

Occupational Therapy Compact Commission (OTCC)

Chapter 4: Implementation of Federal Bureau of Investigations Criminal Background Check (FBI CBC) Requirement

Rule Title	Rule on Implementation of FBI CBC Requirement
Rule History	<ul style="list-style-type: none">• Drafted: April 16, 2024• Public Comment Period: May 1 – 30, 2024• Adopted: April 16, 2025• Effective: May 16, 2025• Amendments drafted: June 3, 2025• Voted by Executive Committee: July 14, 2025• Public Comment Period: XXXX• Adopted: XXXX
Rule Purpose	To further outline and clarify the requirement of OTC member states to implement Federal Bureau of Investigation Criminal Background Checks (FBI CBCs) for the purpose of issuing OTC privileges to practice
Rule Format	The first number represents the Chapter. The second number represents the §Section. The third number represents the Bullet. For example, 1.3.4 represents Chapter 1.§Section 3.Bullet 4 of the OTCC Rules.
Public Comment Instructions	Submit public comments via email to amanda@asmii.net . Use the subject line “FBI CBC Rule Public Comment.” Or, you may attend the meeting at which the rule will be discussed and voted on. Written comments must be received by: Month, XX, XXXX

§Section 1: Authority

Authority for this rule is in the *Occupational Therapy Licensure Compact Model Legislation*.

4.1.1 §Section 3: *State Participation in the OT Compact*

4.1.2 §Section 8: *Establishment of the Occupational Therapy Compact Commission (OTCC)*

4.1.3 §Section 10: *Rulemaking*

§Section 2: Purpose

~~4.2.1 Pursuant to §Section 3.A.5 and §Section 10 of the Occupational Therapy Licensure Compact Model Legislation, a Home 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 check and utilize the results in making licensure decisions. The Occupational Therapy Compact Commission shall promulgate reasonable and lawful uniform rules to facilitate and coordinate implementation and administration of the Occupational Therapy Compact. This rule will become effective upon passage by the Occupational Therapy Compact Commission as provided in Section 10 of the Occupational Therapy Interstate Compact.

§Section 3: Definitions

4.3.1 No definitions noted in Chapter 4: Implementation of FBI CBC Requirement.

§Section 4: Rule Content

~~4.4.1 Implementation of Federal Bureau of Investigation 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 OT 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, 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.~~

~~Communication between a member board and the Occupational Therapy Compact Commission and communications between member boards regarding verification of Occupational Therapist and/or Occupational Therapy Assistants' eligibility for a license/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 recognizing compact privileges until such member state has completed the requirements to fully implement the FBI Criminal Background Check requirement.~~

4.4.1 Requirements for Member States Implementing Criminal Background Checks:

A. The Home state must implement or utilize procedures for considering the criminal history records of applicants licensed within their Home state who are applying for their initial, e.g., very first time, privilege to practice in one or more states under the Occupational Therapy Compact.

B. 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:

i. The Federal Bureau of Investigation (FBI); and

- 59 ii. The agency responsible for retaining their Home state's criminal records, as
60 authorized by the member Home state's laws.
- 61 C. Results of the criminal background check shall be reviewed solely by the member
62 state in accordance with state law and shall not be shared, unless otherwise permitted
63 under state law, with individuals, other member states, or the Commission.
- 64 D. The member state shall use the results of the background check in determining the
65 applicant's eligibility for a compact privilege in accordance with Section 3.A.5. of the
66 Occupational Therapy Compact (OTC) statutes.
- 67 E. The Home state shall report all persons not eligible to participate in the Occupational
68 Therapy Compact to the OTC Commission.

70 **4.4.2 Timeframe for Member States to Apply for Criminal Background Check**

71 In accordance with Section 3.A.5 a member state must submit an ORI application within
72 sixty (60) days of the member state's effective date of the OTC in that state or within
73 sixty (60) days of the effective date of this rule, whichever comes first.

75 **4.4.3 Timeframe for Member States to Implement Criminal Background Checks and**
76 **Exceptions**

77 In accordance with Section 3.A.5, a member state must fully implement a criminal
78 background check as demonstrated by receiving the results of criminal history record
79 information from the FBI and the agency responsible for retaining their Home state's
80 criminal records, as authorized by the member Home state's laws, within thirty (30) days
81 of the member state's approval of their ORI application.

