

A bill for an act

relating to human services; making changes to licensing provisions; modifying background study requirements, disqualifications, and data classification; amending Minnesota Statutes 2008, sections 245A.07, subdivision 2a; 245A.30; 245B.05, subdivision 7; 245C.02, subdivision 18; Minnesota Statutes 2009 Supplement, sections 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.07, subdivisions 1, 3; 245A.144; 245A.50, subdivision 5; 245C.15, subdivision 2; 245C.20; 245C.22, subdivision 7; repealing Minnesota Rules, part 2500.5000.

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

Section 1. Minnesota Statutes 2009 Supplement, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, a developmental disability, a functional impairment, or a physical disability;

(4) sheltered workshops or work activity programs that are certified by the commissioner of employment and economic development;

(5) programs operated by a public school for children 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that do not ~~provide services for five or more persons whose primary diagnosis is mental illness that do not provide intensive residential treatment~~ children's residential services under Minnesota Rules, chapter 2960, mental health or chemical dependency treatment;

(9) homes providing programs for persons placed by a county or a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;

(12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in section 315.51, whose primary purpose is to provide child care or services to school-age children;

(13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;

(15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with a developmental disability, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;

(25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults;

(26) chemical dependency or substance abuse treatment activities of licensed professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart 15, when the treatment activities are not paid for by the consolidated chemical dependency treatment fund;

(27) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

(ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service; or

(28) a program serving only children who are age 33 months or older, that is operated by a nonpublic school, for no more than four hours per day per child, with no more than 20 children at any one time, and that is accredited by:

(i) an accrediting agency that is formally recognized by the commissioner of education as a nonpublic school accrediting organization; or

(ii) an accrediting agency that requires background studies and that receives and investigates complaints about the services provided.

A program that asserts its exemption from licensure under item (ii) shall, upon request from the commissioner, provide the commissioner with documentation from the accrediting agency that verifies: that the accreditation is current; that the accrediting

agency investigates complaints about services; and that the accrediting agency's standards require background studies on all people providing direct contact services.

(b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

(c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 2. Minnesota Statutes 2009 Supplement, section 245A.04, subdivision 5, is amended to read:

Subd. 5. **Commissioner's right of access.** When the commissioner is exercising the powers conferred by this chapter and sections 245.69, 626.556, and 626.557, the commissioner must be given access to the physical plant and grounds where the program is provided, documents and records, including records maintained in electronic format, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is ~~conducting an investigation of allegations of~~ investigating alleged maltreatment ~~or other, conducting a licensing inspection, or investigating an alleged~~ violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 3. Minnesota Statutes 2009 Supplement, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;
- (5) the maximum number and ages of persons that may receive services from the program; and
- (6) any special conditions of licensure.

(b) The commissioner may issue an initial license for a period not to exceed two years if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling individual or to another location.

(d) A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under paragraph (a).

(e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has:

(1) been disqualified and the disqualification was not set aside and no variance has been granted;

(2) has been denied a license within the past two years;

(3) had a license revoked within the past five years; or

(4) has an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent.

When a license is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A or 245B for five years following

the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(f) The commissioner shall not issue or reissue a license if an individual living in the household where the licensed services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

(h) Notwithstanding paragraph (g), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

~~(g)~~ (i) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

~~(h)~~ (j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

(k) The commissioner shall not issue or reissue a license if it has been determined that a tribal licensing authority has established jurisdiction to license the program or service.

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

7.1 Sec. 4. Minnesota Statutes 2009 Supplement, section 245A.07, subdivision 1, is
7.2 amended to read:

7.3 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license
7.4 conditional under section 245A.06, the commissioner may suspend or revoke the license,
7.5 impose a fine, or secure an injunction against the continuing operation of the program of a
7.6 license holder who does not comply with applicable law or rule. When applying sanctions
7.7 authorized under this section, the commissioner shall consider the nature, chronicity, or
7.8 severity of the violation of law or rule and the effect of the violation on the health, safety,
7.9 or rights of persons served by the program.

