

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2683

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DATE	D-PG	OFFICIAL STATUS
02/26/2018	6197	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/05/2018	6254a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/15/2018	6503a	Comm report: To pass as amended
	6507	Second reading
05/07/2018		Special Order: Amended
		Third reading Passed

1.1 A bill for an act

1.2 relating to human services; modifying background study provisions; amending

1.3 Minnesota Statutes 2016, sections 245C.02, subdivisions 4a, 15, by adding

1.4 subdivisions; 245C.05, subdivision 2c, by adding a subdivision; 245C.051;

1.5 Minnesota Statutes 2017 Supplement, sections 245C.02, subdivision 6a; 245C.03,

1.6 subdivision 1; 245C.04, subdivision 1; 245C.05, subdivision 5; 245C.08,

1.7 subdivision 1; 245C.10, subdivision 9a; 245C.15, subdivision 1.

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

1.9 Section 1. Minnesota Statutes 2016, section 245C.02, subdivision 4a, is amended to read:

1.10 Subd. 4a. **Authorized fingerprint collection vendor.** "Authorized fingerprint collection

1.11 vendor" means a qualified organization under a written contract with the commissioner to

1.12 provide services in accordance with section 245C.05, subdivision 5, paragraph ~~(d)~~ (b).

1.13 Sec. 2. Minnesota Statutes 2017 Supplement, section 245C.02, subdivision 6a, is amended

1.14 to read:

1.15 Subd. 6a. **Child care ~~staff person~~ background study subject.** "Child care ~~staff person~~

1.16 background study subject" means an individual ~~other than an individual who is related to~~

1.17 ~~all children for whom child care services are provided~~ who is affiliated with a licensed child

1.18 care center, certified license exempt child care center, licensed family child care program,

1.19 or legal nonlicensed child care provider authorized under chapter 119B, and:

- 1.20 (1) who is employed by a child care provider for compensation;
- 1.21 (2) whose activities involve the ~~care or~~ supervision of a child for a child care provider
- 1.22 ~~or unsupervised access to a child who is cared for or supervised by a child care provider;~~
- 1.23 or

2.1 (3) who is required to have a background study under section 245C.03, subdivision 1.

2.2 ~~(3) an individual 13 years of age or older residing in a licensed family child care home~~
 2.3 ~~or legal nonlicensed child care program.~~

2.4 **EFFECTIVE DATE.** This section is effective upon implementation of NETStudy 2.0
 2.5 for enhanced child care.

2.6 Sec. 3. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision to
 2.7 read:

2.8 Subd. 13c. **National criminal history record check.** (a) "National criminal history
 2.9 record check" means a check of records maintained by the Federal Bureau of Investigation
 2.10 through submission of fingerprints through the Minnesota Bureau of Criminal Apprehension
 2.11 to the Federal Bureau of Investigation, when specifically required by law.

2.12 (b) For the purposes of this chapter, "national crime information database," "national
 2.13 criminal records repository," "criminal history with the Federal Bureau of Investigation,"
 2.14 and "national criminal record check" refer to a national criminal history record check as
 2.15 defined in this subdivision.

2.16 Sec. 4. Minnesota Statutes 2016, section 245C.02, subdivision 15, is amended to read:

2.17 Subd. 15. **Reasonable cause.** "Reasonable cause" means information or circumstances
 2.18 exist ~~which~~ that provide the commissioner with articulable suspicion that further pertinent
 2.19 information may exist concerning a subject. The commissioner has reasonable cause to
 2.20 require a background study when, ~~but not limited to,~~ the commissioner has received a report
 2.21 from the subject, the license holder, or a third party indicating that the subject has a history
 2.22 that would disqualify the individual or that may pose a risk to the health or safety of persons
 2.23 receiving services.

