

Article 13A.

State Bureau of Investigation.

Part 1. General Provisions.

§ 143B-1208.1. Bureau of Investigation created; powers and duties.

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, there is established the State Bureau of Investigation. The head of the Bureau is the Director, who shall serve as chief executive officer of the Bureau and shall be solely responsible for all management functions. Notwithstanding any provisions to the contrary, the Director shall have such authority as is necessary to direct and oversee the Bureau, and may delegate any duties and responsibilities necessary to ensure the proper management of the Bureau. The State Bureau of Investigation shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance. (1937, c. 349, s. 1; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2013-360, s. 17.6(l); 2014-100, s. 17.1(j), (ww); 2015-241, s. 16A.7(a); recodified from N.C. Gen. Stat. 143B-915 by 2023-134, s. 19F.4(i), (g).)

§ 143B-1208.2. SBI liaison.

The State Bureau of Investigation may designate liaison personnel to lobby for legislative action in accordance with Article 5C of Chapter 120C of the General Statutes. (2015-241, s. 16A.7(c); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; recodified from N.C. Gen. Stat. 143B-916 by 2023-134, s. 19F.4(i).)

§ 143B-1208.3. General powers and duties of Director and law enforcement officers of the State Bureau of Investigation.

The Director of the Bureau and other sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. The Director of the Bureau and other sworn law enforcement officers of the Bureau may give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor. (1937, c. 349, s. 5; 1973, c. 47, s. 2; c. 1262, s. 10; 2003-214, s. 1(1); 2011-145, s. 19.1(h), (q1); 2011-391, s. 43(g); 2012-83, s. 37; 2014-100, s. 17.1(j), (xx); recodified from N.C. Gen. Stat. 143B-917 by 2023-134, s. 19F.4(i).)

§ 143B-1208.4. Transfer of personnel.

The Director of the State Bureau of Investigation shall have authority to transfer members of the Bureau from one locality in the State to another as the Director may deem necessary. When any member of the State Bureau of Investigation is transferred from one point to another for the convenience of the State, or otherwise than upon the request of the employee, the Bureau shall be

responsible for transporting the household goods, furniture, and personal effects of the employee and members of his household. (1955, c. 1185, s. 2; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); recodified from N.C. Gen. Stat. 143B-918 by 2023-134, s. 19F.4(i), (g).)

§ 143B-1208.5. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for employees.

(a) The Bureau shall, upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State and when so directed by the Governor. Such investigation, however, shall in no wise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Bureau to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

(b) The Bureau shall investigate all cases arising from frauds in connection with elections in the State.

(c) The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Chapter 138A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

(d) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate and prepare evidence in the event of any of the following:

- (1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of the individual.

- (2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies.

(e) The State Bureau of Investigation is further authorized, upon request of the Governor or the Attorney General, to investigate the commission or attempted commission of the crimes defined in the following statutes:

- (1) Article 4A of Chapter 14 of the General Statutes;
- (2) G.S. 14-43.11;
- (3) G.S. 14-277.1;
- (4) G.S. 14-277.2;
- (5) G.S. 14-283;
- (6) G.S. 14-284;
- (7) G.S. 14-284.1;
- (8) G.S. 14-288.2;
- (9) G.S. 14-288.7;
- (10) G.S. 14-288.8;
- (11) G.S. 14-288.20;
- (12) G.S. 14-288.21;
- (13) G.S. 14-288.22;
- (14) G.S. 14-288.23;
- (15) G.S. 14-288.24;
- (16) G.S. 14-284.2;
- (17) G.S. 14-399(e);
- (18) G.S. 15A-287 and G.S. 15A-288;
- (19) G.S. 130A-26.1;
- (20) G.S. 143-215.6B;
- (21) G.S. 143-215.88B; and
- (22) G.S. 143-215.114B.

(f) The State Bureau of Investigation is further authorized, upon request of the Governor or Attorney General, to investigate the solicitation, commission, or attempted commission, by means of a computer, computer network, computer system, electronic mail service provider, or the Internet, of the crimes defined in the following statutes:

- (1) G.S. 14-190.6;
- (2) G.S. 14-190.7;
- (3) G.S. 14-190.8;
- (4) G.S. 14-190.14;
- (5) G.S. 14-190.15;
- (6) G.S. 14-190.16;
- (7) G.S. 14-190.17;
- (8) G.S. 14-190.17A;
- (9) G.S. 14-190.18;
- (10) G.S. 14-190.19;
- (11) G.S. 14-202.3;

Upon determining the location of the criminal violation, the State Bureau of Investigation shall promptly notify the sheriff and local law enforcement of its investigation.

(g) All records and evidence collected and compiled by employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(h) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund. (1937, c. 349, s. 6; 1947, c. 280; 1965, c. 772; 1973, c. 47, s. 2; 1981, c. 822, s. 2; 1987, c. 858, s. 1; c. 867, s. 3; 1991, c. 725, s. 2; 1993, c. 461, s. 2; 1995, c. 407, s. 2; 1999-398, s. 2; 2003-214, s. 1(1); 2005-121, s. 3; 2008-213, s. 88; 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j), (yy); 2017-57, s. 16B.10(a); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2021-138, s. 10(a); recodified from N.C. Gen. Stat. 143B-919 by 2023-134, s. 19F.4(i), (g); 2023-140, s. 39(c).)

§ 143B-1208.6. Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.

Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of Investigation.

Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation.

The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation.

If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the district attorney of any district if the same concerns persons or offenses in his district. (1977, c. 763; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); 2014-115, s. 45(a); recodified from N.C. Gen. Stat. 143B-920 by 2023-134, s. 19F.4(i).)

§ 143B-1208.7. Use of private investigators limited.

No State executive officer, department, agency, institution, commission, bureau, or other organized activity of the State that receives support in whole or in part from the State except for counties, cities, towns, other municipal corporations or political subdivisions of the State or any agencies of these subdivisions, or county or city boards of education may employ a private investigator without the consent of the Director of the State Bureau of Investigation. If the Director of the State Bureau of Investigation determines that it is impracticable for the Bureau to conduct the investigation, the Director of the State Bureau of Investigation shall employ a private investigator and shall fix the compensation for his services. The cost of the private investigator

shall be paid from funds credited to the entity requesting the investigation or from the Contingency and Emergency Fund. (1985, c. 479, s. 138; 2003-214, s. 1(1); 2014-100, s. 17.1(p), (j); recodified from N.C. Gen. Stat. 143B-921 by 2023-134, s. 19F.4(f).)

§ 143B-1208.8. Investigations of child sexual abuse in child care.

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant to G.S. 7B-301, that child sexual abuse may have occurred in a child care facility. (1991, c. 593, s. 3; 1991 (Reg. Sess., 1992), c. 923, s. 5; 1997-506, s. 37; 1998-202, s. 13(z); 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); recodified from N.C. Gen. Stat. 143B-922 by 2023-134, s. 19F.4(f).)

§ 143B-1208.9. Cooperation of local enforcement officers.

