CHAPTER 245C

HUMAN SERVICES BACKGROUND STUDIES

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245C.01 TITLE.

This chapter may be cited as the "Department of Human Services Background Studies Act."

History: *2003 c 15 art 1 s 1*

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. 2a. **Alternative background study.** "Alternative background study" means:

(1) the collection and processing of a background study subject's fingerprints, including the process of obtaining a background study subject's classifiable fingerprints and photograph as required by section 245C.05, subdivision 5, paragraph (c); and

(2) a review of records conducted by the commissioner pursuant to section 245C.08 in order to forward the background study investigating information to the entity that submitted the alternative background study request under section 245C.031, subdivision 2. The commissioner shall not make any eligibility determinations on background studies conducted under section 245C.031.

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 (c).

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 and from working in a children's residential facility or foster residence setting.

Subd. 5a. MS 2020 [Renumbered subd 12a]

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

Subd. 6a. **Child care background study subject.** (a) "Child care background study subject" means an individual who is affiliated with a licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 142E, and who is:

(1) employed by a child care provider for compensation;

(2) assisting in the care of a child for a child care provider;

(3) a person applying for licensure, certification, or enrollment;

(4) a controlling individual as defined in section 245A.02, subdivision 5a;

(5) an individual 13 years of age or older who lives in the household where the licensed program will be provided and who is not receiving licensed services from the program;

(6) an individual ten to 12 years of age who lives in the household where the licensed services will be provided when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;

(7) an individual who, without providing direct contact services at a licensed program, certified program, or program authorized under chapter 142E, may have unsupervised access to a child receiving services from a program when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;

(8) a volunteer, contractor providing services for hire in the program, prospective employee, or other individual who has unsupervised physical access to a child served by a program and who is not under

supervision by an individual listed in clause (1) or (5), regardless of whether the individual provides program services; or

(9) an authorized agent in a license-exempt certified child care center as defined in section 142C.01, subdivision 3.

(b) Notwithstanding paragraph (a), an individual who is providing services that are not part of the child care program is not required to have a background study if:

(1) the child receiving services is signed out of the child care program for the duration that the services are provided;

(2) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 142E has obtained advanced written permission from the parent authorizing the child to receive the services, which is maintained in the child's record;

(3) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 142E maintains documentation on site that identifies the individual service provider and the services being provided; and

(4) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 142E ensures that the service provider does not have unsupervised access to a child not receiving the provider's services.

Subd. 6b. **Children's residential facility.** "Children's residential facility" means a children's residential facility licensed by the commissioner of corrections or the commissioner of human services under Minnesota Rules, chapter 2960.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 7a. **Conservator.** "Conservator" has the meaning given in section 524.1-201, clause (10), and includes proposed and current conservators.

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. MS 2022 [Repealed, 2023 c 70 art 17 s 63]

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. 11a. MS 2020 [Renumbered subd 11d]

Subd. 11b. MS 2020 [Renumbered subd 11e]

Subd. 11c. [Renumbered 245C.02, subd 11g]

Subd. 11d. [Renumbered 245C.02, subd 11h]

Subd. 11e. [Renumbered 245C.02, subd 11i]

Subd. 11f. **Employee.** "Employee" means an individual who provides services or seeks to provide services for or through the entity with which they are required to be affiliated in NETStudy 2.0 and who is subject to oversight by the entity, which includes but is not limited to continuous, direct supervision by the entity and being subject to immediate removal from providing direct contact services by the entity when required. This subdivision does not apply to child care background study subjects under subdivision 6a.

Subd. 11g. **Entity.** "Entity" means any program, organization, license holder, or agency required to initiate or submit a background study.

Subd. 11g. [Renumbered 245C.02, subd 11j]

Subd. 11h. **Foster family setting.** "Foster family setting" has the meaning given in Minnesota Rules, part 2960.3010, subpart 23.

Subd. 11i. **Foster residence setting.** "Foster residence setting" has the meaning given in Minnesota Rules, part 2960.3010, subpart 26, and includes settings licensed by the commissioner of corrections or the commissioner of human services.

Subd. 11j. **Guardian.** "Guardian" has the meaning given in section 524.1-201, clause (27), and includes proposed and current guardians.

Subd. 12. **License.** "License" means a certificate issued by the commissioner of human services; children, youth, and families; corrections; or health authorizing the license holder to provide a specified program for a specified period of time and in accordance with the terms of the license and the rules of the commissioner issuing the license.

Subd. 12a. **License-exempt child care center certification holder.** "License-exempt child care center certification holder" has the meaning given for "certification holder" in section 142C.01, subdivision 5.

Subd. 13. **License holder.** "License holder" means an individual, organization, or government entity that is legally responsible for the operation of the program or service and has been granted a license by the commissioner of human services; children, youth, and families; corrections; or health.

Subd. 13a. MS 2020 [Renumbered subd 13d]

Subd. 13b. MS 2020 [Renumbered subd 13e]

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

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

Subd. 13d. **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. 13e. **NETStudy 2.0.** (a) "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;

(5) issuing immediate verification of subjects' eligibility to provide services as more studies are completed under the NETStudy 2.0 system; and

(6) providing electronic access to certain notices for entities and background study subjects.

(b) Information obtained by entities from public web-based data through NETStudy 2.0 under paragraph (a), clause (1), or any other source that is not direct correspondence from the commissioner is not a notice of disqualification from the commissioner under this chapter.

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 142B.01, subdivision 22.

Subd. 14b. MS 2022 [Repealed, 2023 c 70 art 7 s 47]

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

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

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

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

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

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

(c) Reasonable cause to require a national criminal history check does not apply to family child foster care, adoption, family adult day services, or adult foster care studies.

