

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 454

(SENATE AUTHORS: EKEN)

| DATE | D-PG | OFFICIAL STATUS |
|------------|------|--|
| 01/24/2019 | 159 | Introduction and first reading |
| | | Referred to Human Services Reform Finance and Policy |
| 02/11/2019 | 315a | Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy |

- 1.1 A bill for an act
- 1.2 relating to human services; modifying certain background study requirements;
- 1.3 amending Minnesota Statutes 2018, sections 245C.08, subdivisions 1, 3; 245C.10,
- 1.4 by adding a subdivision.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2018, section 245C.08, subdivision 1, is amended to read:
- 1.7 Subdivision 1. **Background studies conducted by Department of Human Services.** (a)
- 1.8 For a background study conducted by the Department of Human Services, the commissioner
- 1.9 shall review:
- 1.10 (1) information related to names of substantiated perpetrators of maltreatment of
- 1.11 vulnerable adults that has been received by the commissioner as required under section
- 1.12 626.557, subdivision 9c, paragraph (j);
- 1.13 (2) the commissioner's records relating to the maltreatment of minors in licensed
- 1.14 programs, and from findings of maltreatment of minors as indicated through the social
- 1.15 service information system;
- 1.16 (3) information from juvenile courts as required in subdivision 4 for individuals listed
- 1.17 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;
- 1.18 (4) information from the Bureau of Criminal Apprehension, including information
- 1.19 regarding a background study subject's registration in Minnesota as a predatory offender
- 1.20 under section 243.166;
- 1.21 (5) except as provided in ~~clause~~ clauses (6) and (8), information received as a result of
- 1.22 submission of fingerprints for a national criminal history record check, as defined in section

2.1 245C.02, subdivision 13c, when the commissioner has reasonable cause for a national
2.2 criminal history record check as defined under section 245C.02, subdivision 15a, or as
2.3 required under section 144.057, subdivision 1, clause (2);

2.4 (6) for a background study related to a child foster care application for licensure, a
2.5 transfer of permanent legal and physical custody of a child under sections 260C.503 to
2.6 260C.515, or adoptions, and for a background study required for family child care, certified
2.7 license-exempt child care, child care centers, and legal nonlicensed child care authorized
2.8 under chapter 119B, the commissioner shall also review:

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

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

2.14 (7) for a background study required for family child care, certified license-exempt child
2.15 care centers, licensed child care centers, and legal nonlicensed child care authorized under
2.16 chapter 119B, the background study shall also include, to the extent practicable, a name
2.17 and date-of-birth search of the National Sex Offender Public website; and

2.18 (8) for a background study related to a home and community-based services provider
2.19 licensed under chapter 245D, the commissioner shall also conduct a national criminal history
2.20 record check, and review information from the criminal, maltreatment, and sex offender
2.21 registries for any state in which the background study subject resided.

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

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

2.30 (d) When the commissioner has reasonable cause to believe that the identity of a
2.31 background study subject is uncertain, the commissioner may require the subject to provide
2.32 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check
2.33 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph

3.1 shall not be saved by the commissioner after they have been used to verify the identity of
3.2 the background study subject against the particular criminal record in question.

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

3.5 **EFFECTIVE DATE.** This section is effective for background studies requested on or
3.6 after October 1, 2019.

3.7 Sec. 2. Minnesota Statutes 2018, section 245C.08, subdivision 3, is amended to read:

3.8 Subd. 3. **Arrest and investigative information.** (a) For any background study completed
3.9 under this section, if the commissioner has reasonable cause to believe the information is
3.10 pertinent to the disqualification of an individual, the commissioner also may review arrest
3.11 and investigative information from:

3.12 (1) the Bureau of Criminal Apprehension;

3.13 (2) the ~~commissioner~~ commissioners of health and human services;

3.14 (3) a county attorney;

3.15 (4) a county sheriff;

3.16 (5) a county agency;

3.17 (6) a local chief of police;

3.18 (7) other states;

3.19 (8) the courts;

3.20 (9) the Federal Bureau of Investigation;

3.21 (10) the National Criminal Records Repository; and

3.22 (11) criminal records from other states.

3.23 (b) Except when specifically required by law, the commissioner is not required to conduct
3.24 more than one review of a subject's records from the Federal Bureau of Investigation if a
3.25 review of the subject's criminal history with the Federal Bureau of Investigation has already
3.26 been completed by the commissioner and there has been no break in the subject's affiliation
3.27 with the ~~license holder~~ entity who initiated the background study.

3.28 (c) If the commissioner conducts a national criminal history record check when required
3.29 by law and exclusively uses the relevant information under paragraph (a), clauses (9) and
3.30 (10), to make a disqualification determination:

4.1 (1) this data is private and it cannot be shared with county agencies, private agencies,
4.2 or prospective employers of the study subject; and

4.3 (2) the license holder or other entity that submitted the study is not required to obtain a
4.4 copy of the study subject's disqualification letter under section 245C.17, subdivision 3.

4.5 **EFFECTIVE DATE.** This section is effective for background studies requested on or
4.6 after October 1, 2019.

4.7 Sec. 3. Minnesota Statutes 2018, section 245C.10, is amended by adding a subdivision to
4.8 read:

4.9 Subd. 14. **Home and community-based services.** Notwithstanding subdivision 9, the
4.10 commissioner shall recover the cost of background studies required under section 245C.03,
4.11 subdivision 1, for a home and community-based services provider licensed under chapter
4.12 245D, through a fee of no more than \$..... per study charged to the license holder. The fees
4.13 collected under this subdivision are appropriated to the commissioner for the purpose of
4.14 conducting background studies.

4.15 **EFFECTIVE DATE.** This section is effective for background studies requested on or
4.16 after October 1, 2019.