All local enforcement officers are hereby required to cooperate with the said Bureau, its officers and agents, as far as may be possible, in aid of such investigations and arrest and apprehension of criminals as the outcome thereof. (1937, c. 349, s. 8; 2003-214, s. 1(1); 2014-100, s. 17.1(j); recodified from N.C. Gen. Stat. 143B-923 by 2023-134, s. 19F.4(f).)

§ 143B-1208.10. Governor authorized to transfer activities of Central Prison Identification Bureau to the new Bureau; photographing and fingerprinting records.

The records and equipment of the Identification Bureau now established at Central Prison shall be made available to the said Bureau of Investigation, and the activities of the Identification Bureau now established at Central Prison may, in the future, if the Governor deem advisable, be carried on by the Bureau hereby established; except that the Bureau established by this Article shall have authority to make rules and regulations whereby the photographing and fingerprinting of persons confined in the Central Prison, or clearing through the Central Prison, or sentenced by any of the courts of this State to service upon the roads, may be taken and filed with the Bureau. (1937, c. 349, s. 2; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2014-100, s. 17.1(j); recodified from N.C. Gen. Stat. 143B-924 by 2023-134, s. 19F.4(f).)

§ 143B-1208.11. Study and report on use of pseudoephedrine products to make methamphetamine.

The State Bureau of Investigation shall study issues regarding the use of pseudoephedrine products to make methamphetamine, including any data on the use of particular pseudoephedrine products in that regard, pertinent law enforcement statistics, trends observed, and other relevant information, and report annually to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and the Joint Governmental Operations Subcommittee on Justice and Public Safety. (2005-434, s. 8; 2014-100, s. 17.1(l); 2021-90, s. 8(c); recodified from N.C. Gen. Stat. 143B-925 by 2023-134, s. 19F.4(f).)

§ 143B-1208.12. Appointment and term of the Director of the State Bureau of Investigation.

(a) The Director of the State Bureau of Investigation shall be appointed by the Governor for a term of six years subject to confirmation by the General Assembly by joint resolution. The term of office of the Director of the State Bureau of Investigation shall be for six years; the first full six-year term shall begin July 1, 2023. The name of the person to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General

Assembly on or before May 1 of the year in which the term for which the appointment is to be made expires. Upon failure of the Governor to submit a name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment. If there is no vacancy in the office of the Director of the State Bureau of Investigation, and a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

(b) The Director may be removed from office by the Governor, or upon a three-fifths vote of the membership of the Senate and House of Representatives present and voting, and solely for the grounds set forth in G.S. 143B-13(b), (c), and (d). In case of a vacancy in the office of the Director of the State Bureau of Investigation for any reason prior to the expiration of the Director's term of office, the name of the Director's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, an acting Director shall be appointed by the Governor to serve pending confirmation by the General Assembly. However, in no event shall an acting Director serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly. (2014-100, s. 17.1(ppp); 2021-180, s. 19B.6(a); recodified from N.C. Gen. Stat. 143B-926 by 2023-134, s. 19F.4(f); recodified from N.C. Gen. Stat. 143B-926 by 2023-134, s. 19F.4(f), (g).)

§ 143B-1208.13. Personnel of the State Bureau of Investigation.

The Director of the State Bureau of Investigation may appoint a sufficient number of assistants who shall be competent and qualified to do the work of the Bureau. The Director shall be responsible for making all hiring and personnel decisions of the Bureau. (2014-100, s. 17.1(tt); 2015-264, s. 20; recodified from N.C. Gen. Stat. 143B-927 by 2023-134, s. 19F.4(f), (g).)

§ 143B-1208.14. Operation and management of Information Sharing and Analysis Center.

The State Bureau of Investigation shall operate and manage the Information Sharing and Analysis Center, and its operation and management shall be under the sole direction and control of the Director of the State Bureau of Investigation. The Information Sharing and Analysis Center is authorized to analyze information related to any threat of violence to the safety of any individual associated with (i) an educational property as defined in G.S. 14-269.2 or (ii) a place of worship as defined in G.S. 14-54.1. The Information Sharing and Analysis Center shall promptly notify the sheriff and local law enforcement agency with jurisdiction if (i) a threat is determined to be credible and (ii) the location of the educational property or place of worship associated with the threat, or the location of any individual suspected of creating the threat, is ascertained. The Director of the State Bureau of Investigation and other sworn law enforcement officers of the State Bureau of Investigation may give assistance to sheriffs and police officers when called upon by

them and so directed, as provided in G.S. 143B-1208.3. (2015-241, s. 16A.7(d); 2018-67, s. 4; recodified from N.C. Gen. Stat. 143B-929 by 2023-134, s. 19F.4(f), (g).)

§ 143B-1209: Reserved for future codification purposes.

Part 2. Criminal History Record Checks.

§ 143B-1209.09. Definition.

For purposes of this Part, the term "Bureau" means the State Bureau of Investigation. (2023-134, s. 19F.4(j).)

§ 143B-1209.10. Criminal history background investigations; fees.

(a) When the State Bureau of Investigation determines that any person is entitled by law to receive information, including criminal records, from the Bureau, for any purpose other than the administration of criminal justice, the Bureau shall charge the recipient of such information a reasonable fee for retrieving such information. The fee authorized by this section shall not exceed the actual cost of storing, maintaining, locating, editing, researching and retrieving the information, and shall be budgeted for the support of the Bureau.

(b) As used in this section, "administration of criminal justice" means the performance of any of the following activities: the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of persons suspected of, accused of or convicted of a criminal offense. The term also includes screening for suitability for employment, appointment or retention of a person as a law enforcement or criminal justice officer or for suitability for appointment of a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives.

(c) In providing criminal history record checks, the Bureau shall process requests in the following priority order:

- (1) Administration of criminal justice record checks,
- (2) Mandatory noncriminal justice criminal history record checks,
- (3) Voluntary noncriminal justice criminal history record checks.

(d) Nothing in this section shall be construed as enlarging any right to receive any record of the Bureau. Such rights are and shall be controlled by G.S. 143B-906, 143B-1208.5, 120-19.4A, and other applicable statutes. (1979, c. 816; 1981, c. 832, s. 1; 1987, c. 867, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 4; 2002-126, s. 29A.12(a); 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o), (zz); 2015-267, s. 1(b); recodified from N.C. Gen. Stat. 143B-930 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.11. Criminal record checks of school personnel.

(a) The State Bureau of Investigation may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Bureau may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(b) The Bureau may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for

employment at a regional school if the employee or applicant consents to the record check. The Bureau may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in G.S. 115C-238.73.

(c) The Bureau may provide a criminal history record check to the chancellor operating a University of North Carolina laboratory school of a person who is employed at a laboratory school or of a person who has applied for employment at a laboratory school if the employee or applicant consents to the record check. The Bureau may also provide a criminal history record check of school personnel, as defined in G.S. 116-239.12, by fingerprint card to the chancellor operating the laboratory school from the National Repositories of Criminal Histories, in accordance with G.S. 116-239.12. The information shall be kept confidential by the chancellor operating the laboratory school as provided in G.S. 116-239.12.

