

**Note from the Codifier:** The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days.  
For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email [oah.postmaster@oah.nc.gov](mailto:oah.postmaster@oah.nc.gov).

## TITLE 12 – DEPARTMENT OF JUSTICE

**Notice** is hereby given in accordance with G.S. 150B-21.1 that the Sheriffs' Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 10B .0301.

**Codifier of Rules** received for publication the following notice and proposed temporary rule on: October 26, 2021.

### Public Hearing:

**Date:** November 10, 2021

**Time:** 9:00 a.m.

**Location:** 1700 Tryon Park Drive, Raleigh, NC 27610

**Reason for Proposed Temporary Action:** The effective date of a recent act of the General Assembly or of the U.S. Congress. Session Law 2021-138, Senate Bill 300, G.S. 17E-7(c) is amended to require the administration of a psychological screening prior to the justice officer's initial certification or prior to the officer performing any action requiring certification by the Commission. This change becomes effective 1/1/2022.

**Comment Procedures:** Comments from the public shall be directed to: Diane Konopka, 1700 Tryon Park Drive, Raleigh, NC 27610, email [dkonopka@ncdoj.gov](mailto:dkonopka@ncdoj.gov). The comment period begins November 3, 2021 and ends November 29, 2021.

## CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

### SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

#### SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

##### 12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS

(a) Every Justice Officer employed or certified in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be 21 years of age for all deputies and detention officers and be at least 18 years of age for all telecommunicators;
- (3) be a high school graduate, or the equivalent (GED);
- (4) have been fingerprinted by the employing agency;
- (5) have had a medical examination as required by 12 NCAC 10B .0304;
- (6) have been administered a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist.
  - (A) If a face-to-face, in-person interview is not practicable, the face-to-face may be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment.
  - (B) The psychological screening examination shall be given prior to the initial certification or prior to the justice officer performing any action requiring certification by the Commission.
  - (C) The psychological screening shall be valid for a period of one year prior to the justice's officer's initial appointment and applies to any justice officer seeking initial or probationary certification effective January 1, 2022 or later.
- ~~(6)~~(7) have produced a negative result on a drug screen administered according to the following specifications:
  - (A) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests as may be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs [<http://workplace.samhsa.gov/>];
  - (B) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
  - (C) the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
  - (D) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are incorporated by reference, including subsequent amendments and editions. Copies of this information may be obtained from the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 [<http://www.drugabuse.gov/>] at no cost;
  - (E) the test results shall be dated no more than 60 days before employment or appointment, whichever is earlier;
  - (F) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples; and

(G) each drug test laboratory report shall be reviewed by a medical review officer (MRO), who shall be a licensed physician;

~~(7)~~(8) make the following notifications:

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

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

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

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

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

~~(8)~~(9) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E.2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as authority;

~~(9)~~(10) have a background investigation conducted by the employing agency, including a personal interview prior to employment as required by Rules .0305 and .0306 of this Section;

~~(10)~~(11) not have committed or been convicted of a crime or crimes specified in 12 NCAC 10B .0307.

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

*History Note: Authority G.S. 17E-7;  
Eff. January 1, 1989;*

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

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