

**Rule Summary and Fiscal Analysis (Part A)****Attorney General**

Agency Name

**Bureau of Criminal Identification and Investigation**

Division

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**109:5-1-01**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Procedure for requesting criminal records.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **109:57(E)**

5. Statute(s) the rule, as filed, amplifies or implements: **109:57(E)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The administrative rule setting forth procedures for requesting criminal records, including the establishment of the record check fee, was first established and effective in September of 1984. Since that time, the Bureau of Criminal Identification and Investigation (BCI&I) record check operations have expanded tremendously, as have the various pieces of legislation requiring that organizations and units of local governments have such record checks performed for their employees. The number of record checks performed has quadrupled over the last decade, from approximately 100,000 in FY-1991 to over 430,000 in FY-2003. New technology to speed, enhance and automate the record check process has been

added over the years and, while federal grants have helped defray some of those costs, the BCI&I has found that the costs of operating the record check units now exceeds the revenue generated in excess of \$800,000 annually. State GRF dollars must now subsidize these operations, and with the continual decrease in GRF funding, and increase in fees becomes necessary.

The record check fee of \$15 has not been raised since 1991, when it was increased \$12 from its original amount of \$3. Based on increases in the consumer price index alone, this fee would now be in excess of \$28 per record check. Therefore, the Office of the Attorney General respectfully requests that the fee be increased to \$22.50 with future adjustments for inflation with the filing of this rule change.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The existing rule establishes the procedure for requesting criminal background checks, including the establishment of the record check fee. The proposed amendment to the rule increases the fee by \$7.50, from \$15 to \$22.50 for a BCI&I criminal record check. The record check fee shall also be subject to an increase every two years based on the Consumer Price Index.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material,

provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

*Not Applicable.*

12. 119.032 Rule Review Date: **8/13/2003**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues/ expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase revenues.

\$5,724,000

Once enacted, the proposed increase in record check fees would generate an additional \$7.50 per record check performed. Based on an estimated effective date of November 2003 and an estimated 432,000 record checks performed annually, the increase in revenues for FY-04 would be \$2,160,000 (432,000 x 8/12 x 7.50). Assuming a 10% increase in the number of record checks performed for FY-05, the estimated increase in revenues in FY-05 would be \$3,564,000 (432,000 x 1.1 x 7.50). The total increase in revenues for the biennium is estimated at \$5,724,000.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

An estimated cost of compliance is difficult to project due to the different needs and employment situations for the impacted entities. The cost of the record check, in most cases will be borne by the agency or organization requesting the record check; however, it may also be borne by the individual applying for employment. Regardless, the overall impact will be \$7.50 times the number of record checks performed annually for any given agency, organization or individual.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The estimated cost of compliance is difficult to project, as the impact is dependent upon the number of new employees hired by the agency, organization or unit of government. No two agencies or units of government will be the same. The proposed increase would be \$7.50 per record check requested by the agency.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

As noted previously, the cost of the BCI&I criminal record check is the responsibility of the applicant seeking employment, licensure or certification and not the employer; however, in most cases the employing agency absorbs the cost. Consequently, to the extent the entity does pay for the costs of the BCI&I criminal record check, the additional costs would be \$7.50 per record check requested.

(a) Personnel Costs

N/A

(b) New Equipment or Other Capital Costs

N/A

(c) Operating Costs

N/A

(d) Any Indirect Central Service Costs

N/A

(e) Other Costs

N/A

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Not applicable.

7. Please provide a statement on the proposed rule's impact on economic development.

Not applicable.