(d) The Bureau may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(e) The Bureau shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(f) The Bureau may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(g) The Bureau shall adopt rules to implement this section. (1991, c. 705, s. 1; 1993, c. 350, s. 1; 1995, c. 373, s. 2; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2011-241, s. 2; 2014-100, s. 17.1(m), (o); 2017-102, s. 25; 2017-117, s. 3; recodified from N.C. Gen. Stat. 143B-931 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.12. Criminal record checks of providers of treatment for or services to children, the elderly, mental health patients, the sick, and the disabled.

(a) Authority. – The State Bureau of Investigation may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

- (1) Hospitals licensed under Chapter 131E of the General Statutes.
- (2) Hospices licensed under Chapter 131E of the General Statutes.
- (3) Child placing agencies licensed under Chapter 131D of the General Statutes.
- (4) Residential child care facilities licensed under Chapter 131D of the General Statutes.
- (5) Hospitals licensed under Chapter 122C of the General Statutes.
- (6) Licensed child care facilities and nonlicensed child care homes regulated by the State.

(7) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly.

(b) Procedure. – A criminal record check may be conducted by using an individual's fingerprint or any information required by the Bureau to identify that individual. A criminal record check shall be provided only if the individual whose record is checked consents to the record check. The information shall be kept confidential by the entity that receives the information. Upon the disclosure of confidential information under this section by the entity, the Bureau may refuse to provide further criminal record checks to that entity.

(c) Foster or Adoptive Parent. – The Bureau, at the request of a child placing agency licensed under Chapter 131D of the General Statutes or a local department of social services, may provide a criminal record check of a prospective foster care or adoptive parent if the prospective parent consents to the record check. The information shall be kept confidential and upon the disclosure of confidential information under this section by the agency or department, the Bureau may refuse to provide further criminal record checks to that agency or department.

(d) Fee. – The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee may not exceed fourteen dollars (\$14.00). (1993, c. 403, s. 1; 1995, c. 453, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 1; 1997-506, s. 38; 2000-154, s. 5; 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-932 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.13. Criminal record checks for foster care.

The State Bureau of Investigation may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 131D-10.2(6a). The Division shall provide to the Bureau, along with the request, the fingerprints of the individual to be checked, any additional information required by the Bureau, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 131D-10.3A(g). The Bureau shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.26(c); 1997-140, s. 3; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-933 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.14. Criminal record checks of child care providers.

The State Bureau of Investigation may provide to the Division of Child Development, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child care provider, as defined in G.S. 110-90.2. The Division shall provide to the Bureau of Public Safety, along with the request, the fingerprints of the provider to be checked, any additional information required by the Bureau, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Bureau shall charge a reasonable fee only for

conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.25(b); 1997-443, s. 11A.118(a); 1997-506, s. 39; 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-934 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.15. Criminal history record checks of employees of and applicants for employment with the Department of Health and Human Services, and the Division of Juvenile Justice of the Department of Public Safety.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

- a. An applicant for employment or a current employee in a position in the Division of Juvenile Justice of the Department of Public Safety who provides direct care for a client, patient, student, resident or ward of the Division.
- b. A person who supervises positions in the Division of Juvenile Justice of the Department of Public Safety providing direct care for a client, patient, student, resident or ward of the Division.
- c. An applicant for employment or a current employee in a position in the Department of Health and Human Services.
- d. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Health and Human Services.
- e. A person who has been approved to perform volunteer services for the Department of Health and Human Services.
- f. An independent contractor or an employee of an independent contractor who has contracted with the Division of Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.
- g. A person who has been approved to perform volunteer services in or for the Division of Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery;

Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety, the State Bureau of Investigation may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Bureau a form consenting to the check signed by the covered person to be checked and any additional information required by the Bureau. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety shall provide to the Bureau the fingerprints of the covered person to be checked, any additional information required by the Bureau, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be used for a search of the State criminal history record file and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this section confidential. The Bureau shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the Bureau. All of the information either department receives through the checking of the criminal history is privileged information and for the exclusive use of that department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety in determining whether employment shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;

- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (1997-260, s. 1; 1997-443, s. 11A.118(b); 1998-202, s. 4(f); 2000-137, s. 4(h); 2003-214, s. 1(2); 2005-114, s. 4; 2011-145, s. 19.1(l); 2012-12, s. 2(nn); 2012-83, s. 5; 2014-100, s. 17.1(m), (o), (q), (aaa); 2015-181, s. 47; 2017-186, ss. 2(jjjjjj), 3(b); 2021-180, s. 19C.9(z); recodified from N.C. Gen. Stat. 143B-935 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.16. Criminal record checks of applicants and current employees who access federal tax information.

(a) The State Bureau of Investigation may, upon request, provide to the Division of Social Services or Division of Health Benefits within the Department of Health and Human Services or a county agency the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual is permitted, or will be permitted, to access federal tax information:

- (1) An applicant for employment.
- (2) A current employee.
- (3) A contractual employee or applicant.
- (4) An employee of a contractor.

(b) Along with the request, the requesting agency shall provide the following to the Bureau:

- (1) The fingerprints of the person who is the subject of the record check.
- (2) A form signed by the person who is the subject of the record check consenting to:
 - a. The criminal record check.
 - b. The use of fingerprints.
 - c. Any other identifying information required by the State and National Repositories.
 - d. Any additional information required by the Department of Public Safety.

(c) The fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The requesting agency shall keep all information obtained pursuant to this section confidential.

(e) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-5, s. 11C.4; 2019-81, s. 15(a); recodified from N.C. Gen. Stat. 143B-935.1 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.17. Criminal record checks required prior to placement for adoption of a minor who is in the custody or placement responsibility of a county department of social services.

The State Bureau of Investigation may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The Division shall provide to the Bureau, along with the request, the fingerprints of any individual to be checked, any additional information required by the Bureau, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The Bureau shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1998-229, s. 16; 2003-214, s. 1(2); 2005-114, s. 3; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-936 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.18. Criminal record checks of applicants for auctioneer, apprentice auctioneer, or auction firm license.

The State Bureau of Investigation may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a check of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (1999-142, s. 9; 2000-140, s. 59(c); 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-937 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.19. Criminal record checks of McGruff House Program volunteers.

(a) Authority. – The State Bureau of Investigation and the Federal Bureau of Investigation may provide to any local law enforcement agency a criminal record check of any individual who applies as a volunteer for the McGruff House Program in that community and a criminal record check of all persons 18 years of age or older who live in the applying household. The North

Carolina criminal record check may also be done by a certified DCI operator within the local law enforcement agency.

(b) Procedure. – A criminal record check must be conducted by using an individual's fingerprints and all identification information required by the State Bureau of Investigation to identify that individual. A criminal record check shall be provided only if: (i) the individual whose record is checked consents to the record check, and (ii) every individual who is 18 years of age or older who lives in the household also consents to the record check. Refusal to give consent is considered withdrawal of the application. The information shall be kept confidential by the local law enforcement agency that receives the information. If the confidential information is disclosed under this section, the State Bureau of Investigation may refuse to provide further criminal record checks to that local law enforcement agency. (1999-214, s. 1; 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-938 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.20. Criminal record checks for adult care homes, nursing homes, home care agencies, and providers of mental health, developmental disabilities, and substance abuse services.