[See Note.]

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. 16a. **Results.** "Results" means a determination that a study subject is eligible, disqualified, set aside, granted a variance, or that more time is needed to complete the background study.

Subd. 16b. **Relative.** "Relative" has the meaning given in section 260C.007, subdivision 27. For purposes of background studies affiliated with child foster care licensure, a person is a relative if the person was known to the child or the child's parent before the child is placed in foster care.

Subd. 17. MS 2003 Supp [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, advanced practice registered nurse, or physician assistant whether or not the care of a physician, advanced practice registered nurse, or physician assistant was sought, abuse resulting in serious injury, or financial exploitation of a vulnerable adult if the value of the funds or property is $1,000 or greater.

(b) For purposes of this definition, "care of a physician, advanced practice registered nurse, or physician assistant" is treatment received or ordered by a physician, physician assistant, or advanced practice registered nurse, 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.

Subd. 20. **Substance use disorder treatment field.** "Substance use disorder treatment field" means a program exclusively serving individuals 18 years of age and older and that is required to be:

(1) licensed under chapter 245G; or

(2) registered under section 157.17 as a board and lodge establishment that predominantly serves individuals being treated for or recovering from a substance use disorder.

Subd. 21. **Title IV-E eligible.** "Title IV-E eligible" means a children's residential facility or foster residence setting that is designated by the commissioner as eligible to receive Title IV-E payments for a child placed at the children's residential facility or foster residence setting.

Subd. 22. **Volunteer.** "Volunteer" means an individual who:

(1) provides or seeks to provide services for or through an entity without direct compensation for services provided or resides in the home where services are being provided;

(2) is required to be affiliated in NETStudy 2.0 with the entity; and

(3) is subject to oversight by the entity, including but not limited to continuous, direct supervision and immediate removal from providing direct contact services when required.

This subdivision does not apply to child care background study subjects under subdivision 6a.

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; 2018 c 166 s 1-5; 1Sp2019 c 9 art 2 s 61-64; 2020 c 115 art 4 s 79; 1Sp2020 c 2 art 5 s 5-8; 1Sp2021 c 7 art 2 s 11-16,85; 2022 c 58 s 100,170; 2023 c 70 art 7 s 2-4; art 17 s 20-23,61; 2024 c 80 art 2 s 74; art 3 s 3; art 5 s 7; art 8 s 10; 2024 c 115 art 16 s 41; art 19 s 10; 2024 c 127 art 62 s 14; 2025 c 20 s 201; 2025 c 21 s 38-40; 1Sp2025 c 3 art 10 s 7; art 16 s 3; 2026 c 121 art 4 s 12; art 5 s 1*

NOTE: The amendment to subdivision 15a by Laws 2025, First Special Session chapter 3, article 16, section 3, is effective upon implementation in NETStudy 2.0. The commissioner of human services shall notify the revisor of statutes when the commissioner implements the changes in NETStudy 2.0. Laws 2025, First Special Session chapter 3, article 16, section 3, the effective date.

NOTE: The amendment to subdivision 15a by Laws 2026, chapter 121, article 5, section 1, is effective January 25, 2028. Laws 2026, chapter 121, article 5, section 1, the effective date.

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

Subdivision 1. **Programs licensed by the commissioner.** (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 of the applicant or license holder 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 as defined in section 245C.02, subdivision 15;

(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 as defined in section 245C.02, subdivision 15;

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

(8) notwithstanding clause (3), for children's residential facilities and foster residence settings, any adult working in the facility, whether or not the individual will have direct contact with persons served by the facility.

(b) 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.

(c) This subdivision applies to the following programs that must be licensed under chapter 245A:

(1) adult foster care;

(2) children's residential facilities;

(3) licensed home and community-based services under chapter 245D;

(4) residential mental health programs for adults;

(5) substance use disorder treatment programs under chapter 245G;

(6) withdrawal management programs under chapter 245F;

(7) adult day care centers;

(8) family adult day services;

(9) detoxification programs;

(10) community residential settings;

(11) intensive residential treatment services and residential crisis stabilization under chapter 245I;

(12) treatment programs for persons with sexual psychopathic personality or sexually dangerous persons, licensed under chapter 245A and according to Minnesota Rules, parts 9515.3000 to 9515.3110;

(13) children's foster residence settings;

(14) adult rehabilitative mental health services under chapter 245I;

(15) certified community behavioral health clinic services under chapter 245I;

(16) children's therapeutic services and supports under chapter 245I; and

(17) crisis response services under chapter 245I.

[See Note.]

Subd. 1a. **Procedure.** (a) Individuals and organizations that are required under this section to have or initiate background studies shall comply with the requirements of this chapter.

(b) All studies conducted under this section shall be conducted according to sections 299C.60 to 299C.64, including the consent and self-disclosure required in section 299C.62, subdivision 2. This requirement does not apply to subdivisions 1, paragraph (c), clauses (2) to (5), and 6a.

(c) All data obtained by the commissioner for a background study completed under this section is classified as private data on individuals, as defined in section 13.02, subdivision 12.

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. 3a. **Personal care assistance provider agency; background studies.** Personal care assistance provider agencies enrolled to provide personal care assistance services under the medical assistance program must meet the following requirements:

(1) owners who have a five percent interest or more, board members, and all managing employees are subject to a background study as provided in this chapter. This requirement applies to currently enrolled personal care assistance provider agencies and agencies seeking enrollment as a personal care assistance provider agency. "Managing employee" has the same meaning as in Code of Federal Regulations, title 42, section 455.101. An organization is barred from enrollment if:

(i) the organization has not initiated background studies of owners and managing employees; or

(ii) the organization has initiated background studies of owners and managing employees and the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified under section 245C.14, and the owner or managing employee has not received a set aside of the disqualification under section 245C.22; and

(2) a background study must be initiated and completed for all employee and volunteer qualified professionals.

