



**MIKE CAUSEY**  
INSURANCE COMMISSIONER & STATE FIRE MARSHAL

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## Fire Department Applicant Criminal History Record Checks Frequently Asked Questions

*(As Amended October 27, 2022)*

While fire departments and emergency medical services could already request criminal history record checks for applicants and current members pursuant to [N.C. Gen. Stat. § 143B-943](#), Section 3 of [Session Law 2022-8](#) now **requires** a criminal history record check for all **applicants** for paid or volunteer positions with a fire department:

- Fire marshals and fire chiefs are required to obtain a criminal history record check of any person who applies for a paid or volunteer position with their fire department. This includes junior firefighters.
- Counties shall ensure that any county, city or other unit of government, or incorporated fire department with whom the county contracts for fire-prevention services shall obtain a criminal history record check of any applicant.
- An applicant is prohibited from serving in a position with a fire department if the applicant has a conviction of arson or another felony involving burning or setting fire under Articles 15, 22 or any other article of Chapter 14 of the General Statutes.
- Applicants must also be asked and must disclose if they have any pending felony charges involving burning or setting fire.
- A fire department shall deny an applicant and may dismiss a current member if they refuse to consent to a criminal history record check.
- A fire department is NOT required to conduct a criminal history record check for current members, it MAY do so if they so choose.

The Office of State Fire Marshal has been receiving questions regarding the changes made by the session law. The following are some of the frequently asked questions:

### **Who can request the record check?**

Pursuant to [N.C. Gen. Stat. § 143B-943](#), a designated Homeland Security director, a local fire chief of a rated fire department, a county fire marshal, an emergency services director or, if there are none of those individuals, a local law enforcement agency.

The North Carolina Department of Public Safety, State Bureau of Investigation (“SBI”) will conduct the criminal history record check. [N.C. Gen. Stat. § 143B-943](#) only provides authority to Homeland Security directors, fire chiefs, fire marshals and emergency services directors to request a criminal history record check. Fire departments will need to contact the SBI Access Integrity Unit for more information regarding the requirements for obtaining criminal history record checks.

[Session Law 2022-8](#) did not change who can request a record check or the requirements for obtaining one.

**OFFICE OF STATE FIRE MARSHAL**

While we have included some information below to assist fire departments, the **SBI Access Integrity Unit** is the main contact for questions regarding this process. Their contact information is included at the end of this document.

### **Can a County Fire Marshal request a record check for fire departments that it contracts with pursuant to N.C. Gen. Stat. § 143A-233?**

Yes. But, if the county fire marshal makes the request, they will need to submit the information set forth below, and the Criminal History Record Information (CHRI) received can only be reviewed by the individuals who have completed the Regulations Regarding Receipt of Criminal History Record Information (CHRI) form outlined below. The information may NOT be shared with the local fire department – rather, the county fire marshal can ONLY tell the local fire department whether the applicant or current member is disqualified pursuant to [N.C. Gen. Stat. § 143B-943\(b\)](#), which is outlined below.

### **How do I request a record check?**

The SBI is the agency that conducts criminal history record checks. You can find out more information here on how to submit these requests – [NCSBI - Employers/Licensing Entities](#)

The SBI also has some FAQ's on their website that may be helpful – [NCSBI - FAQ - Background Checks on Employees](#)

All Departments will be required to complete the following documents with the SBI:

- Non-Criminal Justice Access Agreement
- Regulations Regarding Receipt of Criminal History Record Information (CHRI) (**This form is required to be completed for EVERY person at the fire department that will be reviewing CHRI**).
- Access Request Form – this is an online form that you will fill out and then upload the documents above.

You can find all of these forms, as well as steps for requesting access to CHRI here – [NCSBI - Agency Access Agreement](#)

**When asked for the statute that gives you the authority to request criminal history record checks, you'll list N.C. Gen. Stat. § 143B-943.**

Once you submit all these documents, they will be reviewed and then you will receive an email that contains all directions on how to conduct a criminal history record check, including the form that you will submit to the SBI.

### **Who pays the fee?**

Pursuant to [N.C. Gen. Stat. § 143B-943\(b\)](#), the Department of Public Safety shall charge a reasonable fee for conducting the criminal history record check. This fee would be paid by the requestor. [Session Law 2022-8](#) amended subsection (b) so that the requestor may charge an applicant or a current member the fee amount charged by the Department of Public Safety. The amendment allowing the requestor to charge the applicant the fee amount does not include emergency services directors.

