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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2262

02/15/2012 Authored by Greiling

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to background checks; requiring a background check on certain hotel,
1.3 motel, and lodging establishment employees; requiring a background check
1.4 on volunteers of certain shelters serving battered women and the homeless;
1.5 amending Minnesota Statutes 2010, sections 157.16, subdivision 1; 245C.03,
1.6 by adding a subdivision; 245C.04, by adding a subdivision; 245C.10, by adding
1.7 a subdivision; 299C.66; 299C.67, by adding subdivisions; 299C.70; 299C.71;
1.8 611A.371, by adding a subdivision; proposing coding for new law in Minnesota
1.9 Statutes, chapter 299C.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 **ARTICLE 1**

1.12 **HOTEL, MOTEL, RESORT, AND OTHER LODGING ESTABLISHMENTS**

1.13 Section 1. Minnesota Statutes 2010, section 157.16, subdivision 1, is amended to read:

1.14 Subdivision 1. **License required annually.** A license is required annually for every
1.15 person, firm, or corporation engaged in the business of conducting a food and beverage
1.16 service establishment, youth camp, hotel, motel, lodging establishment, public pool, or
1.17 resort. Any person wishing to operate a place of business licensed in this section shall first
1.18 make application, pay the required fee specified in this section, and receive approval for
1.19 operation, including plan review approval. Special event food stands are not required to
1.20 submit plans. Nonprofit organizations operating a special event food stand with multiple
1.21 locations at an annual one-day event shall be issued only one license. Application
1.22 shall be made on forms provided by the commissioner and shall require the applicant
1.23 to state the full name and address of the owner of the building, structure, or enclosure,
1.24 the lessee and manager of the food and beverage service establishment, hotel, motel,
1.25 lodging establishment, public pool, or resort; the name under which the business is to be
1.26 conducted; where applicable, certification of compliance with the background check

2.1 requirements contained in sections 299C.685 and 299C.695; and any other information as
2.2 may be required by the commissioner to complete the application for license.

2.3 Sec. 2. Minnesota Statutes 2010, section 299C.66, is amended to read:

2.4 **299C.66 CITATION.**

2.5 Sections 299C.66 to 299C.71 may be cited as the "Kari Koskinen ~~Manager~~
2.6 Background Check Act."

2.7 Sec. 3. Minnesota Statutes 2010, section 299C.67, is amended by adding a subdivision
2.8 to read:

2.9 Subd. 3a. **Employee.** "Employee" means an individual who is employed by, or
2.10 has applied for employment with, the operator of a hotel or motel, resort, or lodging
2.11 establishment who has or would have the means, within the scope of the individual's duties,
2.12 to enter a sleeping room that is regularly made available for use by members of the public.

2.13 Sec. 4. Minnesota Statutes 2010, section 299C.67, is amended by adding a subdivision
2.14 to read:

2.15 Subd. 3b. **Hotel or motel.** "Hotel or motel" has the meaning given in section
2.16 157.15, subdivision 7.

2.17 Sec. 5. Minnesota Statutes 2010, section 299C.67, is amended by adding a subdivision
2.18 to read:

2.19 Subd. 3c. **Lodging establishment.** "Lodging establishment" has the meaning given
2.20 in section 157.15, subdivision 8.

2.21 Sec. 6. Minnesota Statutes 2010, section 299C.67, is amended by adding a subdivision
2.22 to read:

2.23 Subd. 4a. **Operator.** "Operator" means any person, including a corporation,
2.24 partnership, or other association or entity, engaged in the business of operating a hotel,
2.25 motel, lodging establishment, or resort.

2.26 Sec. 7. Minnesota Statutes 2010, section 299C.67, is amended by adding a subdivision
2.27 to read:

2.28 Subd. 5a. **Resort.** "Resort" has the meaning given in section 157.15, subdivision 11.

3.1 Sec. 8. [299C.685] BACKGROUND CHECK ON HOTEL OR MOTEL,
3.2 RESORT, OR LODGING ESTABLISHMENT EMPLOYEES.

3.3 Subdivision 1. **When required.** Before hiring an employee, an operator shall
3.4 request the superintendent to conduct a background check under this section. An operator
3.5 may employ an individual after requesting a background check under this section before
3.6 receipt of the background check report, provided that the operator complies with section
3.7 299C.695. An operator may request a background check for a current employee under
3.8 this section. By July 1, 2013, an operator shall request the superintendent to conduct a
3.9 background check under this section for employees hired before July 1, 2012, who are
3.10 currently employed.

3.11 Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an
3.12 operator to request a background check to determine whether an employee is the subject of
3.13 a reported conviction for a background check crime. The superintendent shall perform the
3.14 background check by retrieving and reviewing the data on background check crimes. The
3.15 superintendent shall notify the operator in writing of the results of the background check.
3.16 If an employee has resided in Minnesota for less than ten years or upon request of the
3.17 operator, the superintendent shall also either (1) conduct a search of the national criminal
3.18 records repository, including the criminal justice data communications network; or (2)
3.19 conduct a search of the criminal justice data communications network records in the state
3.20 or states where the employee has resided for the preceding ten years. The superintendent is
3.21 authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes
3.22 of the criminal history check. The superintendent shall recover the cost of a background
3.23 check through a fee charged to the operator.

