

July 25, 2025

Re: Public Comment Notice for Occupational Therapy Compact Commission (OTCC) **amendments to existing Rule on FBI CBC** (FBI CBC: Federal Bureau of Investigations Criminal Background Checks)

The OTCC welcomes public input on the **proposed amendments to the existing Rule on FBI CBC**, which are designed to assist the OTCC in implementation and administration of the Occupational Therapy Compact. This 30-day public comment period provides an opportunity for interested individuals and organizations to express their opinions, concerns, and suggestions on the proposed Rule on FBI CBC. Your feedback is valuable to us and will be considered in the decision-making process.

I. Purpose:

The purpose of this public comment notice is to encourage and facilitate public input on the proposed amendments to the existing Rule on FBI CBC. We are committed to transparency, accountability, and inclusivity in our decision-making process, and your comments will assist us in refining and finalizing this Rule.

II. Comment Period:

The public comment period for the proposed amendments to the existing Rule on FBI CBC will be open for 30 days, starting from Friday, July 25, 2025 and closing on Monday, August 25, 2025. **All comments must be received by 4:00p.m. Central Time on Monday, August 25, 2025.**

III. How to Submit Comments:

Email your comments to executivedirector@otcompact.gov. Please indicate "Public Comment for proposed amendments to Rule on FBI CBC" in the subject line of your email. All comments received will be considered part of the public record and may be subject to disclosure under applicable laws.

IV. Public Hearing:

The OTCC meeting to vote on the proposed amendments to the existing Rule on FBI CBC is TBD.

V. Contact Information:

If you have any questions or require further information regarding the proposed amendments to the existing Rule on FBI CBC or this public comment process, please contact the OTCC Executive Director, Amanda Perry, at executivedirector@otcompact.gov. We look forward to receiving your comments and thank you for your participation in shaping the future of the Occupational Therapy Compact Commission.

Kind regards,
Dr. Lesly Wilson James, Chair
Occupational Therapy Compact Commission

Struck language will be omitted from and underlined language will be included in the amendments.

Occupational Therapy Compact Commission (OTCC)

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

DRAFT AMENDMENTS

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 to Public Comment by Executive Committee: July 21, 2025 • Public Comment Period: July 25, 2025 – August 25, 2025 • Adopted by OTCC: Date TBD
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
Public Comment Instructions	Submit public comments via email to executivedirector@otcompact.gov . Use the subject line “proposed amendments to 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 close of business on August 25, 2025.

§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~~

Struck language will be omitted from and underlined language will be included in the amendments.

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 for a compact privilege to practice who are licensed within their Home state and 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:

Struck language will be omitted from and underlined language will be included in the amendments.

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

4.4.2 Timeframe for Member States to Apply for Criminal Background Check

If a state does not already hold an ORI, a member state must submit an ORI application (in accordance with Section 3.A.5) within sixty (60) days of the member state's effective date of the OTC in that state or within sixty (60) days of the effective date of this rule, whichever comes first.

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

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

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

4.4.4 Legal Impossibility for States Meeting the Criminal Background Check Requirement

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

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

112 **4.4.5 Criminal Background Check Requirements for Compact Privilege Applicants**

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

- 137 ii. Submit to a state based criminal background check for review by the Home
138 state board; and
- 139 iii. Submit to an FBI fingerprint-based criminal background check for review by
140 the Home state board within 60 days of receiving notification from the state
141 that it has become legally possible for the state to comply with Section 3.A.5
142 to conduct FBI CBCs of any privileges obtained under the Home state license.
143 Failure to comply with this requirement within the timeframe may result in the
144 removal of compact privileges to practice.
- 145 D. An applicant who does not submit to an FBI fingerprint-based criminal background
146 check or whose background check reveals disqualifying offenses, as determined by
147 the Home state and in accordance with Compact statutes and rules, shall be deemed
148 ineligible to obtain a compact privilege or whose state or FBI background check
149 reveals disqualifying offenses, as determined by the Home state and in accordance
150 with compact statutes and rules, shall be deemed ineligible to obtain, retain, or renew
151 a compact privilege.
- 152 E. If the Home state deems any person no longer eligible to participate in the Compact,
153 it shall report those persons to the OT Compact Commission as defined in the Rule on
154 Data System Reporting Requirements.
- 155 F. The requirement for a criminal background check shall apply to all compact privilege
156 applicants.
- 157

OCCUPATIONAL THERAPY

L I C E N S U R E C O M P A C T