The State Bureau of Investigation may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

- (1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.
- (2) Adult care homes licensed under Chapter 131D of the General Statutes.
- (3) Home care agencies licensed under Chapter 131E of the General Statutes.
- (4) Providers licensed under Chapter 122C of the General Statutes, including a contract agency of a provider that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to a provider in accordance with G.S. 122C-80. The requesting entity shall provide to the Bureau, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Bureau, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Bureau shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars (\$14.00). (2000-154, s. 1; 2003-214, s. 1(2); 2005-4, s. 5(b); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-939 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.21. Criminal record checks of applicants for licensure as registered nurses or licensed practical nurses.

The State Bureau of Investigation may provide to the North Carolina Board of Nursing from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a registered nurse or licensed practical nurse under Article 9A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2001-371, s. 1; 2003-214, s. 1(2); 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-940 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.22. Criminal record checks of applicants for registration, certification, or licensure as a substance abuse professional.

The State Bureau of Investigation may provide to the North Carolina Substance Abuse Professional Practice Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for registration, certification, or licensure pursuant to Article 5C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2005-431, s. 2; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-941 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.23. Criminal record checks of applicants for licensure as massage and bodywork therapists.

The State Bureau of Investigation may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset

the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-224, s. 20; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-942 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.24. Criminal history record checks of applicants to and current members of fire departments and emergency medical services.

- (a) Definitions. – The following definitions apply in this section:
- (1) Applicant. – A person who applies for a paid or volunteer position with a fire department or an emergency medical service.
 - (2) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 22, Damages and Other Offenses to Land and Fixtures; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
 - (3) Current member. – A person who serves in a paid or volunteer position with a fire department or an emergency medical service.
 - (4) Requesting entity. – A designated local Homeland Security director, a local fire chief of a rated fire department, a fire chief of a nonprofit volunteer fire department, a county fire marshal, or an emergency services director, or, if there is no designated local Homeland Security director, local fire chief of a rated fire department, fire chief of a nonprofit volunteer fire department, county fire marshal, [or] emergency services director, a local law enforcement agency, or their designee.

(5) State resident. – An individual who is an applicant or current member with a fire department who attests to the following:

- a. The individual has resided in the State for the prior five years.
- b. The individual has no charges or convictions.

(b) When requested by a requesting entity, the State Bureau of Investigation may provide to the requesting entity an applicant's or current member's criminal history from the State and National Repositories of Criminal Histories. The requesting entity shall provide to the Bureau the fingerprints of the applicant to be checked, any additional information required by the Bureau, and a form signed by the applicant to be checked consenting to the (i) check of the criminal record and (ii) use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be used by the Bureau for a search of the State criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) A statewide criminal history record check without fingerprints may be conducted as provided for in this subsection in lieu of the criminal history record check in subsection (b) of this section for a State resident. The requesting entity may request the statewide criminal history record check under this subsection through either of the following ways:

- (1) A statewide criminal history record check without fingerprints may be conducted by the State Bureau of Investigation. The requesting entity shall provide to the Bureau any information required by the Bureau to conduct a name only search and a form signed by the State resident to be checked consenting to the (i) check of the criminal record and (ii) use of other identifying information required by the State Repository.
- (2) A statewide criminal history record check of the State resident's name may be conducted by a third-party vendor. The requesting entity and State resident shall provide the third-party vendor's required documentation to complete the request.
- (3) A statewide criminal history record check of the State resident's name may be conducted and certified by the clerk of court, at the clerk's discretion.

(d) Applicants for junior membership and current junior members of a fire department under the age of 18 shall be exempt from the criminal history record check.

(e) All releases of criminal history information by the State Bureau of Investigation to the requesting entity shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the Bureau. All of the information the requesting entity receives through the checking of the criminal history is privileged information and for the exclusive use of that requesting entity. The requesting entity shall keep all information received pursuant to this section confidential.

(f) If the applicant's or current member's criminal history record check reveals one or more convictions of a crime listed in subsection (a) of this section, then the conviction constitutes just cause for not selecting the applicant for the position or for dismissing the current member from a current position with the local fire department or emergency medical services. Except as provided in subsection (g) of this section, the conviction does not automatically prohibit volunteering or employment; however, the following factors shall be considered by the requesting entity in determining whether the applicant shall be denied or the current member dismissed from a current position:

- (1) The level and seriousness of the crime.

- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the duties of the person.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(g) An applicant is prohibited from serving in a paid or volunteer position with a fire department if the applicant's criminal history record check reveals a conviction of arson or another felony conviction involving burning or setting fire under Article 15, Article 22, or any other Article of Chapter 14 of the General Statutes. A requesting entity shall request, and an applicant shall disclose, any pending felony charges involving burning or setting fire under Article 15, Article 22, or any other Article of Chapter 14 of the General Statutes. Upon becoming aware of pending felony charges, through the required disclosure or by other means, a requesting entity shall not offer the applicant a paid or volunteer position, except as provided in subsection (i) of this section. This subsection does not apply to an applicant for a paid or volunteer position with an emergency medical service.

(h) The emergency medical services may deny an applicant the position or dismiss a current member who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from a current position. The emergency medical services may extend a conditional offer of the position pending the results of a criminal history record check required by this section.

(i) The local fire department shall deny an applicant the position and may dismiss a current member who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories, a clerk of court, or third-party vendor. This refusal constitutes just cause for the denial of the position or the dismissal from a current position. The local fire department may extend a conditional offer of the position pending the (i) results of a criminal history record check required by this section or (ii) final disposition of felony charges disclosed as required by this section or otherwise discovered.

(j) For purposes of this section, "local fire chief" shall include the fire chief of any bona fide fire department certified to the State Fire Marshal with at least a Class 9S rating for insurance grading purposes; "county fire marshal" shall include only fire marshals who are paid employees of a county; and "emergency services director" shall include only emergency services directors who are paid employees of a city or county.

(k) Except as provided for in subsection (l) of this section, the State Bureau of Investigation shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section. If the requesting entity is charged a fee for obtaining a criminal history record check, the requesting entity may require the applicant or current member to reimburse the requesting entity the cost incurred.

(l) The State Bureau of Investigation may charge the fire chief of a nonprofit volunteer fire department a fee to cover the cost associated with submission of fingerprints to the Federal Bureau of Investigation for a national criminal history record check provided in accordance with

subsection (b) of this section. The State Bureau of Investigation shall not charge a fee for conducting a statewide criminal history record check for a fire chief of a nonprofit volunteer fire department provided in accordance with subsection (b) or (c) of this section. (2003-182, s. 1; 2007-479, s. 1; 2012-12, s. 2(oo); 2014-27, s. 1; 2014-100, s. 17.1(m), (o), (q); 2015-181, s. 47; 2022-8, s. 3(a); recodified from N.C. Gen. Stat. 143B-943 by 2023-134, s. 19F.4(i), (j); 2023-151, s. 12.5.)