7.10 (b) If a license holder appeals the suspension or revocation of a license and the
7.11 license holder continues to operate the program pending a final order on the appeal, ~~and~~
7.12 ~~the license expires during this time period,~~ the commissioner shall issue the license holder
7.13 a temporary provisional license. ~~The temporary provisional license is effective on the date~~
7.14 ~~issued and expires on the date that a final order is issued.~~ Unless otherwise specified by the
7.15 commissioner, variances in effect on the date of the license sanction under appeal continue
7.16 under the temporary provisional license. If a license holder fails to comply with applicable
7.17 law or rule while operating under a temporary provisional license, the commissioner may
7.18 impose additional sanctions under this section and section 245A.06, and may terminate
7.19 any prior variance. ~~If the license holder prevails on the appeal and the effective period~~
7.20 ~~of the previous license has expired~~ a temporary provisional license is set to expire, a
7.21 new temporary provisional license shall be issued to the license holder upon payment of
7.22 any fee required under section 245A.10. ~~The effective date of the new license shall be~~
7.23 ~~retroactive to the date the license would have shown had no sanction been initiated. The~~
7.24 ~~expiration date shall be the expiration date of that license had no license sanction been~~
7.25 ~~initiated.~~ The temporary provisional license shall expire on the date the final order is
7.26 issued. If the license holder prevails on the appeal, a new nonprovisional license shall
7.27 be issued for the remainder of the current license period.

7.28 (c) If a license holder is under investigation and the license is due to expire
7.29 before completion of the investigation, the program shall be issued a new license upon
7.30 completion of the reapplication requirements and payment of any applicable license fee.
7.31 Upon completion of the investigation, a licensing sanction may be imposed against the
7.32 new license under this section, section 245A.06, or 245A.08.

7.33 (d) Failure to reapply or closure of a license by the license holder prior to the
7.34 completion of any investigation shall not preclude the commissioner from issuing a
7.35 licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion
7.36 of the investigation.

8.1 Sec. 5. Minnesota Statutes 2008, section 245A.07, subdivision 2a, is amended to read:

8.2 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days
8.3 of receipt of the license holder's timely appeal, the commissioner shall request assignment
8.4 of an administrative law judge. The request must include a proposed date, time, and place
8.5 of a hearing. A hearing must be conducted by an administrative law judge within 30
8.6 calendar days of the request for assignment, unless an extension is requested by either
8.7 party and granted by the administrative law judge for good cause. The commissioner shall
8.8 issue a notice of hearing by certified mail or personal service at least ten working days
8.9 before the hearing. The scope of the hearing shall be limited solely to the issue of whether
8.10 the temporary immediate suspension should remain in effect pending the commissioner's
8.11 final order under section 245A.08, regarding a licensing sanction issued under subdivision
8.12 3 following the immediate suspension. The burden of proof in expedited hearings under
8.13 this subdivision shall be limited to the commissioner's demonstration that reasonable
8.14 cause exists to believe that the license holder's actions or failure to comply with applicable
8.15 law or rule poses, or if the actions of other individuals or conditions in the program poses
8.16 an imminent risk of harm to the health, safety, or rights of persons served by the program.
8.17 "Reasonable cause" means there exist specific articulable facts or circumstances which
8.18 provide the commissioner with a reasonable suspicion that there is an imminent risk of
8.19 harm to the health, safety, or rights of persons served by the program.

8.20 (b) The administrative law judge shall issue findings of fact, conclusions, and a
8.21 recommendation within ten working days from the date of hearing. The parties shall have
8.22 ten calendar days to submit exceptions to the administrative law judge's report. The
8.23 record shall close at the end of the ten-day period for submission of exceptions. The
8.24 commissioner's final order shall be issued within ten working days from the close of the
8.25 record. Within 90 calendar days after a final order affirming an immediate suspension, the
8.26 commissioner shall make a determination regarding whether a final licensing sanction
8.27 shall be issued under subdivision 3. The license holder shall continue to be prohibited
8.28 from operation of the program during this 90-day period.

8.29 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
8.30 final licensing sanction is issued under subdivision 3 and the license holder appeals that
8.31 sanction, the license holder continues to be prohibited from operation of the program
8.32 pending a final commissioner's order under section 245A.08, subdivision 5, regarding the
8.33 final licensing sanction.

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

9.1 Sec. 6. Minnesota Statutes 2009 Supplement, section 245A.07, subdivision 3, is
9.2 amended to read:

9.3 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may
9.4 suspend or revoke a license, or impose a fine if a license holder fails to comply fully with
9.5 applicable laws or rules, if a license holder, a controlling individual, or an individual
9.6 living in the household where the licensed services are provided or is otherwise subject
9.7 to a background study has a disqualification which has not been set aside under section
9.8 245C.22, or if a license holder knowingly withholds relevant information from or gives
9.9 false or misleading information to the commissioner in connection with an application
9.10 for a license, in connection with the background study status of an individual, during an
9.11 investigation, or regarding compliance with applicable laws or rules. A license holder
9.12 who has had a license suspended, revoked, or has been ordered to pay a fine must be
9.13 given notice of the action by certified mail or personal service. If mailed, the notice
9.14 must be mailed to the address shown on the application or the last known address of the
9.15 license holder. The notice must state the reasons the license was suspended, revoked, or
9.16 a fine was ordered.

