12 NCAC 04I .0405 is proposed for adoption as follows:

12 NCAC 04I .0405 CCH USE IN LICENSING AND NON-CRIMINAL JUSTICE EMPLOYMENT PURPOSES

(a) Criminal justice agencies authorized under 12 NCAC 04H .0201 which issue licenses or approve non-criminal justice employment and want to use computerized criminal history information maintained by DCI for licensing, permit, and non-criminal justice employment purposes shall submit to CIIS a written request listing the types of licenses, permits, and employment for which they desire to use computerized criminal history information. A copy of the local ordinance or a reference to the North Carolina General Statute giving authority to issue a particular permit or license must be included in the written request.

(b) Authorization to use computerized criminal history information for licensing, permit, or employment purposes may be given only after the DCI and the North Carolina Attorney General's Office have evaluated and granted authorization based upon the authority of the North Carolina General Statutes or local ordinance pertaining to the issuance of that particular license or permit for employment.

(c) Once authorization has been given, DCI shall provide the agency an access agreement, which outlines the guidelines for information usage. The access agreement shall also include information on billing mechanisms. DCI shall bill the agency fourteen dollars ($14.00) for a check of North Carolina computerized criminal history files, and thirty-eight dollars ($38.00) for a search of both the North Carolina computerized criminal history files and a search of the FBI's Interstate Identification Index (III) files. DCI shall send an invoice to the requesting agency to collect these fees.

(d) The access agreement shall be signed by the requesting agency's head, and returned to DCI.

(e) The agency's terminal, if applicable, shall receive the capability to use the purpose code "E" in the purpose field of the North Carolina CCH inquiry screens for employment or licensing once the agency head has signed the access agreement and returned it to DCI. Once an agency has received this capability, it shall use the purpose code "E", the proper two character code, and recipient of the record's name. A log of all primary and any secondary dissemination must also be kept for one year on all responses received from this type of inquiry.

(f) Criminal justice agencies may also gain access by submission of non-criminal justice applicant fingerprint cards. Approval must be obtained pursuant to the procedure in Paragraph (a) of this Rule. One applicant fingerprint card must be submitted on each individual. The fingerprint card must contain the following information on the applicant in order to be processed by DCI and the FBI:

(1) complete name;
(2) date of birth;
(3) race;
(4) sex;
(5) reason fingerprinted to include the N.C.G.S. or local ordinance number;
(6) position applied for;
(7) the licensing or employing agency; and
(8) a set of legible fingerprint impressions.

DCI shall return the letter of fulfillment to the submitting agency indicating the existence or absence of a criminal record.

(g) Requests from non-criminal justice agencies or individuals to use criminal history information maintained by DCI for licensing and employment purposes shall be treated as a fee for service request pursuant to G.S. 114-19.1 or any other applicable statute. The process for approval for non-criminal justice agencies or individuals shall be the same process as in Paragraph (a) of this Rule.

(h) Upon being approved, the requesting agency shall submit its requests to the North Carolina State Bureau of Investigation, Criminal Information and Identification Section, Special Processing Unit, 3320 Garner Road, Raleigh, North Carolina 27626. Each request shall include a fee of ten dollars ($10.00) for a name-only check, fourteen dollars ($14.00) for a state-only fingerprint based check, or thirty-eight dollars ($38.00) for a state and national fingerprint based check (if applicable) in the form of a certified cashier's check, money order, or direct billing.

(i) Criminal history record information accessible pursuant to this Rule shall be North Carolina criminal history record information, and FBI III information if permitted by statute.

Authority G.S. 114-10; 114-10.1; 114-19.1.