

**REQUEST FOR BOARD ACTION  
HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** August 20, 2025

**SUBJECT:** State Bureau of Investigation Background Checks –  
Additional Requirement

**PRESENTER:** Charles Russell Burrell

**ATTACHMENT(S):** Proposed Access Agreement with NC SBI  
Part IV of N.C. Session Law 2025-16

**SUMMARY OF REQUEST:**

In Session Law 2025-16, the General Assembly adopted a requirement that a condition of employment with county governments in North Carolina in positions which require the applicant “to work with children in any capacity” is that the applicant “be subject to a criminal history record check conducted by the State Bureau of Investigation pursuant to G.S. 143B-1209.26.”

A record check under GS 143B-1209.26 requires the County to provide 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 Session Law states that the County “must extend a conditional offer of the position pending the results of the criminal history check”.

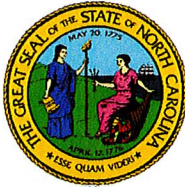
This portion of Session Law 2025-16 goes into effect October 1, and this change needs to be placed into effect now to meet that timeline.

County staff will be present and prepared if requested to give further information on this matter.

**BOARD ACTION REQUESTED:** adoption of a rule for background checks for certain employees.

If the Board is so inclined, the following motion is suggested:

*I move that the Board adopt this rule requiring successful criminal history record checks prior to and as a condition of the final offer of employment to any prospective employee who may work with children in any capacity during their employment.*



ROY COOPER  
GOVERNOR

NORTH CAROLINA  
**STATE BUREAU OF INVESTIGATION**

3320 GARNER ROAD  
P.O. BOX 29500  
RALEIGH, NC 27626-0500  
(919) 582-8600



R. E. "CHIP" HAWLEY  
DIRECTOR

**STATE BUREAU OF INVESTIGATION  
NON-CRIMINAL JUSTICE ACCESS AGREEMENT**

**North Carolina General Statute (NCGS):** 153A-94.2

This Agreement made and entered into by and between the North Carolina State Bureau of Investigation (hereafter referred to as "NCSBI") and the Agency named below

County of Henderson

(hereafter referred to as "AGENCY") for the purpose and consideration hereafter set out:

I. Purpose:

The purpose of this Agreement is to outline the responsibilities of the NCSBI and the AGENCY regarding the proper care, custody, and control of all criminal history record information (CHRI) received by the Agency from the NCSBI as authorized by the North Carolina statute listed above.

II. Responsibilities of NCSBI:

- A. NCSBI agrees to provide the appropriate training to the AGENCY Administrator, or designee, as requested or needed for the above mentioned NCSBI system access.
- B. NCSBI agrees to notify the AGENCY Administrator of any changes in the record disseminated to the AGENCY Administrator, due to a court ordered expungement, which are discovered by NCSBI within ninety (90) days of dissemination of such record to the AGENCY Administrator.
- C. NCSBI will conduct a compliance audit of AGENCY regarding the handling and dissemination of CHRI. The audits are conducted on a three (3) year cycle.

III. Responsibilities of the AGENCY:

The AGENCY agrees to comply with the following policies and procedures:

- A. The AGENCY recognizes that the purpose for which it is authorized to receive CHRI is to assist in determining whether current employees or individuals applying for employment have any disqualifying information appearing on their criminal record.

- B. The AGENCY agrees that its use of CHRI is for this purpose alone and for no other, and that neither it, nor any of its employees, shall make any other or further use of such information, including confirming the existence or non-existence of a criminal record.
- C. The AGENCY understands that in order to obtain a state and national criminal history record check, only one (1) applicant fingerprint card shall be submitted to NCSBI for processing.
- D. The AGENCY must make requests in writing through the Authorized Official to the NCSBI. Requests from other AGENCY officials will not be honored. The applicant's/employee's complete name, sex, race, date of birth, social security number (optional) and any other descriptive data as shall be appropriate to identify the individual, shall be submitted on the fingerprint card provided by the NCSBI.
- E. The AGENCY understands the Authority for Release of Information form is not to be submitted to the NCSBI but shall be retained by the AGENCY for a period of one (1) year from the date the fingerprints are submitted to the NCSBI.
- F. The AGENCY understands that if the information contained in the CHRI is used to disqualify an individual, the CHRI shall be provided to the subject of the record and afforded an opportunity to provide additional information or challenge the accuracy of the information. Any individual wishing to correct, complete or otherwise challenge a CHRI record must avail themselves of the procedures set forth in the Division of Criminal Information (DCI) administrative procedures. (14B NCAC 18B .0404).
- G. With the exception of Section III, Paragraph E noted above, the AGENCY understands that under no circumstances shall CHRI obtained from NCSBI and FBI be released to or reviewed by anyone other than the AGENCY.
- H. The AGENCY understands that an individual should not be presumed to be guilty of any charge/arrest for which there is no final disposition reflected in the CHRI.
- I. The AGENCY agrees that the CHRI will not be received or sent by email or fax. The AGENCY agrees to contact the NCSBI for approval before initiating use of an electronic system intended to store any CHRI received by the NCSBI.
- J. The AGENCY agrees to comply with the most recent version of the FBI's *Criminal Justice Information Services (CJIS) Security Policy* and, if applicable, the *Security and Management Control Outsourcing Standard for Non-Channeler*.
- K. The AGENCY agrees to notify the NCSBI in writing prior to entering a contract with a third party for outsourcing services that will require the third party to have access to CHRI supplied by the NCSBI and/or the FBI.
- L. The AGENCY shall be responsible for the security and privacy of the CHRI received by it or received by any private contractor pursuant to a specific agreement with the AGENCY.