Subd. 3b. **Exception to personal care assistant; requirements.** The personal care assistant for a recipient may be allowed to enroll with a different personal care assistance provider agency upon initiation of a new background study according to this chapter if:

(1) the commissioner determines that a change in enrollment or affiliation of the personal care assistant is needed in order to ensure continuity of services and protect the health and safety of the recipient;

(2) the chosen agency has been continuously enrolled as a personal care assistance provider agency for at least two years;

(3) the recipient chooses to transfer to the personal care assistance provider agency;

(4) the personal care assistant has been continuously enrolled with the former personal care assistance provider agency since the last background study was completed; and

(5) the personal care assistant continues to meet requirements of section 256B.0659, subdivision 11, notwithstanding paragraph (a), clause (3).

Subd. 4. **Personnel pool agencies; temporary personnel agencies; educational programs; professional services agencies.** (a) 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 that work with licensed programs to provide direct contact services or individuals who provide direct contact services.

(b) Personnel pool agencies, temporary personnel agencies, and professional services agencies must employ the individuals providing direct care services for children, people with disabilities, or the elderly. Individuals must be affiliated in NETStudy 2.0 and subject to oversight by the entity, which includes but is not limited to continuous, direct supervision by the entity and being subject to immediate removal from providing direct care services when required.

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 and volunteers when required under other statutory sections.

Subd. 5a. **Facilities serving children or adults licensed or regulated by the Department of Health.** (a) Except as specified in paragraph (b), the commissioner shall conduct background studies of:

(1) individuals providing services who have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; assisted living facilities and assisted living facilities with dementia care licensed under chapter 144G; and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in subdivision 2 who provide direct contact services in a nursing home or a home care agency licensed under chapter 144A; an assisted living facility or assisted living facility with dementia care licensed under chapter 144G; or a boarding care home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides outside of Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the state makes the information available;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact with or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities;

(5) controlling persons of a supplemental nursing services agency, as defined by section 144A.70; and

(6) license applicants, owners, managerial officials, and controlling individuals who are required under section 144A.476, subdivision 1, or 144G.13, subdivision 1, to undergo a background study under this chapter, regardless of the licensure status of the license applicant, owner, managerial official, or controlling individual.

(b) An entity shall not initiate a background study on any individual identified in paragraph (a), clauses (1) to (5), if the individual has a valid license issued by a health-related licensing board as defined in section 214.01, subdivision 2, and has completed the criminal background check as required in section 214.075. An entity that is affiliated with individuals who meet the requirements of this paragraph must separate those individuals from the entity's roster for NETStudy 2.0. The Department of Human Services is not liable for conducting background studies that have been submitted or not removed from the roster in violation of this provision.

(c) If a facility or program is licensed by the Department of Human Services and the Department of Health and is subject to the background study provisions of this chapter, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed program.

(d) The commissioner of health shall review and make decisions regarding reconsideration requests, including whether to grant variances, according to the procedures and criteria in this chapter. The commissioner of health shall inform the requesting individual and the Department of Human Services of the commissioner of health's decision regarding the reconsideration. The commissioner of health's decision to grant or deny a reconsideration of a disqualification is a final administrative agency action.

Subd. 5b. **Facilities serving children or youth licensed by the Department of Corrections.** (a) The commissioner shall conduct background studies of individuals working in secure and nonsecure children's residential facilities, juvenile detention facilities, and foster residence settings, whether or not the individual will have direct contact, as defined under section 245C.02, subdivision 11, with persons served in the facilities or settings.

(b) A clerk or administrator of any court, the Bureau of Criminal Apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department shall assist in conducting background studies by providing the commissioner of human services or the commissioner's representative all criminal conviction data available from local and state criminal history record repositories related to applicants, operators, all persons living in a household, and all staff of any facility subject to background studies under this subdivision.

(c) For the purpose of this subdivision, the term "secure and nonsecure residential facility and detention facility" includes programs licensed or certified under section 241.021, subdivision 2.

(d) If an individual is disqualified, the Department of Human Services shall notify the disqualified individual and the facility in which the disqualified individual provides services of the disqualification and shall inform the disqualified individual of the right to request a reconsideration of the disqualification by submitting the request to the Department of Corrections.

(e) The commissioner of corrections shall review and make decisions regarding reconsideration requests, including whether to grant variances, according to the procedures and criteria in this chapter. The commissioner of corrections shall inform the requesting individual and the Department of Human Services of the commissioner of corrections' decision regarding the reconsideration. The commissioner of corrections' decision to grant or deny a reconsideration of a disqualification is the final administrative agency action.

Subd. 5c. **Programs licensed or regulated by the Department of Children, Youth, and Families.** (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 of the applicant or license holder 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 as defined in section 245C.02, subdivision 15;

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

(7) all controlling individuals as defined in section 142B.01, subdivision 11; and

(8) notwithstanding the other requirements in this subdivision, child care background study subjects as defined in section 245C.02, subdivision 6a.

(b) 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.

(c) This subdivision applies to the following programs:

(1) a child foster care program licensed or seeking a license under chapter 142B;

(2) a child care center licensed or seeking a license under chapter 142B;

(3) a license-exempt child care center certified under chapter 142C;

(4) a legal nonlicensed child care provider authorized under chapter 142E; or

(5) a Head Start program.

