

**245C.02 DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Access to persons served by a program.** "Access to persons served by a program" means physical access to persons receiving services, access to the persons' personal property, or access to the persons' personal, financial, or health information, without continuous, direct supervision, as defined in subdivision 8.

Subd. 3. **Annual or annually.** "Annual" or "annually" has the meaning given in section 245A.02, subdivision 2b.

Subd. 4. **Applicant.** "Applicant" has the meaning given in section 245A.02, subdivision 3.

Subd. 4a. **Authorized fingerprint collection vendor.** "Authorized fingerprint collection vendor" means a qualified organization under a written contract with the commissioner to provide services in accordance with section 245C.05, subdivision 5, paragraph (d).

Subd. 5. **Background study.** "Background study" means the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program and, where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program.

Subd. 6. **Child.** "Child" has the meaning given in section 245A.02, subdivision 4.

Subd. 6a. **Child care staff person.** "Child care staff person" means an individual other than an individual who is related to all children for whom child care services are provided and:

- (1) who is employed by a child care provider for compensation;
- (2) whose activities involve the care or supervision of a child for a child care provider or unsupervised access to a child who is cared for or supervised by a child care provider; or
- (3) an individual 13 years of age or older residing in a licensed family child care home or legal nonlicensed child care program.

Subd. 7. **Commissioner.** "Commissioner" has the meaning given in section 245A.02, subdivision 5.

Subd. 8. **Continuous, direct supervision.** "Continuous, direct supervision" means an individual is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the persons served by the program.

Subd. 9. **Contractor.** "Contractor" means any individual, regardless of employer, who is providing program services for hire under the control of the provider.

Subd. 9a. **Conviction.** "Conviction" has the meaning given in section 609.02, subdivision 5.

Subd. 10. **County agency.** "County agency" has the meaning given in section 245A.02, subdivision 6.

Subd. 11. **Direct contact.** "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program.

Subd. 12. **License.** "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 13. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 13a. **NETStudy.** "NETStudy" means the commissioner's online system implemented in July 2004 and used by entities for submitting background study requests required under this chapter.

Subd. 13b. **NETStudy 2.0.** "NETStudy 2.0" means the commissioner's system that replaces both NETStudy and the department's internal background study processing system. NETStudy 2.0 is designed to enhance protection of children and vulnerable adults by improving the accuracy of background studies through fingerprint-based criminal record checks and expanding the background studies to include a review of information from the Minnesota Court Information System and the national crime information database. NETStudy 2.0 is also designed to increase efficiencies in and the speed of the hiring process by:

- (1) providing access to and updates from public Web-based data related to employment eligibility;
- (2) decreasing the need for repeat studies through electronic updates of background study subjects' criminal records;
- (3) supporting identity verification using subjects' Social Security numbers and photographs;
- (4) using electronic employer notifications; and
- (5) issuing immediate verification of subjects' eligibility to provide services as more studies are completed under the NETStudy 2.0 system.

Subd. 14. **Person.** "Person" means a child as defined in subdivision 6 or an adult as defined in section 245A.02, subdivision 2.

Subd. 14a. **Private agency.** "Private agency" has the meaning given in section 245A.02, subdivision 12.

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

Subd. 16. **Recurring maltreatment.** "Recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred and that the subject was responsible for the maltreatment.

Subd. 17. [Repealed, 2004 c 288 art 1 s 83]

Subd. 17a. **Roster.** (a) "Roster" means the electronic method used to identify the entity or entities required to conduct background studies under this chapter with which a background subject is affiliated. There are three types of rosters: active roster, inactive roster, and master roster.

(b) "Active roster" means the list of individuals specific to an entity who have been determined eligible under this chapter to provide services for the entity and who the entity has identified as affiliated. An individual shall remain on the entity's active roster and is considered affiliated until the commissioner determines the individual is ineligible or the entity removes the individual from the entity's active roster.

(c) "Inactive roster" means the list maintained by the commissioner of individuals who are eligible under this chapter to provide services and are not on an active roster. Individuals shall remain on the inactive roster

for no more than 180 consecutive days, unless the individual submits a written request to the commissioner requesting to remain on the inactive roster for a longer period of time. Upon the commissioner's receipt of information that may cause an individual on the inactive roster to be disqualified under this chapter, the commissioner shall remove the individual from the inactive roster, and if the individual again seeks a position requiring a background study, the individual shall be required to complete a new background study.

(d) "Master roster" means the list maintained by the commissioner of all individuals who, as a result of a background study under this chapter, and regardless of affiliation with an entity, are determined by the commissioner to be eligible to provide services for one or more entities. The master roster includes all background study subjects on rosters under paragraphs (b) and (c).

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

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

- (1) diagnostic testing, assessment, or observation;
- (2) the application of, recommendation to use, or prescription solely for a remedy that is available over the counter without a prescription; or
- (3) a prescription solely for a topical antibiotic to treat burns when there is no follow-up appointment.

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

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

Subd. 19. **Subject of a background study.** "Subject of a background study" means an individual on whom a background study is required or completed.

**History:** 2003 c 15 art 1 s 2; 2004 c 288 art 1 s 38; 2007 c 112 s 26; 2007 c 147 art 3 s 5; 2010 c 329 art 1 s 14; 2014 c 250 s 1-4; 2015 c 78 art 4 s 33; 1Sp2017 c 6 art 16 s 18