2.24 Sec. 5. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision to
 2.25 read:

2.26 Subd. 15a. **Reasonable cause to require a national criminal history record check.**
 2.27 (a) "Reasonable cause to require a national criminal history record check" means information
 2.28 or circumstances exist that provide the commissioner with articulable suspicion that further
 2.29 pertinent information may exist concerning a background study subject that merits conducting
 2.30 a national criminal history record check on that subject. The commissioner has reasonable
 2.31 cause to require a national criminal history record check when:

3.1 (1) information from the Bureau of Criminal Apprehension indicates that the subject is
 3.2 a multistate offender;

3.3 (2) information from the Bureau of Criminal Apprehension indicates that multistate
 3.4 offender status is undetermined;

3.5 (3) the commissioner has received a report from the subject or a third party indicating
 3.6 that the subject has a criminal history in a jurisdiction other than Minnesota; or

3.7 (4) information from the Bureau of Criminal Apprehension for a state-based name and
 3.8 date of birth background study in which the subject is a minor that indicates that the subject
 3.9 has a criminal history.

3.10 (b) In addition to the circumstances described in paragraph (a), the commissioner has
 3.11 reasonable cause to require a national criminal history record check if the subject is not
 3.12 currently residing in Minnesota or resided in a jurisdiction other than Minnesota during the
 3.13 previous five years.

3.14 Sec. 6. Minnesota Statutes 2017 Supplement, section 245C.03, subdivision 1, is amended
 3.15 to read:

3.16 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background
 3.17 study on:

3.18 (1) the person or persons applying for a license;

3.19 (2) an individual age 13 and over living in the household where the licensed program
 3.20 will be provided who is not receiving licensed services from the program;

3.21 (3) current or prospective employees or contractors of the applicant who will have direct
 3.22 contact with persons served by the facility, agency, or program;

3.23 (4) volunteers or student volunteers who will have direct contact with persons served
 3.24 by the program to provide program services if the contact is not under the continuous, direct
 3.25 supervision by an individual listed in clause (1) or (3);

3.26 (5) an individual age ten to 12 living in the household where the licensed services will
 3.27 be provided when the commissioner has reasonable cause as defined in section 245C.02,
 3.28 subdivision 15;

3.29 (6) an individual who, without providing direct contact services at a licensed program,
 3.30 may have unsupervised access to children or vulnerable adults receiving services from a
 3.31 program, when the commissioner has reasonable cause as defined in section 245C.02,
 3.32 subdivision 15;

4.1 (7) all controlling individuals as defined in section 245A.02, subdivision 5a; and

4.2 (8) child care ~~staff persons~~ background study subjects as defined in section 245C.02,
4.3 subdivision 6a.

4.4 (b) Paragraph (a), clauses (2), (5)₂ and (6), apply to legal nonlicensed child care and
4.5 certified license-exempt child care programs.

4.6 (c) For child foster care when the license holder resides in the home where foster care
4.7 services are provided, a short-term substitute caregiver providing direct contact services for
4.8 a child for less than 72 hours of continuous care is not required to receive a background
4.9 study under this chapter.

4.10 Sec. 7. Minnesota Statutes 2017 Supplement, section 245C.04, subdivision 1, is amended
4.11 to read:

4.12 Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner
4.13 shall conduct a background study of an individual required to be studied under section
4.14 245C.03, subdivision 1, at least upon application for initial license for all license types.

4.15 (b) The commissioner shall conduct a background study of an individual required to be
4.16 studied under section 245C.03, subdivision 1, including a child care ~~staff person~~ background
4.17 study subject as defined in section 245C.02, subdivision 6a, in a family child care program,
4.18 licensed child care center, certified license-exempt child care center, or legal nonlicensed
4.19 child care provider, on a schedule determined by the commissioner. ~~The~~ Except as provided
4.20 in section 245C.05, subdivision 5a, a child care background study must include submission
4.21 of fingerprints for a national criminal history record check and a review of the information
4.22 under section 245C.08. A background study for a child care program must be repeated
4.23 within five years from the most recent study conducted under this paragraph.

4.24 (c) At reapplication for a family child care license:

4.25 (1) for a background study affiliated with a licensed family child care center or legal
4.26 nonlicensed child care provider, the individual shall provide information required under
4.27 section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be
4.28 fingerprinted and photographed under section 245C.05, subdivision 5;

4.29 (2) the county agency shall verify the information received under clause (1) and forward
4.30 the information to the commissioner to complete the background study; and

4.31 (3) the background study conducted by the commissioner under this paragraph must
4.32 include a review of the information required under section 245C.08.