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) For providers of services specified in the federally approved home and community-based waiver plans under section 256B.4912, the commissioner shall conduct background studies on any individual who is an owner with at least a five percent ownership stake in the provider, an operator of the provider, or an employee or volunteer for the provider who has direct contact with people receiving the services. The individual studied must meet the requirements of this chapter prior to providing waiver services and as part of ongoing enrollment.

(b) The requirements in paragraph (a) apply to consumer-directed community supports under section 256B.4911.

(c) For purposes of this section, "operator" includes but is not limited to a managerial officer who oversees the billing, management, or policies of the services provided.

Subd. 6a. **Legal nonlicensed and certified child care programs.** The commissioner shall conduct background studies for each child care background study subject as defined in section 245C.02, subdivision 6a, as required by sections 142C.09 and 142E.16.

Subd. 7. **Children's therapeutic services and supports providers.** The commissioner shall conduct background studies of all direct service providers and volunteers for children's therapeutic services and supports providers under section 256B.0943.

[See Note.]

Subd. 8. MS 2020 [Repealed by amendment, 1Sp2021 c 7 art 2 s 17]

Subd. 9. **Community first services and supports and financial management services organizations.** Individuals affiliated with Community First Services and Supports (CFSS) agency-providers and Financial Management Services (FMS) providers enrolled to provide CFSS services under the medical assistance program must meet the following requirements:

(1) owners who have a five percent interest or more, board members, and all managing employees are subject to a background study under this chapter. This requirement applies to currently enrolled providers and agencies seeking enrollment. "Managing employee" has the meaning given in Code of Federal Regulations, title 42, section 455.101. An organization is barred from enrollment if:

(i) the organization has not initiated background studies of owners and managing employees; or

(ii) the organization has initiated background studies of owners and managing employees and the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified under section 245C.14 and the owner or managing employee has not received a set aside of the disqualification under section 245C.22;

(2) a background study must be initiated and completed for all employees or volunteers who will have direct contact with the participant to provide worker training and development; and

(3) a background study must be initiated and completed for all employee and volunteer support workers.

Subd. 9a. **Exception to support worker requirements for continuity of services.** The support worker for a participant may enroll with a different Community First Services and Supports (CFSS) agency-provider or Financial Management Services (FMS) provider upon initiation, rather than completion, of a new background study according to this chapter if:

(1) the commissioner determines that the support worker's change in enrollment or affiliation is necessary to ensure continuity of services and to protect the health and safety of the participant;

(2) the chosen agency-provider or FMS provider has been continuously enrolled as a CFSS agency-provider or FMS provider for at least two years or since the inception of the CFSS program, whichever is shorter;

(3) the participant served by the support worker chooses to transfer to the CFSS agency-provider or the FMS provider to which the support worker is transferring;

(4) the support worker has been continuously enrolled with the former CFSS agency-provider or FMS provider since the support worker's last background study was completed; and

(5) the support worker continues to meet the requirements of section 256B.85, subdivision 16, notwithstanding paragraph (a), clause (1).

Subd. 10. **Providers of housing support or supplementary services.** (a) The commissioner shall conduct background studies of the following individuals who provide services under section 256I.04:

(1) controlling individuals as defined in section 245A.02;

(2) managerial officials as defined in section 245A.02; and

(3) all employees and volunteers of the establishment who have direct contact with recipients or who have unsupervised access to recipients, recipients' personal property, or recipients' private data.

(b) The provider of housing support must comply with all requirements for entities initiating background studies under this chapter.

(c) A provider of housing support must demonstrate that all individuals who are required to have a background study according to paragraph (a) have a notice stating that:

(1) the individual is not disqualified under section 245C.14; or

(2) the individual is disqualified and the individual has been issued a set aside of the disqualification for the setting under section 245C.22.

Subd. 11. MS 2020 [Repealed by amendment, 1Sp2021 c 7 art 2 s 17]

Subd. 12. **Providers of special transportation service.** (a) The commissioner shall conduct background studies of the following individuals who provide special transportation services under section 174.30:

(1) each person with a direct or indirect ownership interest of five percent or higher in a transportation service provider;

(2) each controlling individual as defined under section 245A.02;

(3) a managerial official as defined in section 245A.02;

(4) each driver employed by the transportation service provider;

(5) each individual employed by the transportation service provider to assist a passenger during transport; and

(6) each employee of the transportation service agency who provides administrative support, including an employee who:

(i) may have face-to-face contact with or access to passengers, passengers' personal property, or passengers' private data;

(ii) performs any scheduling or dispatching tasks; or

(iii) performs any billing activities.

(b) When a local or contracted agency is authorizing a ride under section 256B.0625, subdivision 17, by a volunteer driver, and the agency authorizing the ride has a reason to believe that the volunteer driver has a history that would disqualify the volunteer driver or that may pose a risk to the health or safety of passengers, the agency may initiate a background study that shall be completed according to this chapter using the commissioner of human services' online NETStudy system, or by contacting the Department of Human Services background study division for assistance. The agency that initiates the background study under this paragraph shall be responsible for providing the volunteer driver with the privacy notice required by section 245C.05, subdivision 2c, and with the payment for the background study required by section 245C.10 before the background study is completed.

Subd. 13. MS 2024 [Repealed, 1Sp2025 c 9 art 7 s 26]

Subd. 14. **Tribal nursing facilities.** For completed background studies to comply with a Tribal organization's licensing requirements for individuals affiliated with a Tribally licensed nursing facility, the commissioner shall obtain state and national criminal history data.

