

## 1. Licensed Attorney Fingerprinting

**a) Subsequent Arrest Notification:** The State Bar shall enter into a contract with the California Department of Justice for Subsequent Arrest Notification services for licensed active California attorneys, and attorneys permitted to practice in the State of California pursuant to California Rule of Court Rules 9.44, 9.45 and 9.46.

(i) The State Bar is already receiving Subsequent Arrest Notification services for some attorneys. The State Bar will consider these attorneys as having already satisfied the fingerprinting requirement of this rule and are thereby exempt. The State Bar shall notify all attorneys to check their MyStateBar Profile for information as to whether they have been deemed to have already satisfied the requirement.

**b) Active Licensed Attorneys:** Each active licensed attorney, with the exception of those attorneys specifically exempt under subsection 1(a)(i), of the State Bar for whom the State Bar does not currently have fingerprint images shall, pursuant to the procedure identified by the State Bar, be fingerprinted ~~submit fingerprint images to the Department of Justice~~ for the purpose of obtaining criminal offender record information regarding state and federal level convictions and arrests.

~~Inactive licensed attorneys for whom the State Bar does not have fingerprint images must submit fingerprint images to the Department of Justice prior to seeking active status.~~

**c)** ~~The State Bar shall request from the Department of Justice subsequent arrest notification service for its active licensed attorneys, pursuant to Business and Professions Code section 6054.~~**Inactive Licensed Attorneys:** Inactive licensed attorneys, with the exception of those attorneys specifically exempt under subsection 1(a)(i), shall, pursuant to the procedure identified by the State Bar, be fingerprinted prior to being placed on active status.

**d) Active Licensed Attorneys in Foreign Countries:** Active licensed attorneys who are residing outside the United States and required to submit fingerprints under this Rule should have their fingerprints taken by a licensed fingerprinting service agency and submit the hard copy fingerprint card to the State Bar. If fingerprinting services are not provided in the jurisdiction that the attorney is physically located, the attorney must notify the State Bar using a form available through the attorney's MyStateBar profile. Such attorney will be exempt from providing fingerprints until he or she returns to the United States, provided, that within 60 days of returning (even temporarily) to the United States, such attorney shall be fingerprinted.

## 2. Implementation Schedule

The Board of Trustees of the State Bar must develop a schedule for implementation ~~of subsection (a)~~ that requires all active licensed attorneys required ~~for whom the State Bar does not have fingerprint images to be~~

fingerprinted under section 1(b) submit fingerprints to the Department of Justice by December 1, 2019.

The State Bar has ongoing authority to require re-fingerprinting after December 1, 2019 attorneys for whom it is not receiving subsequent arrest notification services and for attorneys transferring to inactive status. Failure to be re-fingerprinted if required may result in involuntary inactive enrollment pursuant to Business and Professions Code section 6054(d).

The State Bar has authority to require re-fingerprinting after December 1, 2019, for attorneys permitted to practice in the State of California pursuant to California Rule of Court Rules 9.44, 9.44, and 9.46 for whom it is not receiving subsequent arrest notification services. Failure to be re-fingerprinted if required may result in a State Bar determination that the attorney cease providing legal services in California.

### **3. Information Obtained by Subsequent Arrest Notification; Limitations on Disclosure**

Any information obtained by the State Bar through the Subsequent Arrest Notification System shall be Confidential and shall be used solely for State Bar licensing and regulatory purposes.

#### **3.4. Fingerprint Submission and Processing Costs**

Except as described in 4(a), All costs of providing criminal history information to and the processing of fingerprints for, the State Bar, including print furnishing and encoding, as required by section 6054, shall be borne by the licensed attorney.

- a)** The Board of Trustees of the State Bar must develop procedures for granting waivers of the will cover the DOJ and FBI processing costs of running DOJ and FBI background checks for licensed attorneys with demonstrable financial hardship. who have been granted a fee scaling or fee waiver for annual membership fees pursuant to State Bar Rule 2.15(A) or 2.16(C)(3)(c). These attorneys will pay for all third party print furnishing costs.

### **5. Attorneys Who are Physically Unable to be Fingerprinted**

**a)** If the DOJ makes a determination pursuant to California Penal Code section 11105.7 that the attorney is presently unable to provide legible fingerprints, the attorney will have been deemed to have complied with the requirement of Section 1.

**b)** Attorneys may also submit notification to the State Bar directly through their MyStateBar profile that they are unable to submit fingerprints due to disability, illness, accident, or other circumstances beyond their control. The State Bar will evaluate the notification and may require additional evidence. If the State Bar determines that the attorney is unable to submit fingerprints based

on the information provided, the attorney will have been deemed to have complied with the requirement of section 1(b).

**c)** This section shall only apply to those persons who are unable to supply legible fingerprints due to disability, illness, accident, or other circumstances beyond their control and does not apply to persons who are unable to provide fingerprints because of actions they have taken to avoid submitting their fingerprints.