for sending these over. I haven't gotten a chance yet to complete my review of the parallel CJETS/SETSC rules, but I will make all efforts to do so before 5:00 today.

Best,
Brian

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Bob Pickett is our legal counsel and he is working with me on these responses.

Thanks!

Responses:

Also in (c)(2), line 33, I'm not sure I understand what you're requiring. What is a "certified" records check? Also, when you say "county-wide" do you mean the county that the applicant resided in? Please clarify.

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Got it. Makes sense now.



Sirena Jones
Deputy Director
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Phone: 919-779-8213
Fax: 919-662-4515
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1700 Tryon Park Drive, Raleigh, NC 27610
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Burgos, Alexander N

From: Liebman, Brian R
Sent: Monday, November 14, 2022 9:54 AM
To: Burgos, Alexander N
Subject: FW: [External] Draft of 12 NCAC .0408

Hi Alex, you were not copied on my exchange with Sirena last week, so I'm forwarding these to you for posting online. They submitted some draft rules for me to look at, which I am leaving off in the interests of not confusing anyone with multiple versions of the Rules.

These are for the Sheriff's rules that are on follow up, btw.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Thursday, November 10, 2022 12:20 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] Draft of 12 NCAC .0408

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Thanks again for speaking with me this morning.

Attached is a **draft** of 12 NCAC 10B .0408.

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Bob Pickett is our legal counsel and he is working with me on these responses.

Thanks!

Responses:

Also in (c)(2), line 33, I'm not sure I understand what you're requiring. What is a "certified" records check? Also, when you say "county-wide" do you mean the county that the applicant resided in? Please clarify.

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Sirena Jones

Deputy Director

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

scjones@ncdoj.gov

1700 Tryon Park Drive, Raleigh, NC 27610

Post Office Box 629, Raleigh, NC 27602-0629

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Burgos, Alexander N

Subject: FW: [External] Sheriffs' Standards rules for next week

From: Jones, Sirena <Scjones@ncdoj.gov>

Sent: Tuesday, October 18, 2022 10:24 AM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Dismukes, Leslie <ldismukes@ncdoj.gov>

Cc: Pickett, Robert <RPickett@NCDOJ.GOV>; Zellinger, Benjamin O <bzellinger@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Sheriffs' Standards rules for next week

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Good morning.

Thanks for your consideration regarding an extension. I will continue working on the responses.

Sirena

Burgos, Alexander N

From: Liebman, Brian R
Sent: Tuesday, October 18, 2022 9:56 AM
To: Dismukes, Leslie
Cc: Jones, Sirena C; Pickett, Robert; Zellinger, Benjamin O; Burgos, Alexander N
Subject: RE: [External] Sheriffs' Standards rules for next week

Follow Up Flag: Follow up
Flag Status: Flagged

Let's see what the responses look like, and if there's anything we do need to really iron out, I'm more than happy to sit down with y'all.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Sent: Tuesday, October 18, 2022 9:52 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Jones, Sirena C <scjones@ncdoj.gov>; Pickett, Robert <RPickett@NCDOJ.GOV>; Zellinger, Benjamin O <bzellinger@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

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Thanks, Brian – we appreciate you working through this with us. I also think we are making a couple of technical changes to ensure that the two sets of rules comport. Perhaps we can meet early in November, once everyone has had a chance to review, to make sure we iron out any additional issues?

Best,
Leslie

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, October 18, 2022 9:49 AM
To: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Cc: Jones, Sirena <Scjones@ncdoj.gov>; Pickett, Robert <RPickett@ncdoj.gov>; Zellinger, Benjamin <Bzellinger@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

Good morning Leslie,

Sorry for the late response, I only got back into my outlook account late last night.

To be clear, there are no objections to the Sheriff's rules at this time. Moreover, although I looked at a few of the CJETS rules, the bulk were reviewed by my colleague, Mr. Duke, so this is my first time reviewing some of this language. Ms. Jones has very helpfully sent me a chart equating each Sheriff's rule with the corresponding CJETS rule, and I think that will aid my review.

We received Ms. Jones' request for an extension, and I will recommend that the Commission grant it. Given some time to work on these, I'm sure we can work out any issues remaining with these Rules.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Sent: Friday, October 14, 2022 9:48 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Jones, Sirena C <scjones@ncdoj.gov>; Pickett, Robert <RPickett@NCDOJ.GOV>; Zellinger, Benjamin O <bzellinger@ncdoj.gov>
Subject: [External] Sheriffs' Standards rules for next week

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Good morning Brian,

I am a little confused about the objections to the Sheriffs' Standards rules. We amended them to look exactly like the CJ rules (per SB300) that were passed last month. If the Sheriffs' rules have been amended to look just like the approved CJ rules I am unclear why there are objections.

The two sets of rules have to be identical per SB300 and so as soon as our CJ rules were passed by the RRC we sent them to Sheriffs. I have not done a page by page comparison but DD Jones indicates that she incorporated CJ's changes to the Sheriffs' rules before submission.

Given that, I am not sure why there are additional objections if the rules are identical and the CJ rules passed the RRC last month?

If you could shed some light on that for me, that would be great. I am happy to hop on a call if needed.

Many thanks,
Leslie



Leslie Cooley Dismukes

Criminal Bureau Chief
North Carolina Department of Justice

Office: (919) 716-6560

Cell: (704) 577-6968

ldismukes@ncdoj.gov

114 W. Edenton St., Raleigh, NC 27603

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Burgos, Alexander N

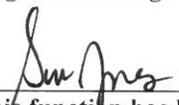
Subject: FW: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes
Attachments: Form 400 12NCAC 10B.pdf

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Friday, October 14, 2022 1:05 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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Good afternoon.
Attached are the corrected 400 forms.