5.1 (d) The commissioner is not required to conduct a study of an individual at the time of
5.2 reapplication for a license if the individual's background study was completed by the
5.3 commissioner of human services and the following conditions are met:

5.4 (1) a study of the individual was conducted either at the time of initial licensure or when
5.5 the individual became affiliated with the license holder;

5.6 (2) the individual has been continuously affiliated with the license holder since the last
5.7 study was conducted; and

5.8 (3) the last study of the individual was conducted on or after October 1, 1995.

5.9 (e) The commissioner of human services shall conduct a background study of an
5.10 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6),
5.11 who is newly affiliated with a child foster care license holder:

5.12 (1) the county or private agency shall collect and forward to the commissioner the
5.13 information required under section 245C.05, subdivisions 1 and 5, when the child foster
5.14 care applicant or license holder resides in the home where child foster care services are
5.15 provided;

5.16 (2) the child foster care license holder or applicant shall collect and forward to the
5.17 commissioner the information required under section 245C.05, subdivisions 1 and 5, when
5.18 the applicant or license holder does not reside in the home where child foster care services
5.19 are provided; and

5.20 (3) the background study conducted by the commissioner of human services under this
5.21 paragraph must include a review of the information required under section 245C.08,
5.22 subdivisions 1, 3, and 4.

5.23 (f) The commissioner shall conduct a background study of an individual specified under
5.24 section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated
5.25 with an adult foster care or family adult day services and with a family child care license
5.26 holder or a legal nonlicensed child care provider authorized under chapter 119B and:

5.27 (1) except as provided in section 245C.05, subdivision 5a, the county shall collect and
5.28 forward to the commissioner the information required under section 245C.05, subdivision
5.29 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background
5.30 studies conducted by the commissioner for all family adult day services, for adult foster
5.31 care when the adult foster care license holder resides in the adult foster care residence, and
5.32 for family child care and legal nonlicensed child care authorized under chapter 119B;

6.1 (2) the license holder shall collect and forward to the commissioner the information
6.2 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs
6.3 (a) and (b), for background studies conducted by the commissioner for adult foster care
6.4 when the license holder does not reside in the adult foster care residence; and

6.5 (3) the background study conducted by the commissioner under this paragraph must
6.6 include a review of the information required under section 245C.08, subdivision 1, paragraph
6.7 (a), and subdivisions 3 and 4.

6.8 (g) Applicants for licensure, license holders, and other entities as provided in this chapter
6.9 must submit completed background study requests to the commissioner using the electronic
6.10 system known as NETStudy before individuals specified in section 245C.03, subdivision
6.11 1, begin positions allowing direct contact in any licensed program.

6.12 (h) For an individual who is not on the entity's active roster, the entity must initiate a
6.13 new background study through NETStudy when:

6.14 (1) an individual returns to a position requiring a background study following an absence
6.15 of 120 or more consecutive days; or

6.16 (2) a program that discontinued providing licensed direct contact services for 120 or
6.17 more consecutive days begins to provide direct contact licensed services again.

6.18 The license holder shall maintain a copy of the notification provided to the commissioner
6.19 under this paragraph in the program's files. If the individual's disqualification was previously
6.20 set aside for the license holder's program and the new background study results in no new
6.21 information that indicates the individual may pose a risk of harm to persons receiving
6.22 services from the license holder, the previous set-aside shall remain in effect.

6.23 (i) For purposes of this section, a physician licensed under chapter 147 is considered to
6.24 be continuously affiliated upon the license holder's receipt from the commissioner of health
6.25 or human services of the physician's background study results.

6.26 (j) For purposes of family child care, a substitute caregiver must receive repeat
6.27 background studies at the time of each license renewal.

6.28 (k) A repeat background study at the time of license renewal is not required if the family
6.29 child care substitute caregiver's background study was completed by the commissioner on
6.30 or after October 1, 2017, and the substitute caregiver is on the license holder's active roster
6.31 in NETStudy 2.0.

7.1 (l) Before and after school programs authorized under chapter 119B, are exempt from
7.2 the background study requirements under section 123B.03, for an employee for whom a
7.3 background study under this chapter has been completed.