3.24 Subd. 3. **Form.** (a) The superintendent shall develop a standardized form to be used
3.25 for requesting a background check, which must include:

3.26 (1) a notification to the employee that the operator will request the superintendent to
3.27 perform a background check under this section;

3.28 (2) a notification to the employee of the employee's rights under subdivision 4; and

3.29 (3) a signed consent by the employee to conduct the background check.

3.30 (b) If the employee has resided in Minnesota for less than ten years, or if the
3.31 operator is requesting a search of the national criminal records repository, the form must
3.32 be accompanied by the fingerprints of the employee on whom the background check
3.33 is to be performed.

3.34 Subd. 4. **Employee's rights.** (a) The operator shall notify the employee of the
3.35 employee's rights under paragraph (b).

4.1 (b) An employee who is the subject of a background check request has the following
4.2 rights:

4.3 (1) the right to be informed that the operator will request a background check on the
4.4 employee to determine whether the employee has been convicted of a crime specified in
4.5 section 299C.67, subdivision 2;

4.6 (2) the right to be informed by the operator of the superintendent's response to the
4.7 background check and to obtain from the operator a copy of the background check report;

4.8 (3) the right to obtain from the superintendent any record that forms the basis for
4.9 the report;

4.10 (4) the right to challenge the accuracy and completeness of information contained in
4.11 the report or record under section 13.04, subdivision 4; and

4.12 (5) the right to be informed by the operator if the employee's application to be
4.13 employed by the operator or to continue as an employee has been denied because of the
4.14 result of the background check.

4.15 Subd. 5. **Response of bureau.** The superintendent shall respond in writing to
4.16 a background check request within a reasonable time not to exceed ten working days
4.17 after receiving the signed form under subdivision 3. The superintendent's response from
4.18 the search of the Minnesota computerized criminal history system must clearly indicate
4.19 whether the employee has ever been convicted of a background check crime and, if so,
4.20 a description of the crime, date and jurisdiction of the conviction, and date of discharge
4.21 of sentence. If a search is being done of the national criminal records repository, the
4.22 superintendent shall determine eligibility based upon national records received. The
4.23 superintendent shall reply to the operator in writing indicating whether the employee is or
4.24 is not eligible for employment.

4.25 Subd. 6. **Equivalent background check.** (a) An operator may satisfy the
4.26 requirements of this section:

4.27 (1) by obtaining a copy of a completed background check that was required to be
4.28 performed by the Department of Human Services as provided for under section 144.057
4.29 and chapter 245C, and then placing the copy on file with the operator;

4.30 (2) in the case of a background check performed on an employee of a facility
4.31 when multiple facilities are administered by one operator, by placing the results in a
4.32 central location; or

4.33 (3) by obtaining a background check from a private business or a local law
4.34 enforcement agency rather than the superintendent if the scope of the background check
4.35 provided by the private business or local law enforcement agency is at least as broad as
4.36 that of a background check performed by the superintendent and the response to the

5.1 background check request occurs within a reasonable time not to exceed ten working
5.2 days after receiving the signed form described in subdivision 3. Local law enforcement
5.3 agencies may access the criminal justice data network to perform the background check.

5.4 (b) A private business or local law enforcement agency providing a background
5.5 check under this section must use a notification form similar to the form described in
5.6 subdivision 3, except that the notification form must indicate that the background check
5.7 will be performed by the private business or local law enforcement agency using records
5.8 of the superintendent and other data sources.

5.9 **Sec. 9. [299C.695] OPERATOR DUTIES IF HOTEL OR MOTEL, RESORT, OR**
5.10 **LODGING ESTABLISHMENT EMPLOYEE CONVICTED OF CRIME.**

5.11 (a) If the superintendent's response indicates that the employee has been convicted
5.12 of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the
5.13 owner may not hire the employee or, if the employee was hired pending completion of
5.14 the background check, shall terminate the employment relationship. Except as provided
5.15 in paragraph (c), if an operator otherwise knows that an employee has been convicted of
5.16 a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the
5.17 operator shall terminate the employment relationship.

5.18 (b) If the superintendent's response indicates that the employee has been convicted
5.19 of a background check crime defined in section 299C.67, subdivision 2, paragraph (b),
5.20 the operator may not hire the employee unless more than ten years have elapsed since the
5.21 date of discharge of the sentence. If the employee was hired pending completion of the
5.22 background check, the owner shall terminate the employment relationship unless more
5.23 than ten years have elapsed since the date of discharge of the sentence. Except as provided
5.24 in paragraph (c), if an operator otherwise knows that an employee has been convicted of
5.25 a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the
5.26 operator shall terminate the employment relationship unless more than ten years have
5.27 elapsed since the date of discharge of the sentence.

5.28 (c) If an operator knows that an employee hired before July 1, 2012, was convicted
5.29 of a background check crime for an offense committed before July 1, 2012, the operator
5.30 may continue to employ the individual. However, the owner shall notify all guests whose
5.31 sleeping rooms would be accessible to the employee of the crime for which the employee
5.32 has been convicted.

