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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1679

02/25/2019 Authored by Noor

The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act

1.2 relating to public safety; prohibiting certain juvenile hearings and records from

1.3 the public; raising juvenile court delinquency jurisdiction to age 13; modifying

1.4 certain human services disqualifications; amending Minnesota Statutes 2018,

1.5 sections 245C.14, subdivision 1; 245C.24, subdivision 2; 260B.163, subdivision

1.6 1; 260C.007, subdivision 6.

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

1.8 Section 1. Minnesota Statutes 2018, section 245C.14, subdivision 1, is amended to read:

1.9 Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall

1.10 disqualify an individual who is the subject of a background study from any position allowing

1.11 direct contact with persons receiving services from the license holder or entity identified in

1.12 section 245C.03, upon receipt of information showing, or when a background study

1.13 completed under this chapter shows any of the following:

1.14 (1) a conviction of, admission to, or Alford plea to one or more crimes listed in section

1.15 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor,

1.16 or misdemeanor level crime;

1.17 (2) a preponderance of the evidence indicates the individual has committed an act or

1.18 acts that meet the definition of any of the crimes listed in section 245C.15, regardless of

1.19 whether the preponderance of the evidence is for a felony, gross misdemeanor, or

1.20 misdemeanor level crime; or

1.21 (3) an investigation results in an administrative determination listed under section

1.22 245C.15, subdivision 4, paragraph (b).

2.1 (b) No individual who is disqualified following a background study under section  
 2.2 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with  
 2.3 persons served by a program or entity identified in section 245C.03, unless the commissioner  
 2.4 has provided written notice under section 245C.17 stating that:

2.5 (1) the individual may remain in direct contact during the period in which the individual  
 2.6 may request reconsideration as provided in section 245C.21, subdivision 2;

2.7 (2) the commissioner has set aside the individual's disqualification for that program or  
 2.8 entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

2.9 (3) the license holder has been granted a variance for the disqualified individual under  
 2.10 section 245C.30.

2.11 (c) No offense that occurred when the individual was a minor shall be the basis for a  
 2.12 disqualification if five or more years have passed since the date of the offense. This paragraph  
 2.13 does not apply to an individual who was convicted of the disqualifying crime following  
 2.14 certification under section 260B.125, nor does it apply to an individual who was adjudicated  
 2.15 delinquent for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3451,  
 2.16 subdivision 3.

2.17 Sec. 2. Minnesota Statutes 2018, section 245C.24, subdivision 2, is amended to read:

2.18 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in  
 2.19 paragraph (b), the commissioner may not set aside the disqualification of any individual  
 2.20 disqualified pursuant to this chapter, regardless of how much time has passed, if the individual  
 2.21 was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

2.22 (b) For an individual in the chemical dependency or corrections field who was disqualified  
 2.23 for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification  
 2.24 was set aside prior to July 1, 2005, the commissioner must consider granting a variance  
 2.25 pursuant to section 245C.30 for the license holder for a program dealing primarily with  
 2.26 adults. A request for reconsideration evaluated under this paragraph must include a letter  
 2.27 of recommendation from the license holder that was subject to the prior set-aside decision  
 2.28 addressing the individual's quality of care to children or vulnerable adults and the  
 2.29 circumstances of the individual's departure from that service.

2.30 (c) When a licensed foster care provider adopts an individual who had received foster  
 2.31 care services from the provider for over six months, and the adopted individual is required  
 2.32 to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause  
 2.33 (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30

3.1 to permit the adopted individual with a permanent disqualification to remain affiliated with  
3.2 the license holder under the conditions of the variance when the variance is recommended  
3.3 by the county of responsibility for each of the remaining individuals in placement in the  
3.4 home and the licensing agency for the home.

3.5 (d) This subdivision shall not apply to any crime or offense committed by a minor.

3.6 Sec. 3. Minnesota Statutes 2018, section 260B.163, subdivision 1, is amended to read:

3.7 Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425, hearings  
3.8 on any matter shall be without a jury and may be conducted in an informal manner, except  
3.9 that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury  
3.10 trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591  
3.11 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged  
3.12 to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings  
3.13 conducted pursuant to section 260B.125 except to the extent that the rules themselves provide  
3.14 that they do not apply.

3.15 (b) When a continuance or adjournment is ordered in any proceeding, the court may  
3.16 make any interim orders as it deems in the best interests of the minor in accordance with  
3.17 the provisions of sections 260B.001 to 260B.421.

3.18 (c) Except as otherwise provided in this paragraph, the court shall exclude the general  
3.19 public from hearings under this chapter and shall admit only those persons who, in the  
3.20 discretion of the court, have a direct interest in the case or in the work of the court. The  
3.21 court shall permit the victim of a child's delinquent act to attend any related delinquency  
3.22 proceeding, except that the court may exclude the victim:

3.23 (1) as a witness under the Rules of Criminal Procedure; and

3.24 (2) from portions of a certification hearing to discuss psychological material or other  
3.25 evidence that would not be accessible to the public.