7.4 Sec. 8. Minnesota Statutes 2016, section 245C.05, subdivision 2c, is amended to read:

7.5 Subd. 2c. **Privacy notice to background study subject.** (a) Prior to initiating each
7.6 background study, the entity initiating the study must provide the commissioner's privacy
7.7 notice to the background study subject required under section 13.04, subdivision 2. The
7.8 notice must be available through the commissioner's electronic NETStudy and NETStudy
7.9 2.0 systems and shall include the information in paragraphs (b) and (c).

7.10 (b) The background study subject shall be informed that any previous background studies
7.11 that received a set-aside will be reviewed, and without further contact with the background
7.12 study subject, the commissioner may notify the agency that initiated the subsequent
7.13 background study:

7.14 (1) that the individual has a disqualification that has been set aside for the program or
7.15 agency that initiated the study;

7.16 (2) the reason for the disqualification; and

7.17 (3) that information about the decision to set aside the disqualification will be available
7.18 to the license holder upon request without the consent of the background study subject.

7.19 (c) The background study subject must also be informed that:

7.20 (1) the subject's fingerprints collected for purposes of completing the background study
7.21 under this chapter must not be retained by the Department of Public Safety, Bureau of
7.22 Criminal Apprehension, or by the commissioner, ~~but will be retained by~~ The Federal Bureau
7.23 of Investigation will only retain fingerprints of subjects with a criminal history;

7.24 (2) effective upon implementation of NETStudy 2.0, the subject's photographic image
7.25 will be retained by the commissioner, and if the subject has provided the subject's Social
7.26 Security number for purposes of the background study, the photographic image will be
7.27 available to prospective employers and agencies initiating background studies under this
7.28 chapter to verify the identity of the subject of the background study;

7.29 (3) the commissioner's authorized fingerprint collection vendor shall, for purposes of
7.30 verifying the identity of the background study subject, be able to view the identifying
7.31 information entered into NETStudy 2.0 by the entity that initiated the background study,
7.32 but shall not retain the subject's fingerprints, photograph, or information from NETStudy

8.1 2.0. The authorized fingerprint collection vendor shall retain no more than the subject's
8.2 name and the date and time the subject's fingerprints were recorded and sent, only as
8.3 necessary for auditing and billing activities;

8.4 (4) the commissioner shall provide the subject notice, as required in section 245C.17,
8.5 subdivision 1, paragraph (a), when an entity initiates a background study on the individual;

8.6 (5) the subject may request in writing a report listing the entities that initiated a
8.7 background study on the individual as provided in section 245C.17, subdivision 1, paragraph
8.8 (b);

8.9 (6) the subject may request in writing that information used to complete the individual's
8.10 background study in NETStudy 2.0 be destroyed if the requirements of section 245C.051,
8.11 paragraph (a), are met; and

8.12 (7) notwithstanding clause (6), the commissioner shall destroy:

8.13 (i) the subject's photograph after a period of two years when the requirements of section
8.14 245C.051, paragraph (c), are met; and

8.15 (ii) any data collected on a subject under this chapter after a period of two years following
8.16 the individual's death as provided in section 245C.051, paragraph (d).

8.17 Sec. 9. Minnesota Statutes 2017 Supplement, section 245C.05, subdivision 5, is amended
8.18 to read:

8.19 Subd. 5. **Fingerprints and photograph.** ~~(a) Before the implementation of NETStudy~~
8.20 ~~2.0, except as provided in paragraph (e), for any background study completed under this~~
8.21 ~~chapter, when the commissioner has reasonable cause to believe that further pertinent~~
8.22 ~~information may exist on the subject of the background study, the subject shall provide the~~
8.23 ~~commissioner with a set of classifiable fingerprints obtained from an authorized agency.~~

8.24 ~~(b) Before the implementation of NETStudy 2.0, for purposes of requiring fingerprints,~~
8.25 ~~the commissioner has reasonable cause when, but not limited to, the:~~

8.26 ~~(1) information from the Bureau of Criminal Apprehension indicates that the subject is~~
8.27 ~~a multistate offender;~~

8.28 ~~(2) information from the Bureau of Criminal Apprehension indicates that multistate~~
8.29 ~~offender status is undetermined; or~~

8.30 ~~(3) commissioner has received a report from the subject or a third party indicating that~~
8.31 ~~the subject has a criminal history in a jurisdiction other than Minnesota.~~

9.1 ~~(e)~~ (a) Notwithstanding paragraph ~~(d)~~ (b), for background studies conducted by the
9.2 commissioner for child foster care, adoptions, or a transfer of permanent legal and physical
9.3 custody of a child, the subject of the background study, who is 18 years of age or older,
9.4 shall provide the commissioner with a set of classifiable fingerprints obtained from an
9.5 authorized agency for a national criminal history record check.