- M. The AGENCY understands the CHRI shall be kept under lock and key, separate from the Personnel Files. The CHRI shall only be available to the Authorized Officials as set forth in this access agreement.
- N. The AGENCY shall be responsible for reviewing AGENCY policies and knowing what data can and cannot be used as grounds for denying or terminating employment in accordance with standards in the appropriate enabling legislation referred to above.
- O. The AGENCY understands that NCSBI and the FBI maintains only those criminal records for which an individual is required by law to submit to the fingerprinting process; consequently, there are criminal records maintained by other states or local agencies that are not on file with the NCSBI or the FBI.
- P. **If state and national**, the AGENCY agrees to pay the fee of thirty-eight (\$38.00) dollars for every criminal record check. The AGENCY understands it will be billed at the end of each month for the amount due. The AGENCY will return a copy of the invoice with the AGENCY's check in the amount of the total payment due. The payment is due the following month. The AGENCY's check should be made payable to the North Carolina State Bureau of Investigation and mailed to:

NC State Bureau of Investigation  
Attention: Business Office  
Post Office Box 29500  
Raleigh, North Carolina 27626-0500

- Q. **If state ONLY**, The AGENCY agrees to pay the fee of ten dollars (10.00) for each name check or fourteen dollars (14.00) for every fingerprint card processed by SBI, which reflects the cost of providing the CHRI record. The AGENCY understands it will be billed at the end of each month for the amount due. The AGENCY will return a copy of the invoice with the AGENCY's check in the amount of the total payment due. The payment is due the following month. The AGENCY's check should be made payable to the North Carolina State Bureau of Investigation and submitted.

#### IV. Penalties/Liability

The NCSBI reserves the right to terminate this Agreement upon determining that the AGENCY has violated any applicable law, rule or regulation or has violated the terms of this Agreement. The Agency agrees to indemnify and to absolve of liability the North Carolina Department of Public Safety, NCSBI, and its officials and employees from and against any and all claims, demands, actions, suits, and proceedings by others, against all liability including but not limited to any liability for damages by reason or arising out of any false arrest or imprisonment, employee action, or any action whatsoever, or against any lost, cost, expense, and damage, resulting therefrom, arising out of this Agreement, or breach of this Agreement, or NCSBI rules and regulations.



**Complete required fields below**

I certify that I have read and understand the terms of this Agreement with the North Carolina State Bureau of Investigation, Criminal Information and Identification Section, and I will uphold the Agreement.

Henderson County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

By: **John Mitchell**

\_\_\_\_\_  
Printed Name of AGENCY Authorized Official

\_\_\_\_\_  
Signature of AGENCY Authorized Official

Date: \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary Public

\_\_\_\_\_  
Notary's Typed or Printed Name

My Commission Expires \_\_\_\_\_

(Seal)

**NCSBI OFFICIAL USE ONLY**

This Access Agreement becomes effective on \_\_\_\_\_

\_\_\_\_\_  
MONTH / DAY / YEAR

Approved by: \_\_\_\_\_

Denied by: \_\_\_\_\_

or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

- (2) Serious physical injury. – Physical injury that causes great pain and suffering. The term includes serious mental injury."

**SECTION 3.3.** Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

**SECTION 3.4.** Sections 3.1 and 3.2 of this act become effective December 1, 2025, and apply to offenses committed on or after that date.

#### **PART IV. CRIMINAL HISTORY RECORD CHECK REQUIREMENT FOR APPLICANTS OFFERED A POSITION FOR CITY AND COUNTY EMPLOYMENT WORKING WITH CHILDREN**

**SECTION 4.1.** G.S. 153A-94.2 reads as rewritten:

**"§ 153A-94.2. Criminal history record checks of employees permitted.**

(a) The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the State Bureau of Investigation in accordance with ~~G.S. 143B-1209.25~~ [G.S. 143B-1209.26]. G.S. 143B-1209.26. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions.

(b) Notwithstanding the provisions of subsection (a) of this section, if the position being filled requires an applicant for employment to work with children in any capacity, the board of commissioners shall require the applicant, if offered the position, be subject to a criminal history record check conducted by the State Bureau of Investigation in accordance with G.S. 143B-1209.26. The local or regional public employer must extend a conditional offer of the position pending the results of a criminal history record check required by this section."

**SECTION 4.2.** G.S. 160A-164.2 reads as rewritten:

**"§ 160A-164.2. Criminal history record check of employees permitted.**

(a) The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the State Bureau of Investigation in accordance with ~~G.S. 143B-1209.25~~ [G.S. 143B-1209.26]. G.S. 143B-1209.26. The city may consider the results of these criminal history record checks in its hiring decisions.

(b) Notwithstanding the provisions of subsection (a) of this section, if the position being filled requires an applicant for employment to work with children in any capacity, the council shall require the applicant, if offered the position, be subject to a criminal history record check conducted by the State Bureau of Investigation in accordance with G.S. 143B-1209.26. The city must extend a conditional offer of the position pending the results of a criminal history record check required by this section."

**SECTION 4.3.** Sections 4.1 and 4.2 of this act become effective October 1, 2025, and apply to offers of employment on or after that date.