§ 143B-1209.25. Criminal record checks of applicants for manufactured home manufacturer, dealer, salesperson, or set-up contractor licensure.

The State Bureau of Investigation may provide to the North Carolina Manufactured Housing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor under Article 9A of Chapter 143 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check, and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-400, s. 12; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-944 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.26. Criminal record checks for municipalities and county governments.

The State Bureau of Investigation may provide to a city or county from the State and National Repositories of Criminal Histories the criminal history of any person who applies for employment with the city or county. The city or county shall provide to the Bureau, along with the request, the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The city or county shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-214, s. 4; 2005-358, s. 1; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-945 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.27. Criminal record checks of applicants for locksmith licensure or apprentice designation.

The State Bureau of Investigation may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and

other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-350, s. 12; 2014-100, s. 17.1(m); recodified from N.C. Gen. Stat. 143B-946 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.28. Criminal record checks for the North Carolina State Lottery Commission and its Director.

The State Bureau of Investigation may provide to the North Carolina State Lottery Commission and to its Director from the State and National Repositories of Criminal Histories the criminal history of any prospective employee of the Commission, any potential contractor, and any licensee or prospective licensee under Chapter 18C of the General Statutes and their key persons. The North Carolina State Lottery Commission or its Director shall provide to the Bureau, along with the request, the fingerprints of the individual, a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The North Carolina State Lottery Commission and its Director shall remit any fingerprint information retained by the Commission to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all information obtained pursuant to this section confidential. The Bureau shall charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2005-344, s. 6; 2005-276, s. 31.1(w); 2006-259, s. 8(g); 2006-264, s. 91(c); 2009-570, s. 32(e); 2014-100, s. 17.1(m), (o); 2023-42, s. 4(c); recodified from N.C. Gen. Stat. 143B-947 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.29. Criminal record checks of applicants for permit or license to conduct exploration, recovery, or salvage operations and archaeological investigations.

The State Bureau of Investigation may provide to the Department of Natural and Cultural Resources from the State and National Repositories of Criminal Histories the criminal history of any applicant for a permit or license under Article 3 of Chapter 121 of the General Statutes or Article 2 of Chapter 70 of the General Statutes. Along with the request, the Department of Natural and Cultural Resources shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Natural and Cultural Resources shall keep all information obtained under this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving

the information. (2005-367, s. 1; 2014-100, s. 17.1(m), (o); 2015-241, s. 14.30(s); recodified from N.C. Gen. Stat. 143B-948 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.30. Criminal record checks of applicants for licensure and licensees.

The State Bureau of Investigation may provide to the North Carolina Psychology Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license to practice psychology or a licensed psychologist or psychological associate under Article 18A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's or licensee's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge each applicant or licensee a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2006-175, s. 3; 2006-259, s. 42; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-949 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.31. Criminal record checks for the Judicial Department.

(a) The State Bureau of Investigation may provide to the Judicial Department from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Judicial Department. The Judicial Department shall provide to the Bureau, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the current or prospective employee, volunteer, or contractor shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Judicial Department shall keep all information obtained pursuant to this section confidential.

(b) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2006-187, s. 3(a); 2006-259, s. 42; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-950 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.32. Criminal record checks for the Department of Information Technology.

(a) The State Bureau of Investigation may provide to the Department of Information Technology from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Department of Information Technology. The Department of Information Technology shall provide to the Bureau, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and

National Repositories, and any additional information required by the Bureau. The fingerprints of the current or prospective employee, volunteer, or contractor shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Information Technology shall keep all information obtained pursuant to this section confidential.

(b) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-155, s. 3; 2007-189, ss. 3, 5.1; 2014-100, s. 17.1(m), (o); 2015-241, s. 7A.4(y); recodified from N.C. Gen. Stat. 143B-951 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.33. Criminal record checks of EMS personnel.

The State Bureau of Investigation may provide to the Department of Health and Human Services the criminal history from the State and National Repositories of Criminal Histories of an individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials, when the criminal history is requested by the Department. The Department of Health and Human Services shall provide to the Bureau the request for the criminal history, the fingerprints of the individual to be checked, any additional information required by the Bureau, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The Department of Health and Human Services and Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall keep all information obtained pursuant to this section confidential. The Bureau shall charge a reasonable fee to offset the costs incurred by it to conduct the checks of criminal history records authorized by this section. (2007-411, s. 2; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-952 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.34. Criminal record checks of applicants for licensure as chiropractic physicians.

The State Bureau of Investigation may provide to the State Board of Chiropractic Examiners from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 8 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-525, s. 2; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-953 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.35. Criminal history record checks of employees of and applicants for employment with the Department of Public Instruction.

(a) Definitions. – As used in this section, the term:

- (1) "Covered person" means any of the following:
 - a. An applicant for employment or a current employee in a position in the Department of Public Instruction.
 - b. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Public Instruction.
- (2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Public Instruction. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Public Instruction, the North Carolina Department of Public Safety may provide to the requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such request shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department shall provide to the Department of Public Safety a form consenting to the check, signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Public Instruction shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked, consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State

criminal history record file and the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Instruction shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Public Instruction shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the department receives through the checking of the criminal history is privileged information and for the exclusive use of the department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Public Instruction. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Public Instruction in determining whether employment shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Public Instruction may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Public Instruction may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (2007-516, s. 1; 2012-12, s. 2(pp); 2014-100, s. 17.1(m), (o), (q); 2015-181, s. 47; recodified from N.C. Gen. Stat. 143B-954 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.36. Criminal record checks of applicants and of current employees who are involved in the manufacture or production of drivers licenses and identification cards.

(a) The State Bureau of Investigation may, upon request, provide to the Department of Transportation, Division of Motor Vehicles, the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual (i) is or will be involved in the manufacture or production of drivers licenses and identification cards, or (ii) has or will have the ability to affect the identity information that appears on drivers licenses or identification cards:

- (1) An applicant for employment.
- (2) A current employee.

- (3) A contractual employee or applicant.
- (4) An employee of a contractor.
- (b) Along with the request, the Division of Motor Vehicles shall provide the following to the Bureau:
 - (1) The fingerprints of the person who is the subject of the record check.
 - (2) A form signed by the person who is the subject of the record check consenting to:
 - a. The criminal record check.
 - b. The use of fingerprints.
 - c. Any other identifying information required by the State and National Repositories.
 - d. Any additional information required by the Department of Public Safety.
- (c) The fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
- (d) The Division of Motor Vehicles shall keep all information obtained pursuant to this section confidential.
- (e) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-202, s. 1; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-955 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.37. Criminal history record checks of applicants for licensure as nursing home administrators.

- (a) The State Bureau of Investigation may provide to the North Carolina State Board of Examiners for Nursing Home Administrators from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a nursing home administrator under Article 20 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential.
- (b) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-183, s. 2; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-956 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.38. Criminal record checks of applicants for licensure as clinical mental health counselors.