9.6 ~~(d)~~ (b) For background studies initiated on or after the implementation of NETStudy
9.7 2.0, except as provided under subdivision 5a, every subject of a background study must
9.8 provide the commissioner with a set of the background study subject's classifiable fingerprints
9.9 and photograph. The photograph and fingerprints must be recorded at the same time by the
9.10 commissioner's authorized fingerprint collection vendor and sent to the commissioner
9.11 through the commissioner's secure data system described in section 245C.32, subdivision
9.12 1a, paragraph (b).

9.13 (c) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal
9.14 Apprehension and, when specifically required by law, submitted to the Federal Bureau of
9.15 Investigation for a national criminal history record check.

9.16 (d) The fingerprints must not be retained by the Department of Public Safety, Bureau
9.17 of Criminal Apprehension, or the commissioner, but will be retained by The Federal Bureau
9.18 of Investigation will only retain fingerprints of subjects with a criminal history.

9.19 (e) The commissioner's authorized fingerprint collection vendor shall, for purposes of
9.20 verifying the identity of the background study subject, be able to view the identifying
9.21 information entered into NETStudy 2.0 by the entity that initiated the background study,
9.22 but shall not retain the subject's fingerprints, photograph, or information from NETStudy
9.23 2.0. The authorized fingerprint collection vendor shall retain no more than the name and
9.24 date and time the subject's fingerprints were recorded and sent, only as necessary for auditing
9.25 and billing activities.

9.26 ~~(e)~~ ~~When specifically required by law, fingerprints collected under this section must be~~
9.27 ~~submitted for a national criminal history record check.~~

9.28 (f) For any background study conducted under this chapter, the subject shall provide the
9.29 commissioner with a set of classifiable fingerprints when the commissioner has reasonable
9.30 cause to require a national criminal history record check as defined in section 245C.02,
9.31 subdivision 15a.

10.1 Sec. 10. Minnesota Statutes 2016, section 245C.05, is amended by adding a subdivision
10.2 to read:

10.3 Subd. 5a. **Background study requirements for minors.** (a) A background study
10.4 completed under this chapter on a subject who is required to be studied under section
10.5 245C.03, subdivision 1, and is 17 years of age or younger shall be completed by the
10.6 commissioner for:

10.7 (1) a legal nonlicensed child care provider authorized under chapter 119B;

10.8 (2) a licensed family child care program; or

10.9 (3) a licensed foster care home.

10.10 (b) The subject shall submit to the commissioner only the information under subdivision
10.11 1, paragraph (a).

10.12 (c) A subject who is 17 years of age or younger is required to submit fingerprints and a
10.13 photograph, and the commissioner shall conduct a national criminal history record check,
10.14 if:

10.15 (1) the commissioner has reasonable cause to require a national criminal history record
10.16 check defined in section 245C.02, subdivision 15a; or

10.17 (2) under paragraph (a), clauses (1) and (2), the subject is employed by the provider or
10.18 supervises children served by the program.

10.19 **EFFECTIVE DATE.** This section is effective upon implementation of NETStudy 2.0
10.20 for enhanced child care studies.

10.21 Sec. 11. Minnesota Statutes 2016, section 245C.051, is amended to read:

10.22 **245C.051 DESTRUCTION OF BACKGROUND STUDY SUBJECT**
10.23 **INFORMATION.**

10.24 (a) A background study subject may request in writing to the commissioner that
10.25 information used to complete the individual's study in NETStudy 2.0 be destroyed if the
10.26 individual:

10.27 (1) has not been affiliated with any entity for the previous two years; and

10.28 (2) has no current disqualifying characteristic.

