

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• Amendment Public Comment Period: July 25, 2025 – August 25, 2025• Amendments Voted by OTCC: October 30, 2025• Effective:
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

OCCUPATIONAL THERAPY
LICENSURE COMPACT

§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 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:
 - 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:

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

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

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