



Guidance: Statutory Language to Implement FBI Criminal History Record Information

In order to implement new Federal Bureau of Investigation (FBI) Criminal History Record Information (CHRI) also known as criminal background check (CBC), jurisdictions must amend existing statute clearly stating the requirement of a FBI criminal history record information for all initial licensees. The FBI provided the following information to the Physical Therapy Compact Commission, but it is applicable for any jurisdiction interested in adding a CBC requirement regardless of interest in the PT Compact.

To be considered for FBI CBC approval, the state code must comply with the requirements of Federal statute P.L. 92-544 which consists of the following criteria:

- a. The statute must exist as a result of a legislative enactment;
- b. It must require the fingerprinting of applicants who are to be subjected to a national criminal history background check; .
- c. It must expressly or by implication authorize the use of FBI records for the screening of applicants;
- d. It must identify the specific category of applicants/licensees (PTs and PTAs) falling within its purview, thereby avoiding overbreadth;
- e. It must not be against public policy; and
- f. It must not authorize receipt of the CHRI by a private entity

Jurisdictions should consult their state ID bureaus regarding the recommended language in order to meet the requirements of P.L. 92-544. A list of the ID bureaus can be found at <https://www.fbi.gov/services/cjis/identity-history-summary-checks/state-identification-bureau-listing>. Please communicate with the state ID bureau for recommended language to include in the bill; the FBI CBC is a legislative change which cannot be accomplished through rule promulgation.

Suggested amendments to existing statute:

These suggestions are a starting point for amendment language that may meet the requirements of P.L. 92-544 and therefore meet the FBI requirements. However, it is strongly recommended that any changes be drafted in accordance with the state code and reviewed by the appropriate official in the state ID bureau.

1. Amend board authority section to explicitly state that the board can ask for fingerprints and receive national criminal history record information for use in their decision making regarding licensure, that fingerprints be initially submitted to the state identification bureau, and CBC information cannot be shared with other entities or across state lines
2. Amend the licensure requirements for both physical therapists and physical therapist assistants to state that CBC is required for licensure.