Subd. 15. **Early intensive developmental and behavioral intervention providers.** The commissioner shall conduct background studies according to this chapter on any individual who is an owner with at least a five percent ownership stake in, an operator of, or an employee or volunteer who provides direct contact for early intensive developmental and behavioral intervention services under section 256B.0949. For the purposes of this subdivision, operator includes board members or other individuals who oversee the billing, management, or policies of the services provided.

Subd. 16. **Providers of recuperative care.** The commissioner shall conduct background studies on any individual who is an owner with an ownership stake of at least five percent in a recuperative care provider,

an operator of a recuperative care provider, or an employee or volunteer who has direct contact with people receiving recuperative care services under section 256B.0701.

[See Note.]

Subd. 17. **Providers of adult rehabilitative mental health services.** The commissioner must conduct background studies on any individual who is an owner with an ownership stake of at least five percent in an adult rehabilitative mental health services provider, an operator of an adult rehabilitative mental health services provider, or an employee or volunteer who has direct contact with people receiving adult rehabilitative mental health services under section 256B.0623. For purposes of this subdivision, operator includes board members or other individuals who oversee the billing, management, or policies of the services provided.

[See Note.]

Subd. 18. **Providers of peer recovery support services.** The commissioner shall conduct background studies on any individual who is an owner with an ownership stake of at least five percent in a peer recovery support services provider or an operator of a peer recovery support services provider under section 254B.052. For the purposes of this subdivision, "operator" includes board members or other individuals who oversee the billing, management, or policies of the services provided.

[See Note.]

Subd. 19. **Providers of adult assertive community treatment services.** The commissioner must conduct background studies on any individual who is an owner with an ownership stake of at least five percent in an adult assertive community treatment services provider, an operator of an adult assertive community treatment services provider, or an employee or volunteer who has direct contact with people receiving adult assertive community treatment services under section 256B.0622. For purposes of this subdivision, "operator" includes board members or other individuals who oversee the billing, management, or policies of the services provided.

[See Note.]

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; 2018 c 166 s 6; 1Sp2019 c 9 art 2 s 65; 1Sp2020 c 2 art 5 s 9,10; 2021 c 30 art 13 s 83; 1Sp2021 c 7 art 2 s 17; 2022 c 98 art 1 s 62; 2023 c 50 art 4 s 3; 2023 c 70 art 7 s 5,6; art 17 s 24-27; 2024 c 80 art 3 s 3; art 5 s 7; art 8 s 11,12; 1Sp2025 c 9 art 6 s 2; art 7 s 1,2; 2026 c 95 art 4 s 5; 2026 c 121 art 4 s 13; art 5 s 2-6; art 7 s 8*

NOTE: The amendment to subdivision 1 by Laws 2026, chapter 121, article 7, section 8, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

NOTE: Subdivision 7 is repealed by Laws 2026, chapter 121, article 7, section 55, effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

NOTE: Subdivision 16, as added by Laws 2025, First Special Session chapter 9, article 7, section 2, is effective upon implementation in NETStudy 2.0. The commissioner of human services shall notify the revisor of statutes when the commissioner implements the changes in NETStudy 2.0. Laws 2025, First Special Session chapter 9, article 7, section 2, the effective date.

NOTE: Subdivision 17, as added by Laws 2026, chapter 121, article 5, section 4, is effective upon implementation in NETStudy 2.0, but no sooner than October 13, 2026. Laws 2026, chapter 121, article 5, section 4, the effective date.

NOTE: Subdivision 18, as added by Laws 2026, chapter 121, article 5, section 5, is effective upon implementation in NETStudy 2.0, but no sooner than December 15, 2026. Laws 2026, chapter 121, article 5, section 5, the effective date.

NOTE: Subdivision 19, as added by Laws 2026, chapter 121, article 5, section 6, is effective upon implementation in NETStudy 2.0, but no sooner than February 16, 2027. Laws 2026, chapter 121, article 5, section 6, the effective date.

245C.031 BACKGROUND STUDY; ALTERNATIVE BACKGROUND STUDIES.

Subdivision 1. **Alternative background studies.** (a) The commissioner shall conduct an alternative background study of individuals listed in this section.

(b) Notwithstanding other sections of this chapter, all alternative background studies except subdivision 12 shall be conducted according to this section and with sections 299C.60 to 299C.64, including the consent and self-disclosure required in section 299C.62, subdivision 2.

(c) All terms in this section shall have the definitions provided in section 245C.02.

(d) The entity that submits an alternative background study request under this section shall submit the request to the commissioner according to section 245C.05.

(e) The commissioner shall comply with the destruction requirements in section 245C.051.

(f) Background studies conducted under this section are subject to the provisions of section 245C.32.

(g) The commissioner shall forward all information that the commissioner receives under section 245C.08 to the entity that submitted the alternative background study request under subdivision 2. The commissioner shall not make any eligibility determinations regarding background studies conducted under this section.

(h) All data obtained by the commissioner for a background study completed under this section is classified as private data on individuals, as defined in section 13.02, subdivision 12.

Subd. 2. **Access to information.** Each entity that submits an alternative background study request shall enter into an agreement with the commissioner before submitting requests for alternative background studies under this section. As a part of the agreement, the entity must agree to comply with state and federal law.

Subd. 3. **Child protection workers or social services staff having responsibility for child protective duties.** The commissioner shall conduct an alternative background study of any person who has responsibility for child protection duties when the background study is initiated by a county social services agency or by a local welfare agency according to section 260E.36, subdivision 3.

