

21 NCAC 68 .0216 BACKGROUND INVESTIGATION

(a) Every applicant for an initial credential issued pursuant to Article 5C of Chapter 90 of the General Statutes shall provide, at her or his expense, a completed fingerprint card and accompanying release of information form, provided by the Board, meeting the standards set by the State Bureau of Investigation and obtained within 60 days of the date the applicant submits all the prerequisites for his or her credential.

(b) The applicant shall provide any additional information regarding any pending charge or conviction as requested by the Board.

(c) An applicant shall submit a verified statement listing all criminal convictions received by the applicant, subsequent to the date of the application. Failure to make full and accurate disclosure shall be grounds for immediate application denial or other disciplinary action applicable to registration, certification, or licensure pursuant to G.S. 90-113.44.

(d) Criminal histories from any jurisdiction shall be categorized as defined by North Carolina law.

(e) The categories of crimes (committed as separate incidents) are as follows:

- (1) Category I. The following crimes:
 - (A) Murder, attempted murder, or manslaughter of a child 16 or under; or
 - (B) Sexual assault, including attempted sexual assault, rape, indecent liberties with a child, molestation, or sexual assault of a child, or the attempt to commit any of the aforementioned crimes.
- (2) Category II. Crimes that primarily result in bodily or emotional harm to others, including:
 - (A) Manslaughter of a person over 16 years of age;
 - (B) Kidnapping or attempted kidnapping;
 - (C) Arson of an occupied dwelling;
 - (D) Robbery with a dangerous weapon or attempted robbery with a dangerous weapon;
 - (E) Felony assault other than a sexual assault;
 - (F) First degree burglary;
 - (G) Trafficking in controlled substances as it is defined in Article 5 of Chapter 90 of the General Statutes; or
 - (H) Any other felony that results in bodily or emotional harm to another.
- (3) Category III. The following misdemeanors and felonies that do not primarily result in bodily or emotional harm to others:
 - (A) Three or more DWIs within the most recent seven years;
 - (B) Assault (misdemeanor);
 - (C) Felony larceny;
 - (D) Fraud, obtaining property by false pretenses, financial transaction card theft;
 - (E) Unauthorized use of an aircraft;
 - (F) Unlawfully carrying a weapon;
 - (G) Theft of a vehicle;
 - (H) Falsification of government documentation (felony);
 - (I) Arson of an unoccupied dwelling or other building within the curtilage;
 - (J) Burglary other than in the first degree;
 - (K) Sale and delivery violations of the North Carolina Controlled Substances Act resulting in a felony conviction;
 - (L) Embezzlement;
 - (M) Forgery;
 - (N) Any burning of property prosecuted as a felony;
 - (O) Robbery not with a dangerous weapon;
 - (P) Perjury;
 - (Q) Felony receiving and possessing stolen goods;
 - (R) Breaking and entering; or
 - (S) Any other felony not otherwise categorized.
- (4) Category IV. The following misdemeanors:
 - (A) Any combination of three or more Category V offenses, except offenses occurring within the same incident shall be considered a single offense;
 - (B) Two DWIs within the most recent seven years;
 - (C) Possession of a controlled substance;
 - (D) Injury or damage to property;

- (E) Resisting arrest;
 - (F) Larceny;
 - (G) Prostitution;
 - (H) Criminal mischief;
 - (I) Driving while license suspended or revoked;
 - (J) Falsification of government documents;
 - (K) Any misdemeanor burning; or
 - (L) Any other misdemeanor not otherwise categorized.
- (5) Category V. Category V offenses are:
- (A) One DWI within the most recent seven years;
 - (B) Disorderly conduct;
 - (C) Intoxicated and disruptive in public;
 - (D) Three or more incidents resulting in worthless check convictions; or
 - (E) Shoplifting or concealment.
- (f) The following sanctions have been established by the Board according to the categories of crimes:
- (1) An applicant with a Category I conviction shall have at least 15 years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category I conviction to be eligible for registration, certification, or licensure.
 - (2) An applicant with a Category II conviction shall have at least 10 years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category II conviction to be eligible for certification or licensure. Notwithstanding a Category II conviction, an applicant may be registered no sooner than five years following the date the applicant has completed all aspects of his or her sentence.
 - (3) An applicant with a Category III conviction shall have at least five years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category III conviction to be eligible for certification or licensure. Notwithstanding a Category III conviction, an applicant may be registered immediately following the date the applicant has completed all aspects of his or her sentence.
 - (4) An applicant with a Category IV conviction shall have at least three years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category IV conviction to be eligible for certification or licensure. Notwithstanding a Category IV conviction, an applicant may register immediately following the date the applicant has completed all aspects of his or her sentence.
 - (5) An applicant with a Category V conviction shall have at least one year elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category V conviction to be eligible for certification or licensure. Notwithstanding a Category V conviction, an applicant may register immediately following the date the applicant has completed all aspects of his or her sentence.
- (g) If a waiting period prior to licensure as a driver of a motor vehicle results from a conviction for a DWI offense, this waiting period shall not be considered an aspect of an applicant's sentence required to be completed prior to the awarding of a credential.
- (h) An individual whose application is denied or whose registration is suspended or revoked may request a hearing under the procedure established in Article 5C of Chapter 90 and Chapter 150B of the North Carolina General Statutes and the North Carolina Administrative Code.

History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.40; 90-113.41A; 90-113.44; Temporary Adoption Eff. May 15, 2002; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2010.