
Draft Rule on Implementation of Criminal Background Check

Title of Rule: Rule on Implementation of Criminal Background Check

Drafted: February 22, 2024

Meeting at which the Rule will be discussed and voted on: October 8, 2024, at Noon, ET.

Public Comment: Interested persons may electronically submit written comments on the proposed rule to gsearls@clear-ams.org with the subject line "Counseling Compact Commission Rule Comment" or by attending the meeting at which the rule will be discussed and voted on. Written comments on the proposed rule must be submitted by **August 11, 2024, 11:59 p.m. MT.**

Effective: 30 days after Full Commission Approval.

History: January 24, 2024 Rule introduced at Rules Committee Meeting.
February 22, 2024 Rule adopted by the Rules Committee for proposal to Executive Committee
April 3, 2024 Rule Adopted by Executive Committee for public comment and proposal to Full Commission
June 18, 2024 Rule posted to the website for public comment

Chapter 4: Rulemaking on Implementing Criminal Background Checks

Authority: Section 3: State Participation in the Compact
Section 9: Establishment of the Counseling Compact Commission
Section 11: Rulemaking

4.0 Purpose: Pursuant to Section 3.B.3, and Section 9, a state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and using the results in making licensure decisions.

The Counseling Compact Commission shall promulgate reasonable and lawful uniform rules to facilitate and coordinate the implementation and administration of the Counseling Compact. This rule will become effective upon passage by the Counseling Compact Commission as provided in Section 9 of the Counseling Compact.

4.1 Implementation of Criminal Background Check:

To avoid default, member states must have completed all required processes, requirements, and applications necessary to request the ability to receive the results of the Federal Bureau of Investigation (FBI) record search on criminal background checks, as required by the Compact. Deference will be given to member states who can demonstrate that they have engaged in good faith efforts to implement the FBI Criminal Background Check including, but not limited to, the introduction of related legislation, negotiations with FBI state information bureaus, etc.

Results of the criminal background check shall be reviewed solely by the member state in accordance with state law.

Communication between a member board and the Interstate Commission and communications between member boards regarding verification of a Professional Counselor's eligibility for a privilege through the Compact shall not include any information received from the FBI relating to a federal criminal records check performed by a member board under Public Law 92-544.

A member state cannot participate in issuing or accepting compact privileges until such member state has completed the requirements to fully implement the FBI Criminal Background Check requirement established in Section 3.B.1 of the Compact. As used in Section 3.B.1 of the Compact, full implementation of the FBI Criminal Background Check requirement means that the member state's licensing board is using the results of the FBI record search on criminal background checks in making licensure decisions for all applicants seeking an initial privilege to practice as a Professional Counselor in the member state whom will also seek a privilege to practice under the Counseling Compact.