The State Bureau of Investigation may provide to the North Carolina Board of Licensed Clinical Mental Health Counselors from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under

Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant or licensee's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-367, s. 10; 2014-100, s. 17.1(m), (o); 2019-240, s. 3(j); recodified from N.C. Gen. Stat. 143B-957 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.39. Criminal history record checks of applicants for licensure as marriage and family therapists and marriage and family therapy associates.

The State Bureau of Investigation may provide to the North Carolina Marriage and Family Therapy Licensure Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 18C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's or licensee's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-393, s. 18; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-958 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.40. Criminal record checks of petitioners for restoration of firearms rights.

(a) A person who petitions the court to have the person's firearms rights restored shall submit a full set of the petitioner's fingerprints, to be administered by the sheriff. The petitioner shall also submit to the sheriff a form signed by the petitioner consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the State Bureau of Investigation or the Federal Bureau of Investigation. The sheriff shall forward the set of fingerprints and the signed consent form to the State Bureau of Investigation for a records check of State and national databases.

(b) Upon receipt of the fingerprints and consent form forwarded by the sheriff pursuant to subsection (a) of this section, the State Bureau of Investigation shall conduct a search of the State criminal history record file and shall forward a set of the fingerprints and a copy of the signed consent form to the Federal Bureau of Investigation for a national criminal history record check.

(c) The State Bureau of Investigation shall provide a copy of the information obtained pursuant to this section to the clerk of superior court, which shall be kept confidential in the court file for the petition for restoration of firearms rights.

(d) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-108, s. 2; 2011-2, ss. 1, 2; 2014-100, s. 17.1(m), (o); renumbered from N.C. Gen. Stat. § 143B-959 by 2023-134, s. 19F.4(i); recodified from N.C. Gen. Stat. 143B-959 by 2023-134, s. 19F.4(i); s. 19F.4(j).)

§ 143B-1209.41. Criminal record checks of applicants for certification by the Department of Agriculture and Consumer Services as euthanasia technicians.

The State Bureau of Investigation may provide a criminal record check to the Department of Agriculture and Consumer Services for a person who has applied for a new or renewal certification as a euthanasia technician. The Department of Agriculture and Consumer Services shall provide the Bureau a request for the criminal record check, the fingerprints of the individual to be checked, any additional information required by the Bureau, and a form signed by the person seeking certification consenting to the check of the criminal record. The fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Agriculture and Consumer Services shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Bureau may charge each applicant a fee for conducting the checks of criminal history records authorized by this section. (2010-127, s. 4; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-960 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.42. Criminal history record checks of applicants for trainee registration, appraiser licensure, appraiser certification, or registrants for registration as real estate appraisal management companies.

The State Bureau of Investigation may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Bureau the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's or registrant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by the Bureau to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-141, s. 2; 2013-403, s. 8; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-961 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.43. Criminal history record checks of applicants for a restoration of a revoked drivers license.

The State Bureau of Investigation may provide to the Division of Motor Vehicles, from the State and National Repositories of Criminal Histories, the criminal history record of any applicant for a restoration of a revoked drivers license. Along with the request, the Division shall provide to the Bureau the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints, other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The applicant's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. Fees and other costs incurred by the Division under this statute may be charged to the applicant. (2011-381, s. 5; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-962 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.44. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

(a) The Department of Public Safety may provide to the Utilities Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for or current holder of a certificate to transport household goods. Along with the request, the Commission shall provide to the Department of Public Safety the fingerprints of the applicant or current holder, a form signed by the applicant or current holder consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The applicant's or current holder's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Utilities Commission shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. The Department of Public Safety shall send a copy of the results of the criminal history record checks directly to the Utilities Commission Chief Clerk.

(b) The Utilities Commission may provide the information obtained pursuant to subsection (a) of this section to the Public Staff for use in proceedings before the Commission. The Public Staff shall keep all information obtained pursuant to subsection (a) of this section confidential. (2012-9, s. 2; 2014-100, s. 17.1(m), (o); 2021-23, s. 22; recodified from N.C. Gen. Stat. 143B-963 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.45. Criminal history record checks of applicants for licensure as physical therapists or physical therapist assistants.

The State Bureau of Investigation may provide to the North Carolina Board of Physical Therapy Examiners a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Bureau the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints

and other identifying information required by the Repositories, and any additional information required by the Bureau. The fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by the Bureau to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2013-312, s. 6; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-964 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.46. Criminal record checks of applicants and recipients of programs of public assistance.

(a) Upon receipt of a request from a county department of social services pursuant to G.S. 108A-26.1, the State Bureau of Investigation shall, to the extent allowed by federal law, provide to the county department of social services the criminal history from the State or National Repositories of Criminal Histories of an applicant for, or recipient of, program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes.

(b) The county department of social services shall provide to the Bureau, along with the request, any information required by the Bureau and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of any necessary identifying information required by the State or National Repositories. The county department of social services shall keep all information pursuant to this section confidential and privileged, except as provided in G.S. 108A-26.1.

(c) The Bureau may charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2013-417, s. 3; 2014-100, s. 17.1(m), (o); recodified from N.C. Gen. Stat. 143B-965 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.47. Criminal record checks for the Office of State Controller.

The State Bureau of Investigation may provide to the Office of State Controller from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Office of State Controller. The Office of State Controller shall provide to the Bureau, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the current or prospective employee, volunteer, or contractor shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Controller shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2016-28, s. 2; recodified from N.C. Gen. Stat. 143B-966 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.48. Criminal record checks for the Department of Revenue.

(a) The State Bureau of Investigation shall, upon request, provide to the Department of Revenue from the State and National Repositories of Criminal Histories the criminal history of any of the following individuals:

- (1) A current or prospective permanent or temporary employee.
- (2) A contractor with the Department.
- (3) An employee or agent of a contractor with the Department.
- (4) Any other individual otherwise engaged by the Department who will have access to federal tax information.

(b) Along with the request, the Department of Revenue shall provide to the Bureau the fingerprints of the individual whose record is being sought, a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The individual's fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Revenue shall keep all information obtained pursuant to this section confidential.

(c) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2017-57, s. 32.1; recodified from N.C. Gen. Stat. 143B-967 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.49. Criminal record checks for the Office of State Human Resources.

(a) The State Bureau of Investigation may provide to the Office of State Human Resources from the State and National Repositories of Criminal Histories the criminal history of any prospective temporary employee of a State agency or department if a criminal record check is a requirement for employment by the agency or department with which the individual would be temporarily assigned. The Office of State Human Resources shall provide to the Bureau, along with the request, the fingerprints of the prospective temporary employee, a form signed by the prospective temporary employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the prospective employee shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Human Resources shall keep all information obtained pursuant to this section confidential.

(b) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. If the Bureau charges the Office of State Human Resources a fee for conducting the criminal record check, the agency or department with which the individual would be temporarily assigned shall reimburse the Office of State Human Resources for the fee charged. (2018-5, s. 26A.1; recodified from N.C. Gen. Stat. 143B-968 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.50. Criminal record checks for employees and contractors of the State Board of Elections and county directors of elections.