Subd. 4. **Applicants, licensees, and other occupations regulated by the commissioner of health.** The commissioner shall conduct an alternative background study, including a check of state data, and a national criminal history records check of the following individuals. For studies under this section, the following persons shall complete a consent form and criminal history disclosure form:

(1) An applicant for initial licensure, temporary licensure, or relicensure after a lapse in licensure as an audiologist, speech-language pathologist, or speech-language pathologist assistant, or an applicant for initial certification as a hearing instrument dispenser who must submit to a background study under section 144.0572.

(2) An applicant for a renewal license or certificate as an audiologist, speech-language pathologist, or hearing instrument dispenser who was licensed or obtained a certificate before January 1, 2018.

Subd. 5. MS 2022 [Repealed, 2023 c 70 art 7 s 47]

Subd. 6. MS 2022 [Repealed, 2023 c 70 art 7 s 47]

Subd. 7. MS 2022 [Repealed, 2023 c 70 art 7 s 47]

Subd. 8. **Guardians ad litem.** The commissioner shall conduct an alternative background study of:

(1) A guardian ad litem appointed under section 518.165 if a background study of the guardian ad litem has not been completed within the past three years. The background study of the guardian ad litem must be completed before the court appoints the guardian ad litem, unless the court determines that it is in the best interests of the child to appoint the guardian ad litem before a background study is completed by the commissioner.

(2) A guardian ad litem once every three years after the guardian has been appointed, as long as the individual continues to serve as a guardian ad litem.

Subd. 9. **Guardians ad litem; required checks.** (a) An alternative background study for a guardian ad litem under subdivision 8 must include:

(1) criminal history data from the Bureau of Criminal Apprehension and other criminal history data obtained by the commissioner of human services; and

(2) data regarding whether the person has been a perpetrator of substantiated maltreatment of a minor or a vulnerable adult. If the study subject has been determined by the Department of Human Services; the Department of Children, Youth, and Families; or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or a vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section 260E.30 or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated.

(b) For checks of records under paragraph (a), clauses (1) and (2), the commissioner shall provide the records within 15 working days of receiving the request. The information obtained under sections 245C.05 and 245C.08 from a national criminal history records check shall be provided within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 260E.30 or 626.557, subdivision 12b, if the commissioner or county lead agency or lead investigative agency has information that a person of whom a background study was previously completed under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

Subd. 10. **First-time applicants for educator licenses with the Professional Educator Licensing and Standards Board.** The Professional Educator Licensing and Standards Board shall make all eligibility

determinations for alternative background studies conducted under this section for the Professional Educator Licensing and Standards Board. The commissioner may conduct an alternative background study of all first-time applicants for educator licenses pursuant to section 122A.18, subdivision 8. The alternative background study for all first-time applicants for educator licenses must include a review of information from the Bureau of Criminal Apprehension, including criminal history data as defined in section 13.87, and must also include a review of the national criminal records repository.

Subd. 11. **First-time applicants for administrator licenses with the Board of School Administrators.** The Board of School Administrators shall make all eligibility determinations for alternative background studies conducted under this section for the Board of School Administrators. The commissioner may conduct an alternative background study of all first-time applicants for administrator licenses pursuant to section 122A.18, subdivision 8. The alternative background study for all first-time applicants for administrator licenses must include a review of information from the Bureau of Criminal Apprehension, including criminal history data as defined in section 13.87, and must also include a review of the national criminal records repository.

Subd. 12. **Occupations regulated by MNsure.** (a) The commissioner shall conduct a background study of any individual required under section 62V.05 to have a background study completed under this chapter. Notwithstanding subdivision 1, paragraph (g), the commissioner shall conduct a background study only based on Minnesota criminal records of:

(1) each navigator;

(2) each in-person assister; and

(3) each certified application counselor.

(b) The MNsure board of directors may initiate background studies required by paragraph (a) using the online NETStudy 2.0 system operated by the commissioner.

(c) The commissioner shall review information that the commissioner receives to determine if the study subject has potentially disqualifying offenses. The commissioner shall send a letter to the subject indicating any of the subject's potential disqualifications as well as any relevant records. The commissioner shall send a copy of the letter indicating any of the subject's potential disqualifications to the MNsure board.

(d) The MNsure board or its delegate shall review a reconsideration request of an individual in paragraph (a), including granting a set aside, according to the procedures and criteria in chapter 245C. The board shall notify the individual and the Department of Human Services of the board's decision.

History: *1Sp2021 c 7 art 2 s 18; 2023 c 70 art 7 s 7; art 17 s 28,29; 2024 c 127 art 25 s 28; 2025 c 21 s 41*

245C.032 MS 2022 [Repealed, 2023 c 70 art 7 s 47]

245C.033 GUARDIANS AND CONSERVATORS; MALTREATMENT AND STATE LICENSING AGENCY CHECKS.

Subdivision 1. **Maltreatment data.** Requests for maltreatment data submitted pursuant to section 524.5-118 must include information regarding whether the guardian or conservator has been a perpetrator of substantiated maltreatment of a vulnerable adult under section 626.557 or a minor under chapter 260E. If the guardian or conservator has been the perpetrator of substantiated maltreatment of a vulnerable adult or a minor, the commissioner must include a copy of any available public portion of the investigation

memorandum under section 626.557, subdivision 12b, or any available public portion of the investigation memorandum under section 260E.30.

Subd. 2. **State licensing agency data.** (a) Requests for state licensing agency data submitted pursuant to section 524.5-118 must include information from a check of state licensing agency records.