10.29 (b) After receiving the request and verifying the information in paragraph (a), the
10.30 commissioner shall destroy the information used to complete the subject's background study

11.1 and shall keep a record of the subject's name and a notation of the date that the information
11.2 was destroyed.

11.3 (c) When a previously studied individual has not been on the master roster for two years,
11.4 the commissioner shall destroy the photographic image of the individual obtained under
11.5 section 245C.05, subdivision 5, paragraph ~~(d)~~ (b).

11.6 (d) Any data collected on an individual under this chapter that is maintained by the
11.7 commissioner that has not been destroyed according to paragraph (b) or (c) shall be destroyed
11.8 when two years have elapsed from the individual's actual death that is reported to the
11.9 commissioner or when 90 years have elapsed since the individual's birth except when readily
11.10 available data indicate that the individual is still living.

11.11 Sec. 12. Minnesota Statutes 2017 Supplement, section 245C.08, subdivision 1, is amended
11.12 to read:

11.13 Subdivision 1. **Background studies conducted by Department of Human Services.**

11.14 (a) For a background study conducted by the Department of Human Services, the
11.15 commissioner shall review:

11.16 (1) information related to names of substantiated perpetrators of maltreatment of
11.17 vulnerable adults that has been received by the commissioner as required under section
11.18 626.557, subdivision 9c, paragraph (j);

11.19 (2) the commissioner's records relating to the maltreatment of minors in licensed
11.20 programs, and from findings of maltreatment of minors as indicated through the social
11.21 service information system;

11.22 (3) information from juvenile courts as required in subdivision 4 for individuals listed
11.23 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

11.24 (4) information from the Bureau of Criminal Apprehension, including information
11.25 regarding a background study subject's registration in Minnesota as a predatory offender
11.26 under section 243.166;

11.27 (5) except as provided in clause (6), information received as a result of submission of
11.28 fingerprints for a national criminal history record check, as defined in section 245C.02,
11.29 subdivision 13c, when the commissioner has reasonable cause for a national criminal history
11.30 record check as defined under section ~~245C.05, subdivision 5~~ 245C.02, subdivision 15a, or
11.31 as required under section 144.057, subdivision 1, clause (2); and

12.1 (6) for a background study related to a child foster care application for licensure, a
12.2 transfer of permanent legal and physical custody of a child under sections 260C.503 to
12.3 260C.515, or adoptions, and for a background study required for family child care, certified
12.4 license-exempt child care, child care centers, and legal nonlicensed child care authorized
12.5 under chapter 119B, the commissioner shall also review:

12.6 (i) information from the child abuse and neglect registry for any state in which the
12.7 background study subject has resided for the past five years; and

12.8 (ii) when the background study subject is 18 years of age or older, or a minor under
12.9 section 245C.05, subdivision 5a, paragraph (c), information received following submission
12.10 of fingerprints for a national criminal history record check; ~~and~~.

12.11 ~~(7) for a background study required for family child care, certified license-exempt child~~
12.12 ~~care centers, licensed child care centers, and legal nonlicensed child care authorized under~~
12.13 ~~chapter 119B, the background study shall also include a name and date of birth search of~~
12.14 ~~the National Sex Offender Public Web site.~~

12.15 (b) Notwithstanding expungement by a court, the commissioner may consider information
12.16 obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice
12.17 of the petition for expungement and the court order for expungement is directed specifically
12.18 to the commissioner.

12.19 (c) The commissioner shall also review criminal case information received according
12.20 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates
12.21 to individuals who have already been studied under this chapter and who remain affiliated
12.22 with the agency that initiated the background study.

12.23 (d) When the commissioner has reasonable cause to believe that the identity of a
12.24 background study subject is uncertain, the commissioner may require the subject to provide
12.25 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check
12.26 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph
12.27 shall not be saved by the commissioner after they have been used to verify the identity of
12.28 the background study subject against the particular criminal record in question.

12.29 (e) The commissioner may inform the entity that initiated a background study under
12.30 NETStudy 2.0 of the status of processing of the subject's fingerprints.