(a) As used in this section, the term:

- (1) "Current or prospective employee" means any of the following:
 - a. A current or prospective permanent or temporary employee of the State Board, other than the Executive Director.
 - b. A current or prospective contractor with the State Board.
 - c. An employee or agent of a current or prospective contractor with the State Board.
 - d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.
- (2) "State Board" means the State Board of Elections.

(b) The State Bureau of Investigation may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Department of Public Safety [State Bureau] may provide the criminal history record check report regarding any prospective appointee for the position of Executive Director to the chair of the State Board in accordance with G.S. 163-27(a) or to the chair or chairs of each standing committee handling the legislation regarding the appointment of the Executive Director in accordance with G.S. 163-27(b). The Executive Director shall provide to the Bureau, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the current or prospective employee shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) Except for criminal history reports on prospective appointees for the position of Executive Director pursuant to subsection (b) of this section, the criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. The criminal history reports on prospective appointees for the position of Executive Director shall be kept confidential by the recipient under subsection (b) of this section. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(a); 2018-146, s. 6.1; recodified from N.C. Gen. Stat. 143B-969 by 2023-134, s. 19F.4(i), (j); 2023-139, s. 4.3(c).)

§ 143B-1209.51. Criminal record checks for employees of county boards of elections.

(a) As used in this section, the term:

- (1) "Current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections.
- (2) "State Board" means the State Board of Elections.

(b) The State Bureau of Investigation may provide to a county board of elections a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The county board of elections shall provide to the Bureau, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying

information required by the State and National Repositories, and any additional information required by the Bureau. The fingerprints of the current or prospective employee shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the county board of elections, who shall keep all information obtained pursuant to this section confidential to the county board of elections, the county director of elections, the State Board, and the Executive Director of the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(b); 2018-146, s. 1; recodified from N.C. Gen. Stat. 143B-970 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.52. Criminal record checks of applicants for licensure as dietitian/nutritionists or nutritionists.

The State Bureau of Investigation may provide to the North Carolina Board of Dietetics/Nutrition a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Bureau the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Bureau. The fingerprints shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by the Bureau to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-91, s. 15; recodified from N.C. Gen. Stat. 143B-971 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.53. National criminal record checks for child care institutions.

The State Bureau of Investigation shall provide to the Department of Health and Human Services, Criminal Records Check Unit, in accordance with G.S. 108A-150, the criminal history of any current or prospective employee or volunteer in a child care institution as defined by Title IV-E of the Social Security Act, including individuals working with a contract agency in a child care institution. The Department of Health and Human Services, Criminal Records Check Unit, shall provide to the Bureau, along with the request, the fingerprints of the individual to be checked, any additional information required by the Bureau, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the Department of Health and Human Services, Criminal Records Check Unit, shall be kept confidential in accordance with G.S. 108A-150. The Bureau may charge a reasonable fee to conduct a criminal record check under this section. (2019-240, s. 25(c); recodified from N.C. Gen. Stat. 143B-972 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.54. Criminal record checks for North Carolina Criminal Justice Education and Training Standards Commission and North Carolina Sheriffs' Education and Training Standards Commission; fingerprints sent to Federal Bureau of Investigation.

(a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission the criminal history of any person who applies for certification or is certified, as a criminal justice officer or justice officer, from the State and National Repositories of Criminal Histories. Each agency employing certified criminal justice officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for certification and certified officers, other identifying information required by the State and National Repositories, and any additional information required by the SBI.

(b) The SBI shall conduct a criminal history records check using the fingerprints of the applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B. 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).

(c) In addition to searching the State's criminal history record file, the SBI shall forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The SBI shall enroll each individual whose fingerprints are received under this section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI will also notify the certifying Commission of any subsequent arrest of an individual identified through the Rap Back Service.

(d) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored in the State Automated Fingerprint Identification System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or separated from employment and an Affidavit of Separation has been filed with either Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap Back Service.

(e) The Commissions shall keep all information obtained pursuant to this section confidential. (2021-138, s. 2(a); recodified from N.C. Gen. Stat. 143B-972.1 by 2023-134, s. 19F.4(i).)

§ 143B-1209.55. Criminal record checks for the Legislative Services Commission.

The State Bureau of Investigation shall, upon request, provide to the Legislative Services Officer from the State and National Repositories of Criminal Histories the criminal history of any prospective employee, volunteer, or contractor of the General Assembly, and lobbyists and liaison personnel registered under Chapter 120C of the General Statutes. The Legislative Services Officer shall provide to the Bureau, along with the request, the fingerprints of the prospective employee, volunteer, contractor, lobbyist, or liaison personnel, a form signed by the prospective employee, volunteer, contractor, lobbyist, or liaison personnel consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories and any additional information required by the Bureau. The fingerprints of the prospective employee, volunteer, contractor, lobbyist, or liaison personnel shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal

Bureau of Investigation for a national criminal history record check. The Legislative Services Officer shall keep all information obtained pursuant to this section confidential. The Bureau may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2020-29, s. 12(a); recodified from N.C. Gen. Stat. 143B-73 by 2023-134, s. 19F.4(i); s. 27.4(d).)

§ 143B-1209.56. Criminal record checks for sheriffs.

(a) The State Bureau of Investigation may provide to the North Carolina Sheriffs' Education and Training Standards Commission a criminal history from the State and National Repositories of Criminal Histories for any person filing a notice of candidacy, or any potential appointee to fill a vacancy, to the office of sheriff. The North Carolina Sheriffs' Education and Training Standards Commission shall provide to the Bureau, along with the request, the fingerprints of the person filing a notice of candidacy, or any potential appointee to fill a vacancy, to the office of sheriff; a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories; and any additional information required by the Bureau. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(b) The criminal history report shall be provided to the North Carolina Sheriffs' Education and Training Standards Commission, who shall keep all information obtained pursuant to this section confidential to the North Carolina Sheriffs' Education and Training Standards Commission. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2021-107, s. 9; recodified from N.C. Gen. Stat. 143B-974 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.57. (Effective July 1, 2024) Criminal record check for platform licensees.

(a) The State Bureau of Investigation may provide to the Secretary of State a criminal history from the State and National Repositories of Criminal Histories for any applicant seeking a platform license. The Secretary shall provide to the Bureau, along with the request, the fingerprints of the applicant and its key persons; a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories; and any additional information required by the Bureau. The fingerprints of the individual shall be used for a search of the State's criminal history record file, and the Bureau shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(b) The criminal history report shall be provided to the Secretary of State, who shall keep all information obtained pursuant to this section confidential to the Secretary of State. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2022-54, s. 6; 2023-57, s. 2; recodified from N.C. Gen. Stat. 143B-976 by 2023-134, s. 19F.4(i), (j).)

§ 143B-1209.58. The National Crime Prevention and Privacy Compact.

The National Crime Prevention and Privacy Compact is enacted into law and entered into with all jurisdictions legally joining in the compact in the form substantially as set forth in this section, as follows:

Preamble.