### **Where can applicants get fingerprinted?**

Fingerprints are required to conduct criminal history record checks, and they can be submitted on a “hard card” or they can be submitted digitally using “Live Scan.” Live Scan fingerprinting is the process of capturing fingerprints electronically for submission to specific agencies, and you generally get faster results by submitting background check requests using Live Scan. There are numerous law enforcement agencies throughout North Carolina that have the ability to process fingerprints electronically through Live Scan; so you might already be aware of a local police department or sheriff’s office in your county that can provide this service . If you are not aware of any locations, each NC County Sheriff’s Office does have the ability to process fingerprint requests electronically through Live Scan. The North Carolina Department of Insurance has a listing of locations throughout the State where you can have fingerprints collected electronically, which you can see here – [Live Scan Locations | NC DOI](#).

### **Can a Junior Firefighter be fingerprinted?**

[N.C. Gen. Stat. § 7B-2103](#) provides, in relevant part, that “ nontestimonial identification procedures shall not be conducted on any juvenile (defined as a person under 18 years of age) without a court order issued pursuant to this Article.” As used in this statute, “nontestimonial identification” includes, among other things, identification by fingerprints. Although not explicitly stated in [N.C. Gen. Stat. § 7B-2103](#), the restrictions on nontestimonial identification procedures involving juveniles is intended to apply to juveniles who are under investigation for alleged delinquent conduct. The title of Article 21 of Chapter 7B, “Law Enforcement Procedures in Delinquency Proceedings,” appears to support that interpretation. This situation involves a voluntary submission of fingerprints by a juvenile that is unrelated to any investigation for delinquent conduct. Therefore, the provisions in Chapter 7B **would not** preclude this practice since this is for employment purposes and this would constitute a voluntary submission for fingerprints should a person under 18 desire to become a volunteer.

### **What disqualifies applicants under these changes?**

Pursuant to [N.C. Gen. Stat. § 143B-943\(d1\)](#), “[a]n applicant is prohibited from serving in a paid or volunteer position with a fire department if the applicant’s verified 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.”

Additionally, a local fire department shall deny an applicant who refuses to consent to a criminal history record check or use of fingerprints or other required identifying information.

### **Who ensures checks are being done?**

N.C. Gen. Stat. § 153A-233, as amended by [Session Law 2022-8](#), places the burden on counties to ensure that any county, city or other unit of local government, or incorporated volunteer fire department with whom the county contracts for fire-fighting or prevention services shall obtain a criminal history record check of any person who applies for a paid or volunteer position providing fire-fighting or prevention services.

### **Who must secure and maintain records?**

The requestor would be responsible for keeping criminal history record check information (“CHRI”) confidential. Pursuant to [N.C. Gen. Stat. § 143B-943\(c\)](#), all releases of CHRI “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.” These rules can be found here –

[OAH - NCAC > Title 14B - Public Safety > Chapter 18 - Division of Criminal Information - Browsing \(state.nc.us\)](#)

Fire departments may contact the SBI Access Integrity Unit for more information about these rules.

**Are rescue squads affected by the changes in Section 3 of Session Law 2022-8?**

Generally, no. The changes in Section 3 of [Session Law 2022-8](#) focus on applicants for positions with fire departments. An emergency service director’s ability to request criminal history record checks for applicants and current members is unchanged. However, the amendment to the definition of “criminal history” to include criminal offenses in Article 22 of Chapter 14 of the General Statutes (Damages and Other Offenses to Land and Fixtures) would be applicable to both fire departments and emergency medical services under [N.C. Gen. Stat. § 143B-943\(d\)](#).

**If you have questions regarding Access Agreements, you can contact the SBI’s Access Integrity Unit here:**

- E-Mail: [AIUhelp@ncsbi.gov](mailto:AIUhelp@ncsbi.gov) Please use “Criminal History Record Information Access Inquiry” in the subject line.
- Mail:  
Access Integrity Unit – CIIS  
NC State Bureau of Investigation  
3320 Garner Road  
P.O. Box 29500  
Raleigh, NC 27626-0500

References:

<https://www.ncleg.gov/BillLookUp/2021/h315>