9.17 (b) If the license was suspended or revoked, the notice must inform the license
9.18 holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
9.19 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
9.20 a license. The appeal of an order suspending or revoking a license must be made in writing
9.21 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
9.22 the commissioner within ten calendar days after the license holder receives notice that the
9.23 license has been suspended or revoked. If a request is made by personal service, it must be
9.24 received by the commissioner within ten calendar days after the license holder received
9.25 the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits
9.26 a timely appeal of an order suspending or revoking a license, the license holder may
9.27 continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs
9.28 (g) and (h), until the commissioner issues a final order on the suspension or revocation.

9.29 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the
9.30 license holder of the responsibility for payment of fines and the right to a contested case
9.31 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal
9.32 of an order to pay a fine must be made in writing by certified mail or personal service. If
9.33 mailed, the appeal must be postmarked and sent to the commissioner within ten calendar
9.34 days after the license holder receives notice that the fine has been ordered. If a request is
9.35 made by personal service, it must be received by the commissioner within ten calendar
9.36 days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide the residential-based habilitation services, as defined under section 245B.02, subdivision 20, and a license to provide foster care, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

Sec. 7. Minnesota Statutes 2009 Supplement, section 245A.144, is amended to read:

**245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME
FOR CHILD FOSTER CARE PROVIDERS.**

(a) Licensed child foster care providers that care for infants or children through five years of age must document that before staff persons and caregivers assist in the care of infants or children through five years of age, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome for infants and young children. This section does not apply to emergency relative ~~foster care~~ placement under section 245A.035. The training on reducing the risk of sudden infant death syndrome and shaken baby syndrome may be provided as:

(1) orientation training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

(b) Training required under this section must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for child foster care providers must be approved by the county or private licensing agency ~~and that is responsible for monitoring the child foster care provider~~ under section 245A.16. The approved training fulfills, in part, training required under Minnesota Rules, part 2960.3070.

Sec. 8. Minnesota Statutes 2008, section 245A.30, is amended to read:

**245A.30 LICENSING PROHIBITION FOR CERTAIN ~~JUVENILE~~
FACILITIES SERVING CHILDREN.**

The commissioner may not:

(1) issue any license under ~~Minnesota Rules, parts 9545.0905 to 9545.1125, this~~ chapter for the residential placement of ~~juveniles children~~ juveniles children at a facility if the facility accepts ~~juveniles children~~ juveniles children who reside outside of Minnesota without an agreement with the entity placing the ~~juvenile child~~ juvenile child at the facility that obligates the entity to pay the educational and medical expenses of the ~~juvenile child~~ juvenile child; or

12.1 (2) renew a license under ~~Minnesota Rules, parts 9545.0905 to 9545.1125, this~~
12.2 chapter for the residential placement of juveniles children if the facility accepts juveniles
12.3 children who reside outside of Minnesota without an agreement with the entity placing the
12.4 juvenile child at the facility that obligates the entity to pay the educational and medical
12.5 expenses of the juvenile child.

12.6 Sec. 9. Minnesota Statutes 2009 Supplement, section 245A.50, subdivision 5, is
12.7 amended to read:

12.8 Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.**

12.9 (a) License holders must document that before staff persons, caregivers, and helpers
12.10 assist in the care of infants, they are instructed on the standards in section 245A.1435 and
12.11 receive training on reducing the risk of sudden infant death syndrome. In addition, license
12.12 holders must document that before staff persons, caregivers, and helpers assist in the care
12.13 of infants and children under school age, they receive training on reducing the risk of
12.14 shaken baby syndrome. The training in this subdivision may be provided as initial training
12.15 under subdivision 1 or ongoing annual training under subdivision 7.

12.16 (b) Sudden infant death syndrome reduction training required under this subdivision
12.17 must be at least one-half hour in length and must be completed at least once every five
12.18 years. At a minimum, the training must address the risk factors related to sudden infant
12.19 death syndrome, means of reducing the risk of sudden infant death syndrome in child
12.20 care, and license holder communication with parents regarding reducing the risk of
12.21 sudden infant death syndrome.

12.22 (c) Shaken baby syndrome training required under this subdivision must be at
12.23 least one-half hour in length and must be completed at least once every five years. At a
12.24 minimum, the training must address the risk factors related to shaken baby syndrome,
12.25 means of reducing the risk of shaken baby syndrome in child care, and license holder
12.26 communication with parents regarding reducing the risk of shaken baby syndrome.

12.27 (d) Training for family and group family child care providers must be approved
12.28 by the county licensing agency.