Whereas, it is in the interest of the State to facilitate the dissemination of criminal history records from other states for use in North Carolina as authorized by State law; and

Whereas, the National Crime Prevention and Privacy Compact creates a legal framework for the cooperative exchange of criminal history records for noncriminal justice purposes; and

Whereas, the compact provides for the organization of an electronic information-sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment; and

Whereas, under the compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and party states for authorized purposes; and

Whereas, the FBI shall manage the federal data facilities that provide a significant part of the infrastructure for the system; and

Whereas, entering into the compact would facilitate the interstate and federal-state exchange of criminal history information to streamline the processing of background checks for noncriminal justice purposes; and

Whereas, release and use of information obtained through the system for noncriminal justice purposes would be governed by the laws of the receiving state; and

Whereas, entering into the compact will provide a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

Article I.

Definitions.

As used in this compact, the following definitions apply:

- (1) "Attorney General" means the Attorney General of the United States.
- (2) "Compact officer" means:
 - a. With respect to the federal government, an official so designated by the director of the FBI; and
 - b. With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular, full-time employee of the repository.
- (3) "Council" means the compact council established under Article VI.
- (4) "Criminal history record repository" means the State Bureau of Investigation.
- (5) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.
- (6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,

correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

- (7) "Criminal justice agency" means: (i) courts; and (ii) a governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice. The term includes federal and state inspector general offices.
- (8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.
- (9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.
- (10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.
- (11) "FBI" means the Federal Bureau of Investigation.
- (12) "III system" means the interstate identification index system, which is the cooperative federal-state system for the exchange of criminal history records. The term includes the national identification index, the national fingerprint file, and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.
- (13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III system.
- (14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.
- (15) "National indices" means the national identification index and the national fingerprint file.
- (16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.
- (17) "Nonparty state" means a state that has not ratified this compact.
- (18) "Party state" means a state that has ratified this compact.
- (19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely

upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.

- (20) "Sealed record information" means:
- a. With respect to adults, that portion of a record that is:
 - 1. Not available for criminal justice uses;
 - 2. Not supported by fingerprints or other accepted means of positive identification; or
 - 3. Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and
 - b. With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.
- (21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**Article II.
Purposes.**

The purposes of this compact are to:

- (1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;
- (2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and
- (5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

**Article III.
Responsibilities of Compact Parties.**

- (a) The director of the FBI shall:
 - (1) Appoint an FBI compact officer who shall:

- a. Administer this compact within the Department of Public Safety and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
 - b. Ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the Department of Public Safety and federal agencies and other agencies and organizations referred to in sub-subdivision (a)(1)a. of this Article III; and
 - c. Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;
- (2) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:
 - a. Information from nonparty states; and
 - b. Information from party states that is available from the FBI through the III system but is not available from the party states through the III system;
 - (3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and
 - (4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.
- (b) Each party state shall:
 - (1) Appoint a compact officer who shall:
 - a. Administer this compact within that state;
 - b. Ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and
 - c. Regulate the in-state use of records received by means of the III system from the FBI or from other party states;
 - (2) Establish and maintain a criminal history record repository, which shall provide:
 - a. Information and records for the national identification index and the national fingerprint file; and
 - b. The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;
 - (3) Participate in the national fingerprint file; and
 - (4) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this compact.
 - (c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council

concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Use of the III system for noncriminal justice purposes authorized in this compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes. Administration of compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

Article IV.

Authorized Record Disclosures.

(a) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

- (1) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;
- (2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and
- (3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, that an appropriate "no record" response is communicated to the requesting official.

Article V.

Record Request Procedures.

(a) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification

index by entities other than the FBI and state criminal history record repositories may not be permitted for noncriminal justice purposes.

(d) A state criminal history record repository or the FBI:

- (1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and
- (2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e)(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.

- (2) If, with respect to a request forwarded by a state criminal history record repository under subdivision (e)(1) of this Article V, the FBI positively identifies the subject as having a III system-indexed record or records:
 - a. The FBI shall so advise the state criminal history record repository; and
 - b. The state criminal history record repository is entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

Article VI.

Establishment of Compact Council.

(a) There is established a council to be known as the compact council which has the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes. The council shall:

- (1) Continue in existence as long as this compact remains in effect;
- (2) Be located, for administrative purposes, within the FBI; and
- (3) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

- (1) Nine members, each of whom shall serve a two-year term, who must be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;
- (2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:
 - a. One must be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and
 - b. One must be a representative of the noncriminal justice agencies of the federal government;
- (3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to subsection (c) of this Article VI, each of whom shall serve a three-year term, of whom:

- a. One must be a representative of state or local criminal justice agencies; and
- b. One must be a representative of state or local noncriminal justice agencies;
- (4) One member who shall serve a three-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and
- (5) One member, nominated by the director of the FBI, who shall serve a three-year term and who must be an employee of the FBI.

(c) From its membership, the council shall elect a chair and a vice-chair of the council. Both the chair and vice-chair of the council: (i) must be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chair may be an at-large member and (ii) shall serve two-year terms and may be reelected to only one additional two-year term. The vice-chair of the council shall serve as the chair of the council in the absence of the chair.

(d) The council shall meet at least once each year at the call of the chair. Each meeting of the council must be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting. A majority of the council or any committee of the council shall constitute a quorum of the council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The council shall make available for public inspection and copying at the council office within the FBI and shall publish in the federal register any rules, procedures, or standards established by the council.

(f) The council may request from the FBI reports, studies, statistics, or other information or materials that the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information upon a request.

(g) The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

Article VII.

Ratification of Compact.

This compact takes effect upon being entered into by two or more states as between those states and the federal government. When additional states subsequently enter into this compact, it becomes effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.

Article VIII.

Miscellaneous Provisions.

(a) Administration of this compact may not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact may require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact may diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

**Article IX.
Renunciation.**

- (a) This compact shall bind each party state until renounced by the party state.
- (b) Any renunciation of this compact by a party state must:
 - (1) Be effected in the same manner by which the party state ratified this compact; and
 - (2) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

**Article X.
Severability.**

The provisions of this compact must be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the remainder of the compact to any government, agency, person, or circumstance may not be affected by the severability. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact must remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

**Article XI.
Adjudication of Disputes.**

- (a) The council:
 - (1) Has initial authority to make determinations with respect to any dispute regarding:
 - a. Interpretation of this compact;
 - b. Any rule or standard established by the council pursuant to Article VI; and
 - c. Any dispute or controversy between any parties to this compact; and
 - (2) Shall hold a hearing concerning any dispute described in subdivision (a)(1) of this Article XI at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of Article VI(e).
- (b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the council holds a hearing on the matters.
- (c) The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the appropriate district court of the

United States in the manner provided by section 1446 of Title 28, United States Code, or other statutory authority. (2003-214, s. 2; 2004-199, s. 28; 2014-100, s. 17.1(m), (o), (q); recodified from N.C. Gen. Stat. 143B-981 by 2023-134, s. 19F.4(i), (j).)