5.33 (d) The operator shall notify the employee of any action taken under this section.

5.34 (e) If an operator is required to terminate an individual's employment under
5.35 paragraph (a) or (b), or terminates an individual's employment in lieu of notifying guests

6.1 under paragraph (c), the operator is not liable under any law, contract, or agreement,
 6.2 including liability for unemployment insurance claims, for terminating the individual's
 6.3 employment in accordance with this section.

6.4 Sec. 10. Minnesota Statutes 2010, section 299C.70, is amended to read:

6.5 **299C.70 PENALTY.**

6.6 An owner who knowingly fails to comply with the requirements of section 299C.68
 6.7 or 299C.69, or an operator who knowingly fails to comply with the requirements of
 6.8 section 299C.685 or 299C.695, is guilty of a petty misdemeanor.

6.9 Sec. 11. Minnesota Statutes 2010, section 299C.71, is amended to read:

6.10 **299C.71 BUREAU IMMUNITY.**

6.11 The Bureau of Criminal Apprehension is immune from any civil or criminal liability
 6.12 that might otherwise arise under section 299C.68 or section 299C.685, based on the
 6.13 accuracy or completeness of records it receives from the Federal Bureau of Investigation,
 6.14 if the bureau acts in good faith.

6.15 Sec. 12. **EFFECTIVE DATE.**

6.16 This article is effective July 1, 2012.

6.17 **ARTICLE 2**

6.18 **SHELTERS SERVING BATTERED WOMEN AND THE HOMELESS**

6.19 Section 1. Minnesota Statutes 2010, section 245C.03, is amended by adding a
 6.20 subdivision to read:

6.21 Subd. 8. **Shelters serving battered women and the homeless.** (a) The
 6.22 commissioner shall conduct background studies on any individual required under this
 6.23 subdivision or section 611A.371 to have a background study completed under this chapter.

6.24 (b)(1) A publicly or privately operated facility designed to provide temporary living
 6.25 accommodations for the homeless must not permit an individual to have access or direct
 6.26 contact, as defined in section 245C.02, subdivision 11, with persons served by the facility
 6.27 unless a background study has been completed on the individual under this chapter.

6.28 (2)(i) An individual employed by the facility required to conduct a check under this
 6.29 paragraph must have the background check completed upon initial employment and at
 6.30 least annually thereafter. By July 1, 2013, the facility shall conduct a background check
 6.31 under this section for current employees initially hired prior to July 1, 2012.

7.1 (ii) An individual serving the facility as a volunteer must have a background
7.2 check completed prior to the volunteer performing any tasks that include direct contact
7.3 with persons served by the facility. A volunteer may be assigned tasks that include
7.4 direct contact if a background check on the volunteer meeting the requirements of this
7.5 subdivision has been completed under this chapter within the previous year.

7.6 Sec. 2. Minnesota Statutes 2010, section 245C.04, is amended by adding a subdivision
7.7 to read:

7.8 Subd. 7. **Shelters serving battered women and the homeless.** Organizations
7.9 required to initiate studies under section 245C.03, subdivision 7, or section 611A.371
7.10 must initiate the study before the individual begins in a position allowing access or direct
7.11 contact with persons served by the organization.

7.12 Sec. 3. Minnesota Statutes 2010, section 245C.10, is amended by adding a subdivision
7.13 to read:

7.14 Subd. 10. **Shelters serving battered women and the homeless.** The commissioner
7.15 shall recover the cost of background studies initiated under section 245C.03, subdivision
7.16 7, or 611A.371 through a fee of no more than \$20 per study charged to the requesting
7.17 entity. The fees collected under this subdivision are appropriated to the commissioner for
7.18 the purpose of conducting background studies.

7.19 Sec. 4. Minnesota Statutes 2010, section 611A.371, is amended by adding a
7.20 subdivision to read:

7.21 Subd. 2a. **Background study; employees and volunteers.** (a) A designated shelter
7.22 facility must not permit an individual to have access or direct contact, as defined in
7.23 section 245C.02, subdivision 11, with persons served by the facility unless a background
7.24 study has been completed on the individual by the commissioner of human services, as
7.25 provided in chapter 245C.

7.26 (b) An individual employed by the designated shelter facility must have a
7.27 background check completed upon initial employment and at least annually thereafter. By
7.28 July 1, 2013, the facility shall conduct a background check under this section for current
7.29 employees initially hired prior to July 1, 2012.

7.30 (c) An individual serving the designated shelter facility as a volunteer must have
7.31 a background check completed prior to the volunteer performing any tasks that include
7.32 access or direct contact with persons served by the facility. A volunteer may be assigned
7.33 tasks that include direct contact if a background check on the volunteer meeting the

8.1 requirements of this subdivision has been completed by the commissioner of human
8.2 services within the previous year.

8.3 Sec. 5. **EFFECTIVE DATE.**

8.4 This article is effective July 1, 2012.

APPENDIX
Article locations in 12-5072

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