12.29 (e) The commissioner shall make available for viewing by all licensed child care
12.30 providers a video presentation on the dangers associated with shaking infants and young
12.31 children. The video presentation shall be part of the initial and ongoing annual training of
12.32 licensed child care providers, caregivers, and helpers caring for children under school age.
12.33 The commissioner shall provide to child care providers and interested individuals, at cost,
12.34 copies of a video approved by the commissioner of health under section 144.574 on the
12.35 dangers associated with shaking infants and young children.

13.1 Sec. 10. Minnesota Statutes 2008, section 245B.05, subdivision 7, is amended to read:

13.2 Subd. 7. **Reporting incidents.** (a) The license holder must maintain information
13.3 about and report incidents under section 245B.02, subdivision 10, clauses (1) to (7), to the
13.4 consumer's legal representative, other licensed caregiver, if any, and case manager within
13.5 24 hours of the occurrence, or within 24 hours of receipt of the information unless the
13.6 incident has been reported by another license holder. An incident under section 245B.02,
13.7 subdivision 10, clause (8), must be reported as required under paragraph (c) unless the
13.8 incident has been reported by another license holder.

13.9 (b) When the incident involves more than one consumer, the license holder must
13.10 not disclose personally identifiable information about any other consumer when making
13.11 the report to each consumer's legal representative, other licensed caregiver, if any, and
13.12 case manager unless the license holder has the consent of a consumer or a consumer's
13.13 legal representative.

13.14 (c) Within 24 hours of reporting maltreatment as required under section 626.556
13.15 or 626.557, the license holder must inform the consumer's legal representative and case
13.16 manager of the report unless there is reason to believe that the legal representative or case
13.17 manager is involved in the suspected maltreatment. The information the license holder
13.18 must disclose is the nature of the activity or occurrence reported, the agency that receives
13.19 the report, and the telephone number of the Department of Human Services Licensing
13.20 Division.

13.21 (d) Except as provided in paragraph (e), death or serious injury of the consumer
13.22 must also be reported to the Department of Human Services Licensing Division and the
13.23 ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

13.24 (e) When a death or serious injury occurs in a facility certified as an intermediate
13.25 care facility for persons with developmental disabilities, the death or serious injury must
13.26 be reported to the Department of Health, Office of Health Facility Complaints, and the
13.27 ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

13.28 Sec. 11. Minnesota Statutes 2008, section 245C.02, subdivision 18, is amended to read:

13.29 Subd. 18. **Serious maltreatment.** (a) "Serious maltreatment" means sexual abuse,
13.30 maltreatment resulting in death, ~~maltreatment~~ neglect resulting in serious injury which
13.31 reasonably requires the care of a physician whether or not the care of a physician was
13.32 sought, or abuse resulting in serious injury.

13.33 (b) For purposes of this definition, "care of a physician" is treatment received or
13.34 ordered by a physician, physician assistant, or nurse practitioner, but does not include:

13.35 (1) diagnostic testing, assessment, or observation;

14.1 (2) the application of, recommendation to use, or prescription solely for a remedy
14.2 that is available over the counter without a prescription; or

14.3 (3) a prescription solely for a topical antibiotic to treat burns when there is no
14.4 follow-up appointment.

14.5 (c) For purposes of this definition, "abuse resulting in serious injury" means: bruises,
14.6 bites, skin laceration, or tissue damage; fractures; dislocations; evidence of internal
14.7 injuries; head injuries with loss of consciousness; extensive second-degree or third-degree
14.8 burns and other burns for which complications are present; extensive second-degree or
14.9 third-degree frostbite and other frostbite for which complications are present; irreversible
14.10 mobility or avulsion of teeth; injuries to the eyes; ingestion of foreign substances and
14.11 objects that are harmful; near drowning; and heat exhaustion or sunstroke.

14.12 (d) Serious maltreatment includes neglect when it results in criminal sexual conduct
14.13 against a child or vulnerable adult.

14.14 Sec. 12. Minnesota Statutes 2009 Supplement, section 245C.15, subdivision 2, is
14.15 amended to read:

14.16 Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section
14.17 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed,
14.18 if any, for the offense; and (2) the individual has committed a felony-level violation
14.19 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance);
14.20 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph
14.21 (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm);
14.22 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231
14.23 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth
14.24 degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a
14.25 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of
14.26 drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment);
14.27 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter
14.28 of an unborn child in the second degree); 609.267 (assault of an unborn child in the first
14.29 degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury
14.30 or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275
14.31 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender);
14.32 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a
14.33 witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing
14.34 stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property);
14.35 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree);

15.1 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary
15.2 tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery);
15.3 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by
15.4 false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled
15.5 shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82
15.6 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent
15.7 exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and
15.8 performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons
15.9 not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level
15.10 conviction involving alcohol or drug use.

