

260C.209 BACKGROUND CHECKS.

Subdivision 1. **Subjects.** The responsible social services agency may have access to the criminal history and history of child and adult maltreatment on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) the background study is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

- (2) home address, zip code, city, county, and state of residence for the past five years;
- (3) sex;
- (4) date of birth; and
- (5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Subd. 3. **Multistate information.** For every background study completed under this section, the subject of the background study shall provide the responsible social services agency with a set of classifiable fingerprints obtained from an authorized agency. The responsible social services agency shall provide the fingerprints to the commissioner, and the commissioner shall obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.

In cases involving the emergency placement of children, the social services agency or county attorney may request a name-based check of the National Criminal Records Repository. In those cases, fingerprints of the individual being checked must be forwarded to the Bureau of Criminal Apprehension for submission to the Federal Bureau of Investigation within 15 calendar days of the name-based check. If the subject of the name-based check does not provide fingerprints upon request, the child or children must be removed from the home.

Subd. 4. **Notice upon receipt.** The commissioner must provide the subject of the background study with the results of the study as required under chapter 245C.

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

History: 2005 c 136 art 15 s 6; 2007 c 8 s 1; 2007 c 147 art 3 s 29; 2008 c 361 art 6 s 34-36