

245C.03 BACKGROUND STUDY; INDIVIDUALS TO BE STUDIED.

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

- (1) the person or persons applying for a license;
 - (2) an individual age 13 and over living in the household where the licensed program will be provided who is not receiving licensed services from the program;
 - (3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
 - (4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);
 - (5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause;
 - (6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause;
 - (7) all controlling individuals as defined in section 245A.02, subdivision 5a; and
 - (8) child care staff persons as defined in section 245C.02, subdivision 6a.
- (b) Paragraph (a), clauses (5) and (6), apply to legal nonlicensed child care and certified license-exempt child care programs.
- (c) For child foster care when the license holder resides in the home where foster care services are provided, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

[See Note.]

Subd. 2. **Personal care provider organizations.** The commissioner shall conduct background studies on any individual required under sections 256B.0651 to 256B.0654 and 256B.0659 to have a background study completed under this chapter.

Subd. 3. **Supplemental nursing services agencies.** The commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1.

Subd. 4. **Personnel agencies; educational programs; professional services agencies.** The commissioner also may conduct studies on individuals specified in subdivision 1, paragraph (a), clauses (3) and (4), when the studies are initiated by:

- (1) personnel pool agencies;
 - (2) temporary personnel agencies;
 - (3) educational programs that train individuals by providing direct contact services in licensed programs;
- and

(4) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Subd. 5. **Other state agencies.** The commissioner shall conduct background studies on applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this chapter, including the applicant's or license holder's employees, contractors, and volunteers when required under other statutory sections.

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** The commissioner shall conduct background studies on any individual required under section 256B.4912 to have a background study completed under this chapter.

Subd. 6a. **Legal nonlicensed and certified child care programs.** The commissioner shall conduct background studies on an individual required under sections 119B.125 and 245H.10 to complete a background study under this chapter.

Subd. 7. **Children's therapeutic services and supports providers.** The commissioner shall conduct background studies according to this chapter when initiated by a children's therapeutic services and supports provider under section 256B.0943.

Subd. 8. **Self-initiated background studies.** Upon implementation of NETStudy 2.0, the commissioner shall conduct background studies according to this chapter when initiated by an individual who is not on the master roster. A subject under this subdivision who is not disqualified must be placed on the inactive roster.

Subd. 9. **Community first services and supports organizations.** The commissioner shall conduct background studies on any individual required under section 256B.85 to have a background study completed under this chapter.

Subd. 10. **Providers of group residential housing or supplementary services.** The commissioner shall conduct background studies on any individual required under section 256I.04 to have a background study completed under this chapter.

Subd. 11. **Child protection workers or social services staff having responsibility for child protective duties.** (a) The commissioner must complete background studies, according to paragraph (b) and section 245C.04, subdivision 10, when initiated by a county social services agency or by a local welfare agency according to section 626.559, subdivision 1b.

(b) For background studies completed by the commissioner under this subdivision, the commissioner shall not make a disqualification decision, but shall provide the background study information received to the county that initiated the study.

Subd. 12. **Providers of special transportation service.** The commissioner shall conduct background studies on any individual required under section 174.30 to have a background study completed under this chapter.

History: 2003 c 15 art 1 s 3; 2004 c 288 art 1 s 39,40; 1Sp2005 c 4 art 1 s 26; 2009 c 79 art 6 s 3; 2009 c 142 art 3 s 1; 2009 c 173 art 1 s 4; 1Sp2011 c 9 art 3 s 2; 2012 c 216 art 16 s 16; 2014 c 250 s 5,6; 2014 c 262 art 4 s 9; art 5 s 6; 2014 c 312 art 26 s 1; 2015 c 21 art 1 s 48; 2015 c 71 art 1 s 3,4; art 11 s 8; 2017 c 90 s 2; 1Sp2017 c 6 art 16 s 19,20,68

NOTE: The amendment to subdivision 1 by Laws 2017, First Special Session chapter 6, article 16, section 19, is effective when the Department of Human Services implements NETStudy 2.0 or October 1, 2017, whichever is later. The commissioner of human services shall notify the revisor of statutes when the department implements NETStudy 2.0. Laws 2017, First Special Session chapter 6, article 16, section 19, the effective date.