13.1 Sec. 13. Minnesota Statutes 2017 Supplement, section 245C.10, subdivision 9a, is amended
13.2 to read:

13.3 Subd. 9a. **Child care programs.** The commissioner shall recover the cost of a background
13.4 study required for family child care, certified license-exempt child care centers, licensed
13.5 child care centers, and legal nonlicensed child care providers authorized under chapter 119B
13.6 through a fee of no more than \$40 per study charged to the license holder. A fee of no more
13.7 than \$20 per study shall be charged for studies conducted under section 245C.05, subdivision
13.8 5a, paragraph (a). The fees collected under this subdivision are appropriated to the
13.9 commissioner to conduct background studies.

13.10 Sec. 14. Minnesota Statutes 2017 Supplement, section 245C.15, subdivision 1, is amended
13.11 to read:

13.12 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under
13.13 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the
13.14 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of
13.15 the level of the offense, the individual has committed any of the following offenses: sections
13.16 243.166 (violation of predatory offender registration law); 609.185 (murder in the first
13.17 degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20
13.18 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony
13.19 offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense
13.20 under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or
13.21 neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228
13.22 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25
13.23 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder
13.24 of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third
13.25 degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324,
13.26 subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree);
13.27 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct
13.28 in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451
13.29 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct);
13.30 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony
13.31 offense under 609.377 (malicious punishment of a child); a felony offense under 609.378
13.32 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision
13.33 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level stalking); 609.855,
13.34 subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2,
13.35 clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use

14.1 of minors in sexual performance prohibited); 617.247 (possession of pictorial representations
 14.2 of minors); or, for a child care ~~staff person~~ background study subject, conviction of a crime
 14.3 that would make the individual ineligible for employment under United States Code, title
 14.4 42, section 9858f, except for a felony drug conviction, regardless of whether a period of
 14.5 disqualification under subdivisions 2 to 4, would apply if the individual were not a child
 14.6 care ~~staff person~~ background study subject.

14.7 (b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the
 14.8 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes,
 14.9 permanently disqualifies the individual under section 245C.14.

14.10 (c) An individual's offense in any other state or country, where the elements of the offense
 14.11 are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies
 14.12 the individual under section 245C.14.

14.13 (d) When a disqualification is based on a judicial determination other than a conviction,
 14.14 the disqualification period begins from the date of the court order. When a disqualification
 14.15 is based on an admission, the disqualification period begins from the date of an admission
 14.16 in court. When a disqualification is based on an Alford Plea, the disqualification period
 14.17 begins from the date the Alford Plea is entered in court. When a disqualification is based
 14.18 on a preponderance of evidence of a disqualifying act, the disqualification date begins from
 14.19 the date of the dismissal, the date of discharge of the sentence imposed for a conviction for
 14.20 a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

14.21 (e) If the individual studied commits one of the offenses listed in paragraph (a) that is
 14.22 specified as a felony-level only offense, but the sentence or level of offense is a gross
 14.23 misdemeanor or misdemeanor, the individual is disqualified, but the disqualification
 14.24 look-back period for the offense is the period applicable to gross misdemeanor or
 14.25 misdemeanor offenses.

14.26 (f) A child care ~~staff person~~ background study subject shall be disqualified ~~as long as if~~
 14.27 the individual is registered, or required to be registered, on a state sex offender registry ~~or~~
 14.28 ~~repository or the National Sex Offender Registry~~.

14.29 **Sec. 15. DIRECTION TO COMMISSIONER; FINGERPRINT DATA**
 14.30 **NOTIFICATION.**

14.31 The commissioner of human services shall notify all background study subjects under
 14.32 Minnesota Statutes, chapter 245C, that the Department of Human Services, Department of
 14.33 Public Safety, and the Bureau of Criminal Apprehension do not retain fingerprint data after

15.1 a background study is completed, and that the Federal Bureau of Investigation only retains
15.2 the fingerprints of subjects who have a criminal history.

15.3 **EFFECTIVE DATE.** This section is effective for background studies completed on or
15.4 after October 1, 2018.

15.5 Sec. 16. **REVISOR'S INSTRUCTION.**

15.6 The revisor of statutes shall change the term "child care staff person" and similar terms
15.7 to "child care background study subject" wherever the terms appear in Minnesota Statutes,
15.8 chapter 245C. The revisor shall also make grammatical changes related to the changes in
15.9 terms.