(b) The commissioner shall provide the court with licensing agency data for licenses directly related to the responsibilities of a guardian or conservator if the guardian or conservator has a current or prior affiliation with the:

(1) Lawyers Responsibility Board;

(2) State Board of Accountancy;

(3) Board of Social Work;

(4) Board of Psychology;

(5) Board of Nursing;

(6) Board of Medical Practice;

(7) Department of Education;

(8) Department of Commerce;

(9) Board of Chiropractic Examiners;

(10) Board of Dentistry;

(11) Board of Marriage and Family Therapy;

(12) Department of Human Services;

(13) Department of Children, Youth, and Families;

(14) Peace Officer Standards and Training (POST) Board; or

(15) Professional Educator Licensing and Standards Board.

(c) The commissioner shall provide to the court the electronically available data maintained in the agency's database, including whether the guardian or conservator is or has been licensed by the agency and whether a disciplinary action or a sanction against the individual's license, including a condition, suspension, revocation, or cancellation, is in the licensing agency's database.

Subd. 3. **Procedure; maltreatment and state licensing agency data.** (a) For requests paid directly by the guardian or conservator, requests for maltreatment and state licensing agency data checks must be submitted by the guardian or conservator to the commissioner on the form or in the manner prescribed by the commissioner. Upon receipt of a signed informed consent and payment under section 245C.10, the commissioner shall complete the maltreatment and state licensing agency checks. Upon completion of the checks, the commissioner shall provide the requested information to the courts on the form or in the manner prescribed by the commissioner.

(b) For requests paid by the court based on the in forma pauperis status of the guardian or conservator, requests for maltreatment and state licensing agency data checks must be submitted by the court to the

commissioner on the form or in the manner prescribed by the commissioner. The form will serve as certification that the individual has been granted in forma pauperis status. Upon receipt of a signed data request consent form from the court, the commissioner shall initiate the maltreatment and state licensing agency checks. Upon completion of the checks, the commissioner shall provide the requested information to the courts on the form or in the manner prescribed by the commissioner.

Subd. 4. **Classification of maltreatment and state licensing agency data; access to information.** All data obtained by the commissioner for maltreatment and state licensing agency checks completed under this section is classified as private data on individuals, as defined in section 13.02, subdivision 12.

History: *2023 c 70 art 7 s 8; 2024 c 115 art 19 s 11; 2025 c 21 s 42*

245C.04 WHEN BACKGROUND STUDY MUST OCCUR.

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

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

(c) When a new background study is needed under section 142E.16, subdivision 2, for a legal nonlicensed child care provider authorized under chapter 142E:

(1) for a background study affiliated with a legal nonlicensed child care provider, the individual shall provide information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the commissioner and be fingerprinted and photographed under section 245C.05, subdivision 5; and

(2) the commissioner shall verify the information received under clause (1) and submit the request in NETStudy 2.0 to complete the background study.

(d) At reapplication for a family child care license:

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

(2) the county agency shall verify the information received under clause (1) and forward the information to the commissioner and submit the request in NETStudy 2.0 to complete the background study; and

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

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated, or currently affiliated without a background study that was submitted through the electronic system known as NETStudy 2.0, with a child foster family setting license holder:

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

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

(f) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated, or currently affiliated without a background study that was submitted through the electronic system known as NETStudy 2.0, with an adult foster care or family adult day services and with a family child care license holder or a legal nonlicensed child care provider authorized under chapter 142E and:

(1) except as provided in section 245C.05, subdivision 5a, the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraph (b), for background studies conducted by the commissioner for all family adult day services, for adult foster care when the adult foster care license holder resides in the adult foster care residence, and for family child care and legal nonlicensed child care authorized under chapter 142E;

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

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

(g) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy 2.0 before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

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

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

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

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

(i) For purposes of this section, a physician licensed under chapter 147, advanced practice registered nurse licensed under chapter 148, or physician assistant licensed under chapter 147A is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's, advanced practice registered nurse's, or physician assistant's background study results.

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

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

(l) Before and after school programs authorized under chapter 142E, are exempt from the background study requirements under section 123B.03, for an employee for whom a background study under this chapter has been completed.

Subd. 2. **Other state agencies.** 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 must submit completed background study forms to the commissioner before the background study subject begins in a position allowing direct contact in the licensed program or, where applicable, prior to being employed.

Subd. 3. **Personal care provider organizations.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 2, at least upon application for initial enrollment under sections 256B.0651 to 256B.0654 and 256B.0659.

(b) Organizations required to initiate background studies under sections 256B.0651 to 256B.0654 and 256B.0659 for individuals described in section 245C.03, subdivision 2, must submit a completed background study request to the commissioner using the electronic system known as NETStudy before those individuals begin a position allowing direct contact with persons served by the organization.

(c) Organizations required to initiate background studies under sections 256B.0651 to 256B.0654 and 256B.0659 for individuals described in section 245C.03, subdivision 2, must initiate a new background study through NETStudy when an individual returns to a position requiring a background study following an absence of 120 or more consecutive days.

Subd. 4. **Supplemental nursing services agencies.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 3, at least upon application for registration under section 144A.71, subdivision 1.

(b) Each supplemental nursing services agency must initiate background studies using the electronic system known as NETStudy before an individual begins a position allowing direct contact with persons served by the agency and annually thereafter.

(c) A supplemental nursing services agency that initiates background studies through NETStudy 2.0 is exempt from the requirement to initiate annual background studies under paragraph (b) for individuals who are on the agency's active roster.

