

Notwithstanding section 15.059, the council expires June 30, 2003.

Sec. 10. REPEALER.

Minnesota Statutes 2000, section 16B.58, subdivision 7; and Laws 2000, chapter 326, are repealed.

Sec. 11. EFFECTIVE DATE.

Section 4 is effective retroactively to January 1, 2001. Sections 3, 6, and 9 are effective June 30, 2001.

Presented to the governor May 21, 2001

Signed by the governor May 24, 2001, 1:46 p.m.

CHAPTER 163—S.F.No. 321

An act relating to probate; providing for a background study before appointment of guardians or conservators; authorizing access to data on substantiated maltreatment of vulnerable adults; providing for background study systems and records in the department of human services; appropriating money; amending Minnesota Statutes 2000, section 525.539, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245A; 525.

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

Section 1. [245A.041] SYSTEMS AND RECORDS.

Subdivision 1. ESTABLISHMENT; USE. (a) The commissioner may establish systems and records to fulfill the requirements of section 245A.04. The commissioner may also use these systems and records to obtain and provide criminal history data from the bureau of criminal apprehension and data about substantiated maltreatment under section 626.556 or 626.557, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

A person making a request under clause (2) must agree in writing not to disclose the data to any other person without the consent of the subject of the data.

(b) The commissioner may recover the cost of obtaining and providing background study data by charging the person requesting the study a fee of no more than \$12 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 2. NATIONAL RECORDS SEARCH. (a) When specifically required by statute, the commissioner shall also obtain criminal history data from the national criminal records repository. To obtain criminal history data from the national criminal

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records repository, the commissioner shall require classifiable fingerprints of the data subject and must submit these fingerprint requests through the bureau of criminal apprehension. The commissioner may recover the cost of obtaining and providing criminal history data from the national criminal records repository by charging the person requesting the study a fee of no more than \$30 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of obtaining criminal history data from the national criminal records repository.

(b) To obtain criminal history data from the national criminal records repository under this chapter, the commissioner may require the background study subject to submit fingerprint images electronically. The commissioner may not require electronic fingerprint images until the electronic recording and transfer system is available for non-criminal-justice purposes and the necessary equipment is in use in the law enforcement agency in the background study subject's local community.

Sec. 2. Minnesota Statutes 2000, section 525.539, is amended by adding a subdivision to read:

Subd. 8. PROFESSIONAL GUARDIAN OR CONSERVATOR. "Professional guardian or conservator" means a person who acts as a guardian or conservator at the same time for two or more wards or conservatees who are not related to the guardian or conservator by blood or marriage.

Sec. 3. [525.545] BACKGROUND STUDY.

Subdivision 1. WHEN REQUIRED; EXCEPTION. (a) The court shall require a background study under this section:

(1) before the appointment of a guardian or conservator, unless a background study has been done on the person under this section within the previous five years; and

(2) once every five years after the appointment, if the person continues to serve as a guardian or conservator.

(b) The background study must include criminal history data from the bureau of criminal apprehension and data regarding whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult.

(c) The court shall request a search of the national criminal records repository if the proposed guardian or conservator has not resided in Minnesota for the previous five years or if the bureau of criminal apprehension information received from the commissioner of human services under subdivision 2, paragraph (b), indicates that the subject is a multistate offender or that the individual's multistate offender status is undetermined.

(d) If the guardian or conservator is not an individual, the background study must be done on all individuals currently employed by the proposed guardian or conservator who will be responsible for exercising powers and duties under the guardianship or conservatorship.

(e) If the court determines that it would be in the best interests of the ward or conservatee to appoint a guardian or conservator before the background study can be

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completed, the court may make the appointment pending the results of the study.

(f) The fee for conducting a background study for appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee is an expense for purposes of section 563.01;

(2) if there is an estate of the ward or conservatee, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of the person that is not proceeding in forma pauperis, the court may order that the fee be paid by the guardian or conservator or by the court.

(g) The requirements of this subdivision do not apply if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a proposed ward or conservatee who has mental retardation or a related condition, if the parent or guardian has raised the proposed ward or conservatee in the family home until the time the petition is filed, unless counsel appointed for the proposed ward or conservatee under section 525.5501 recommends a background study; or

(3) a bank with trust powers, bank and trust company, or trust company, organized under the laws of any state or of the United States and which is regulated by the commissioner of commerce or a federal regulator.

Subd. 2. PROCEDURE; CRIMINAL HISTORY AND MALTREATMENT RECORDS BACKGROUND CHECK. (a) The court shall request the commissioner of human services to complete a background study under section 245A.041. The request must be accompanied by the applicable fee and the signed consent of the subject of the study authorizing the release of the data obtained to the court. If the court is requesting a search of the national criminal records repository, the request must be accompanied by a set of classifiable fingerprints of the subject of the study. The fingerprints must be recorded on a fingerprint card provided by the commissioner of human services.

(b) The commissioner of human services shall provide the court with information from the bureau of criminal apprehension's criminal justice information system and data regarding substantiated maltreatment of vulnerable adults under section 626.557 within 15 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b. If the court did not request a search of the national criminal records repository and information from the bureau of criminal apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the

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court with information from the national criminal records repository within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 626.557, subdivision 12b, if the commissioner of human services or a county lead agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study. The commissioner may also provide the court with additional criminal history information that becomes available after the background study is done.

Subd. 3. **FORM.** The commissioner of human services shall develop a form to be used for requesting a background study under this section, which must include:

(1) a notification to the subject of the study that the court will request the commissioner to perform a background study under this section;

(2) a notification to the subject of the rights in subdivision 4; and

(3) a signed consent to conduct the background study.

Subd. 4. **RIGHTS.** The court shall notify the subject of a background study that the subject has the following rights:

(1) the right to be informed that the court will request a background study on the subject for the purpose of determining whether the person's appointment or continued appointment is in the best interests of the ward or conservatee;

(2) the right to be informed of the results of the study and to obtain from the court a copy of the results; and

(3) the right to challenge the accuracy and completeness of information contained in the results under section 13.04, subdivision 4, except to the extent precluded by section 256.045, subdivision 3.

Presented to the governor May 21, 2001

Signed by the governor May 24, 2001, 1:49 p.m.

CHAPTER 164—H.F.No. 873

An act relating to public lands; allowing private easements across tax-forfeited land; changing certain exchange requirements; modifying county lease terms for tax-forfeited land; authorizing a conveyance of certain Benton county land; authorizing public and private sales and conveyances of certain tax-forfeited lands in Aitkin, Cook, Hubbard, Lake, Meeker, Ramsey, St. Louis, and Washington counties; authorizing the commissioner of transportation to exercise the power of eminent domain for acquisition of certain trust fund land bordering public waters; amending Minnesota Statutes 2000, section 282.04, subdivision 1, and by adding a subdivision;

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