

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1257

(SENATE AUTHORS: BENSON, Utke, Wiklund and Hoffman)

DATE	D-PG	OFFICIAL STATUS
02/22/2021	481	Introduction and first reading Referred to Health and Human Services Finance and Policy
02/25/2021	574	Author added Wiklund
03/01/2021	627	Author added Hoffman
	629	Withdrawn and re-referred to Human Services Reform Finance and Policy
03/10/2021	774a	Comm report: To pass as amended and re-refer to Health and Human Services Finance and Policy
03/21/2022	5398a	Comm report: To pass as amended and re-refer to Finance
05/16/2022		Comm report: To pass as amended Second reading See First Special Session 2021, HF33, Art. 2, Sec. 27, 66

1.1

A bill for an act

1.2

relating to human services; exempting certain licensed individuals from background

1.3

studies under chapter 245C; amending Minnesota Statutes 2020, sections 144.057,

1.4

subdivision 1; 245C.31, subdivisions 1, 2, by adding a subdivision; Minnesota

1.5

Statutes 2021 Supplement, section 245C.03, subdivision 5a.

1.6

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

1.7

Section 1. Minnesota Statutes 2020, section 144.057, subdivision 1, is amended to read:

1.8

Subdivision 1. **Background studies required.** (a) Except as specified in paragraph (b),

1.9

the commissioner of health shall contract with the commissioner of human services to

1.10

conduct background studies of:

1.11

(1) individuals providing services that have direct contact, as defined under section

1.12

245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,

1.13

outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and

1.14

home care agencies licensed under chapter 144A; assisted living facilities and assisted living

1.15

facilities with dementia care licensed under chapter 144G; and board and lodging

1.16

establishments that are registered to provide supportive or health supervision services under

1.17

section 157.17;

1.18

(2) individuals specified in section 245C.03, subdivision 1, who perform direct contact

1.19

services in a nursing home or a home care agency licensed under chapter 144A; an assisted

1.20

living facility or assisted living facility with dementia care licensed under chapter 144G;

1.21

or a boarding care home licensed under sections 144.50 to 144.58. If the individual under

1.22

study resides outside Minnesota, the study must include a check for substantiated findings

1.23

of maltreatment of adults and children in the individual's state of residence when the

information is made available by that state, and must include a check of the National Crime Information Center database;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(5) controlling persons of a supplemental nursing services agency, as defined under section 144A.70.

(b) The commissioner of human services is not required to conduct a background study on any individual identified in paragraph (a) if the individual has a valid license issued by a health-related licensing board as defined in section 214.01, subdivision 2, and has completed the criminal background check as required in section 214.075, unless the commissioner of human services has reasonable cause as defined in section 245C.02, subdivision 15, to conduct a background study.

(c) If a facility or program is licensed by the Department of Human Services and subject to the background study provisions of chapter 245C and is also licensed by the Department of Health, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed programs.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2021 Supplement, section 245C.03, subdivision 5a, is amended to read:

Subd. 5a. **Facilities serving children or adults licensed or regulated by the Department of Health.** (a) Except as specified in paragraph (b), the commissioner shall conduct background studies of:

(1) individuals providing services who have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and

home care agencies licensed under chapter 144A; assisted living facilities and assisted living facilities with dementia care licensed under chapter 144G; and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in subdivision 2 who provide direct contact services in a nursing home or a home care agency licensed under chapter 144A; an assisted living facility or assisted living facility with dementia care licensed under chapter 144G; or a boarding care home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides outside of Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the state makes the information available;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact with or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(5) controlling persons of a supplemental nursing services agency, as defined by section 144A.70.

(b) The commissioner of human services is not required to conduct a background study on any individual identified in paragraph (a) if the individual has a valid license issued by a health-related licensing board as defined in section 214.01, subdivision 2, and has completed the criminal background check as required in section 214.075, unless the commissioner of human services has reasonable cause as defined in section 245C.02, subdivision 15, to conduct a background study.

(c) If a facility or program is licensed by the Department of Human Services and the Department of Health and is subject to the background study provisions of this chapter, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed program.

4.1 ~~(e)~~ (d) The commissioner of health shall review and make decisions regarding
4.2 reconsideration requests, including whether to grant variances, according to the procedures
4.3 and criteria in this chapter. The commissioner of health shall inform the requesting individual
4.4 and the Department of Human Services of the commissioner of health's decision regarding
4.5 the reconsideration. The commissioner of health's decision to grant or deny a reconsideration
4.6 of a disqualification is a final administrative agency action.

4.7 Sec. 3. Minnesota Statutes 2020, section 245C.31, subdivision 1, is amended to read:

4.8 Subdivision 1. **Board determines disciplinary or corrective action.** (a) ~~When the~~
4.9 ~~subject of a background study is regulated by a health-related licensing board as defined in~~
4.10 ~~chapter 214, and the commissioner determines that the regulated individual is responsible~~
4.11 ~~for substantiated maltreatment under section 626.557 or chapter 260E, instead of the~~
4.12 ~~commissioner making a decision regarding disqualification, the board shall make a~~
4.13 ~~determination whether to impose disciplinary or corrective action under chapter 214~~ The
4.14 commissioner shall inform a health-related licensing board as defined in section 214.01,
4.15 subdivision 2, if the commissioner determines that an individual who is licensed by the
4.16 health-related licensing board is responsible for substantiated maltreatment under section
4.17 626.557 or chapter 260F. The commissioner shall notify the health-related licensing board
4.18 in accordance with subdivision 2. The health-related licensing board shall make a
4.19 determination whether to impose disciplinary or corrective action under chapter 214.

4.20 (b) This section does not apply to a background study of an individual regulated by a
4.21 health-related licensing board if the individual's study is related to child foster care, adult
4.22 foster care, or family child care licensure.

4.23 Sec. 4. Minnesota Statutes 2020, section 245C.31, subdivision 2, is amended to read:

4.24 Subd. 2. **Commissioner's notice to board.** (a) The commissioner shall notify ~~the~~ a
4.25 health-related licensing board:

4.26 (1) ~~upon completion of a background study that produces~~ of a record showing that the
4.27 individual licensed by the board was determined to have been responsible for substantiated
4.28 maltreatment;

4.29 (2) upon the commissioner's completion of an investigation that determined ~~the~~ an
4.30 individual licensed by the board was responsible for substantiated maltreatment; or

4.31 (3) upon receipt from another agency of a finding of substantiated maltreatment for
4.32 which ~~the~~ an individual licensed by the board was responsible.

5.1 (b) The commissioner's notice to the health-related licensing board shall indicate whether
5.2 the commissioner would have disqualified the individual for the substantiated maltreatment
5.3 if the individual were not regulated by the board.

5.4 (c) The commissioner shall concurrently send the notice under this subdivision to the
5.5 individual who is the subject of the ~~background study~~ notification.

5.6 Sec. 5. Minnesota Statutes 2020, section 245C.31, is amended by adding a subdivision to
5.7 read:

5.8 Subd. 3a. **Data sharing agreements with health-related licensing boards.** The
5.9 commissioner and each health-related licensing board shall enter into a data sharing
5.10 agreement in order for each board to provide the commissioner with a quarterly roster list
5.11 of individuals licensed by the board. The list must include for each licensed individual the
5.12 individual's name, license number, and the status of the individual's license.