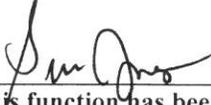
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0205 Period of Suspension, Revocation, or Denial	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138 SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div>	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriff's Education and Training Commission and the Criminal Justice Education and Training Standards Commission. Rule 12 NCAC 10B .0205 is affected by the amendment to Rule 12 NCAC 10B .0301 which details these uniform minimum standards for officers.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: auto;"/> </div> *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: Sirena Jones Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

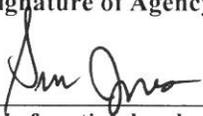
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0301 Minimum Standards for Justice Officers	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: SL 2021-138, SB 300 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: auto;"/> </div> *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: Sirena Jones Title:
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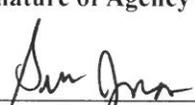
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0302 Documentation of Educational Requirement	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
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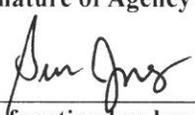
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0304 Medical Examination	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
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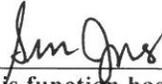
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0305 Background Investigation	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
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Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

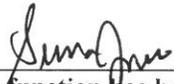
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0306 Employment Interview	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
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9B. Explain: Senate Bill 300 requires uniform minimum standards for officers certified by the Sheriffs' Education and Training Commission and the Criminal Justice Education and Training Standards Commission.	
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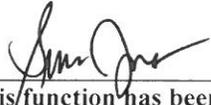
SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0307 Criminal History Record	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input type="checkbox"/> Notice Required Notice of Text published on: 07/01/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 07/26/2022 Adoption by Agency on: 09/16/2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
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Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0408 Verification of Records to the Division	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
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9B. Explain: Added details to Rule 12 NCAC 10B .0408 based on the modification of Rule 12 NCAC 10B .0305 which was required to be changed by Senate Bill 300.	
10. Rulemaking Coordinator: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  <hr style="width: 80%; margin: auto;"/> </div> *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: Sirena Jones Title:
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SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0410 Agency Reporting of Drug Screening Results	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
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Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

Burgos, Alexander N

From: Liebman, Brian R
Sent: Tuesday, October 18, 2022 9:56 AM
To: Dismukes, Leslie
Cc: Jones, Sirena C; Pickett, Robert; Zellinger, Benjamin O; Burgos, Alexander N
Subject: RE: [External] Sheriffs' Standards rules for next week

Follow Up Flag: Follow up
Flag Status: Flagged

Let's see what the responses look like, and if there's anything we do need to really iron out, I'm more than happy to sit down with y'all.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Sent: Tuesday, October 18, 2022 9:52 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Jones, Sirena C <scjones@ncdoj.gov>; Pickett, Robert <RPickett@NCDOJ.GOV>; Zellinger, Benjamin O <bzellinger@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

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Thanks, Brian – we appreciate you working through this with us. I also think we are making a couple of technical changes to ensure that the two sets of rules comport. Perhaps we can meet early in November, once everyone has had a chance to review, to make sure we iron out any additional issues?

Best,
Leslie

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, October 18, 2022 9:49 AM
To: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Cc: Jones, Sirena <Scjones@ncdoj.gov>; Pickett, Robert <RPickett@ncdoj.gov>; Zellinger, Benjamin <Bzellinger@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Sheriffs' Standards rules for next week

Good morning Leslie,

Sorry for the late response, I only got back into my outlook account late last night.

To be clear, there are no objections to the Sheriff's rules at this time. Moreover, although I looked at a few of the CJETS rules, the bulk were reviewed by my colleague, Mr. Duke, so this is my first time reviewing some of this language. Ms. Jones has very helpfully sent me a chart equating each Sheriff's rule with the corresponding CJETS rule, and I think that will aid my review.

We received Ms. Jones' request for an extension, and I will recommend that the Commission grant it. Given some time to work on these, I'm sure we can work out any issues remaining with these Rules.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Cooley Dismukes, Leslie <LDismukes@ncdoj.gov>
Sent: Friday, October 14, 2022 9:48 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Jones, Sirena C <scjones@ncdoj.gov>; Pickett, Robert <RPickett@NCDOJ.GOV>; Zellinger, Benjamin O <bzellinger@ncdoj.gov>
Subject: [External] Sheriffs' Standards rules for next week

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Good morning Brian,

I am a little confused about the objections to the Sheriffs' Standards rules. We amended them to look exactly like the CJ rules (per SB300) that were passed last month. If the Sheriffs' rules have been amended to look just like the approved CJ rules I am unclear why there are objections.

The two sets of rules have to be identical per SB300 and so as soon as our CJ rules were passed by the RRC we sent them to Sheriffs. I have not done a page by page comparison but DD Jones indicates that she incorporated CJ's changes to the Sheriffs' rules before submission.

Given that, I am not sure why there are additional objections if the rules are identical and the CJ rules passed the RRC last month?

If you could shed some light on that for me, that would be great. I am happy to hop on a call if needed.

Many thanks,
Leslie



Leslie Cooley Dismukes

Criminal Bureau Chief

North Carolina Department of Justice

Office: (919) 716-6560

Cell: (704) 577-6968

ldismukes@ncdoj.gov

114 W. Edenton St., Raleigh, NC 27603

ncdoj.gov

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Burgos, Alexander N

From: Liebman, Brian R
Sent: Friday, September 30, 2022 11:57 AM
To: Jones, Sirena C
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes
Attachments: 10.2022 - 12 NCAC 10B Request for Changes.docx

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good morning,

I'm the attorney who reviewed the Rules submitted by the Sheriff's Education and Training Standards Commission for the October 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, October 20, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, October 14, 2022.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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