83 The OTCC Executive Committee has the discretion to grant member states additional
84 time to fully implement a criminal background check based on the member state
85 demonstrating their due diligence to implement a criminal background check or
86 demonstrating a legal impossibility to implement a criminal background check.

88 **4.4.4 Legal Impossibility for States Meeting the Criminal Background Check**
89 **Requirement**

90 Due to the legal impossibility of a member state's ability to comply with the FBI CBC
91 requirement as outlined in Section 3.A.5 of the OTC and the resulting prevention of the
92 Compact to become operational in the member state, the member state who does not
93 already require a FBI CBC may also issue and accept privileges from applicants that have
94 not yet had a member state board reviewed FBI CBC under the following conditions:

- 95 A. The Member State board can provide evidence to the Executive Committee that it has
96 attempted and been refused the assignment of an ORI number for the purpose of
97 receiving and reviewing CBCs of those interested in compact participation; and

- 98 B. The licensee who is applying for entry into the Compact meets all other statutory
99 requirements and has attested to the fact they have no FBI Criminal Background
100 History and acknowledges and accepts that they will be subject to an FBI CBC once
101 their member state has the ability to perform an FBI CBC (or at the compact
102 applicant's first renewal cycle after their Home state has been given the permission to
103 conduct FBI CBCs); and
104 C. The Member State Board agrees to immediately reapply for an ORI number upon a
105 change of position by the FBI, or passage of the SHARE Act, whichever comes first,
106 and provides evidence to the Executive Committee of same and requires all new
107 license applicants to undergo an FBI CBC if they apply for the Compact.
108

109 **4.4.5 Criminal Background Check Requirements for Compact Privilege Applicants**

- 110 A. To be able to obtain a compact privilege under the Occupational Therapy Compact, a
111 compact privilege seeker shall submit to a criminal background check, including
112 fingerprint-based state and federal background checks, as required by the Compact
113 and authorized by the member state's laws.
114 i. The applicant shall provide a full set of fingerprints to the Home state's
115 designated agency for the purpose of conducting a criminal history record
116 check through;
117 a. The Federal Bureau of Investigation (FBI); and
118 b. The state agency responsible for retaining the criminal records in the
119 applicant's Home state.
120 B. Results of the criminal background check shall be reviewed solely by the member
121 state in accordance with state law and shall not be shared, unless otherwise permitted
122 under state law, with individuals, other member states, or the Commission.
123 i. The member state shall use the results of the background check in determining
124 the applicant's eligibility for a compact privilege in accordance with Section
125 3.A.5 of the Occupational Therapy Compact statutes.
126 ii. An applicant who does not submit to an FBI fingerprint-based criminal
127 background check or whose background check reveals disqualifying offenses,
128 as determined by the Home state and in accordance with Compact statutes and
129 rules, shall be deemed ineligible to obtain a compact privilege
130 C. An applicant who is unable to submit to an FBI fingerprint-based criminal
131 background check due to legal impossibility in the Home state shall be required to do
132 the following:
133 i. Attest to the non-existence of any criminal history record;
134 ii. Submit to a state based criminal background check for review by the Home
135 state board; and
136 iii. Submit to an FBI fingerprint-based criminal background check for review by
137 the Home state board within 60 days of receiving notification from the state

138 that it has become legally possible for the state to comply with Section 3.A.5
139 to conduct FBI CBCs of any privileges obtained under the Home state license.
140 Failure to comply with this requirement within the timeframe may result in the
141 removal of compact privileges to practice.

- 142 D. An applicant who does not submit to an FBI fingerprint-based criminal background
143 check or whose background check reveals disqualifying offenses, as determined by
144 the Home state and in accordance with Compact statutes and rules, shall be deemed
145 ineligible to obtain a compact privilege or whose state or FBI background check
146 reveals disqualifying offenses, as determined by the Home state and in accordance
147 with compact statutes and rules, shall be deemed ineligible to obtain or renew a
148 compact privilege.
- 149 E. If the Home state deems any person no longer eligible to participate in the Compact,
150 it shall report those persons to the OT Compact Commission as defined in the Rule on
151 Data System Reporting Requirements.
- 152 F. The requirement for a criminal background check shall apply to all compact privilege
153 applicants.

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