15.11 (b) An individual is disqualified under section 245C.14 if less than 15 years has
15.12 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any
15.13 of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota
15.14 Statutes.

15.15 (c) An individual is disqualified under section 245C.14 if less than 15 years has
15.16 passed since ~~the individual's~~ termination of the individual's parental rights under section
15.17 260C.301, subdivision 1, paragraph (b), or 3.

15.18 (d) An individual is disqualified under section 245C.14 if less than 15 years has
15.19 passed since the discharge of the sentence imposed for an offense in any other state or
15.20 country, the elements of which are substantially similar to the elements of the offenses
15.21 listed in paragraph (a).

15.22 (e) If the individual studied commits one of the offenses listed in paragraph (a), but
15.23 the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual
15.24 is disqualified but the disqualification look-back period for the offense is the period
15.25 applicable to the gross misdemeanor or misdemeanor disposition.

15.26 (f) When a disqualification is based on a judicial determination other than a
15.27 conviction, the disqualification period begins from the date of the court order. When a
15.28 disqualification is based on an admission, the disqualification period begins from the
15.29 date of an admission in court. When a disqualification is based on an Alford Plea, the
15.30 disqualification period begins from the date the Alford Plea is entered in court. When
15.31 a disqualification is based on a preponderance of evidence of a disqualifying act, the
15.32 disqualification date begins from the date of the dismissal, the date of discharge of the
15.33 sentence imposed for a conviction for a disqualifying crime of similar elements, or the
15.34 date of the incident, whichever occurs last.

15.35 **EFFECTIVE DATE.** This section is effective retroactively from May 22, 2009.

Sec. 13. Minnesota Statutes 2009 Supplement, section 245C.20, is amended to read:

245C.20 LICENSE HOLDER RECORD KEEPING.

Subdivision 1. Background studies initiated by program. A licensed program shall document the date the program initiates a background study under this chapter in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. Except when background studies are initiated through the commissioner's online system, if a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request, the licensed program must contact the human services licensing division to inquire about the status of the study. If a license holder initiates a background study under the commissioner's online system, but the background study subject's name does not appear in the list of active or recent studies initiated by that license holder, the license holder must either contact the human services licensing division or resubmit the background study information online for that individual.

Subd. 2. Background studies initiated by others. When a license holder relies on a background study initiated by a personnel pool agency, a temporary personnel agency, an educational program, or a professional services agency for a person required to have a background study completed under section 245C.03, the license holder must maintain a copy of the background study results in the license holder's files.

Sec. 14. Minnesota Statutes 2009 Supplement, section 245C.22, subdivision 7, is amended to read:

Subd. 7. Classification of certain data. (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set-aside and the individual's disqualifying characteristics are public data if the set-aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set-aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

17.1 (2) relates to an individual with a disqualifying characteristic under section 245C.15,
17.2 subdivision 2.

17.3 (c) The identity of a disqualified individual and the reason for disqualification
17.4 remain private data when:

17.5 (1) a disqualification is not set aside and no variance is granted, except as provided
17.6 under section 13.46, subdivision 4;

17.7 (2) the data are not public under paragraph (a) or (b);

17.8 (3) the disqualification is rescinded because the information relied upon to disqualify
17.9 the individual is incorrect; ~~or~~

17.10 (4) the disqualification relates to a license to provide relative child foster care.

17.11 As used in this clause, "relative" has the meaning given it under section 260C.007,
17.12 subdivision 27; or

17.13 (5) the disqualified individual is a household member of a licensed foster care
17.14 provider and:

17.15 (i) the disqualified individual previously received foster care services from this
17.16 licensed foster care provider;

17.17 (ii) the disqualified individual was subsequently adopted by this licensed foster
17.18 care provider; and

17.19 (iii) the disqualifying act occurred before the adoption.

17.20 (d) Licensed family child care providers and child care centers must provide notices
17.21 as required under section 245C.301.

17.22 (e) Notwithstanding paragraphs (a) and (b), the identity of household members who
17.23 are the subject of a disqualification related set-aside or variance is not public data if:

17.24 (1) the household member resides in the residence where the family child care is
17.25 provided;

17.26 (2) the subject of the set-aside or variance is under the age of 18 years; and

17.27 (3) the set-aside or variance only relates to a disqualification under section 245C.15,
17.28 subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

17.29 Sec. 15. **REPEALER.**

17.30 Minnesota Rules, part 2500.5000, is repealed.