3.26 The court shall open the hearings to the public in ~~delinquency or~~ extended jurisdiction  
3.27 juvenile proceedings where the child is alleged to have committed an offense or has been  
3.28 proven to have committed an offense that would be a felony if committed by an adult and  
3.29 the child was at least 16 years of age at the time of the offense, except that the court may  
3.30 exclude the public from portions of a certification hearing to discuss psychological material  
3.31 or other evidence that would not be accessible to the public in an adult proceeding.

3.32 (d) In all delinquency cases a person named in the charging clause of the petition as a  
3.33 person directly damaged in person or property shall be entitled, upon request, to be notified

4.1 by the court administrator in writing, at the named person's last known address, of (1) the  
4.2 date of the certification or adjudicatory hearings, and (2) the disposition of the case.

4.3 Sec. 4. Minnesota Statutes 2018, section 260C.007, subdivision 6, is amended to read:

4.4 Subd. 6. **Child in need of protection or services.** "Child in need of protection or  
4.5 services" means a child who is in need of protection or services because the child:

4.6 (1) is abandoned or without parent, guardian, or custodian;

4.7 (2)(i) has been a victim of physical or sexual abuse as defined in section 626.556,  
4.8 subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in  
4.9 subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or  
4.10 would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child  
4.11 abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as  
4.12 defined in subdivision 15;

4.13 (3) is without necessary food, clothing, shelter, education, or other required care for the  
4.14 child's physical or mental health or morals because the child's parent, guardian, or custodian  
4.15 is unable or unwilling to provide that care;

4.16 (4) is without the special care made necessary by a physical, mental, or emotional  
4.17 condition because the child's parent, guardian, or custodian is unable or unwilling to provide  
4.18 that care;

4.19 (5) is medically neglected, which includes, but is not limited to, the withholding of  
4.20 medically indicated treatment from an infant with a disability with a life-threatening  
4.21 condition. The term "withholding of medically indicated treatment" means the failure to  
4.22 respond to the infant's life-threatening conditions by providing treatment, including  
4.23 appropriate nutrition, hydration, and medication which, in the treating physician's or advanced  
4.24 practice registered nurse's reasonable medical judgment, will be most likely to be effective  
4.25 in ameliorating or correcting all conditions, except that the term does not include the failure  
4.26 to provide treatment other than appropriate nutrition, hydration, or medication to an infant  
4.27 when, in the treating physician's or advanced practice registered nurse's reasonable medical  
4.28 judgment:

4.29 (i) the infant is chronically and irreversibly comatose;

4.30 (ii) the provision of the treatment would merely prolong dying, not be effective in  
4.31 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be  
4.32 futile in terms of the survival of the infant; or

5.1 (iii) the provision of the treatment would be virtually futile in terms of the survival of  
5.2 the infant and the treatment itself under the circumstances would be inhumane;

5.3 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved  
5.4 of the child's care and custody, including a child who entered foster care under a voluntary  
5.5 placement agreement between the parent and the responsible social services agency under  
5.6 section 260C.227;

5.7 (7) has been placed for adoption or care in violation of law;

5.8 (8) is without proper parental care because of the emotional, mental, or physical disability,  
5.9 or state of immaturity of the child's parent, guardian, or other custodian;

5.10 (9) is one whose behavior, condition, or environment is such as to be injurious or  
5.11 dangerous to the child or others. An injurious or dangerous environment may include, but  
5.12 is not limited to, the exposure of a child to criminal activity in the child's home;

5.13 (10) is experiencing growth delays, which may be referred to as failure to thrive, that  
5.14 have been diagnosed by a physician and are due to parental neglect;

5.15 (11) is a sexually exploited youth;

5.16 (12) has committed a delinquent act or a juvenile petty offense before becoming ~~ten~~ 13  
5.17 years old;

5.18 (13) is a runaway;

5.19 (14) is a habitual truant;

5.20 (15) has been found incompetent to proceed or has been found not guilty by reason of  
5.21 mental illness or mental deficiency in connection with a delinquency proceeding, a  
5.22 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a  
5.23 proceeding involving a juvenile petty offense; or

5.24 (16) has a parent whose parental rights to one or more other children were involuntarily  
5.25 terminated or whose custodial rights to another child have been involuntarily transferred to  
5.26 a relative and there is a case plan prepared by the responsible social services agency  
5.27 documenting a compelling reason why filing the termination of parental rights petition under  
5.28 section 260C.503, subdivision 2, is not in the best interests of the child.