Subd. 4a. **Agency background studies; electronic criminal case information updates; rosters; and criteria for eliminating repeat background studies.** (a) The commissioner shall develop and implement an electronic process as a part of NETStudy 2.0 for the regular transfer of new criminal case information that is added to the Minnesota court information system. The commissioner's system must include for review only information that relates to individuals who are on the master roster.

(b) The commissioner shall develop and implement an online system as a part of NETStudy 2.0 for agencies that initiate background studies under this chapter to access and maintain records of background studies initiated by that agency. The system must show all active background study subjects affiliated with that agency and the status of each individual's background study. Each agency that initiates background

studies must use this system to notify the commissioner of discontinued affiliation for purposes of the processes required under paragraph (a).

(c) After an entity initiating a background study has paid the applicable fee for the study and has provided the individual with the privacy notice required under section 245C.05, subdivision 2c, NETStudy 2.0 shall immediately inform the entity whether the individual requires a background study or whether the individual is immediately eligible to provide services based on a previous background study. If the individual is immediately eligible, the entity initiating the background study shall be able to view the information previously supplied by the individual who is the subject of a background study as required under section 245C.05, subdivision 1, including the individual's photograph taken at the time the individual's fingerprints were recorded. The commissioner shall not provide any entity initiating a subsequent background study with information regarding the other entities that initiated background studies on the subject.

(d) Verification that an individual is eligible to provide services based on a previous background study is dependent on the individual voluntarily providing the individual's Social Security number to the commissioner at the time each background study is initiated. When an individual does not provide the individual's Social Security number for the background study, that study is not transferable and a repeat background study on that individual is required if the individual seeks a position requiring a background study under this chapter with another entity.

Subd. 5. **Personnel agencies; educational programs; professional services agencies.** (a) Agencies, programs, and individuals who initiate background studies under section 245C.03, subdivision 4, must initiate the studies annually using the electronic system known as NETStudy.

(b) Agencies, programs, and individuals who initiate background studies through NETStudy 2.0 are exempt from the requirement to initiate annual background studies under paragraph (a) for individuals who are on the agency's or program's active roster.

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) Providers required to initiate background studies under section 245C.03, subdivision 6, must initiate a study using the electronic system known as NETStudy 2.0 before the individual begins in a position allowing direct contact with persons served by the provider. New providers must initiate a study under this subdivision before initial enrollment if the provider has not already initiated background studies as part of the service licensure requirements.

(b) Except as provided in paragraph (c), the providers must initiate a background study annually of an individual required to be studied under section 245C.03, subdivision 6.

(c) After an initial background study under this subdivision is initiated on an individual by a provider of both services licensed by the commissioner and the unlicensed services under this subdivision, a repeat annual background study is not required if:

(1) the provider maintains compliance with the requirements of section 245C.07, paragraph (a), regarding one individual with one address and telephone number as the person to receive sensitive background study information for the multiple programs that depend on the same background study, and that the individual who is designated to receive the sensitive background information is capable of determining, upon the request of the commissioner, whether a background study subject is providing direct contact services in one or more of the provider's programs or services and, if so, at which location or locations; and

(2) the individual who is the subject of the background study provides direct contact services under the provider's licensed program for at least 40 hours per year so the individual will be recognized by a probation

officer or corrections agent to prompt a report to the commissioner regarding criminal convictions as required under section 245C.05, subdivision 7.

Subd. 7. **New study required with legal name change.** (a) For a background study completed on an individual required to be studied under section 245C.03, the license holder or other entity that initiated the background study must initiate a new background study using the electronic system known as NETStudy when an individual who is affiliated with the license holder or other entity undergoes a legal name change.

(b) For background studies subject to a fee paid through the NETStudy system, the entity that initiated the study may initiate a new study under paragraph (a) or notify the commissioner of the name change through a notice to the commissioner.

Subd. 8. **Current or prospective contractors serving multiple family child care license holders.** (a) Before the implementation of NETStudy 2.0, current or prospective contractors who are required to have a background study under section 245C.03, subdivision 1, who provide services for multiple family child care license holders in a single county, and will have direct contact with children served in the family child care setting are required to have only one background study which is transferable to all family child care programs in that county if:

(1) the county agency maintains a record of the contractor's background study results which verify the contractor is approved to have direct contact with children receiving services;

(2) the license holder contacts the county agency and obtains notice that the current or prospective contractor is in compliance with background study requirements and approved to have direct contact; and

(3) the contractor's background study is repeated every two years.

(b) For a family child care license holder operating under NETStudy 2.0, the license holder's active roster shall be the system used to document when a background study subject is affiliated with the license holder.

Subd. 9. **Community first services and supports organizations.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 9, at least upon application for initial enrollment under section 256B.85.

(b) Before an individual described in section 245C.03, subdivision 9, begins a position allowing direct contact with a person served by an organization required to initiate a background study under section 256B.85, the organization must receive a notice from the commissioner that the support worker is:

(1) not disqualified under section 245C.14; or

(2) disqualified, but the individual has received a set-aside of the disqualification under section 245C.22.

Subd. 10. **Child protection workers or social services staff having responsibility for child protective duties.** The commissioner shall conduct background studies of employees of county social services and local welfare agencies having responsibility for child protection duties when the background study is initiated according to section 260E.36, subdivision 3.

Subd. 11. **Children's residential facilities and foster residence settings.** Applicants and license holders for children's residential facilities and foster residence settings must submit a background study request to the commissioner using the electronic system known as NETStudy 2.0:

(1) before the commissioner issues a license to an applicant;

(2) before an individual age 13 or older, who is not currently receiving services from the licensed facility or setting, may live in the licensed program or setting;

(3) before a volunteer has unsupervised direct contact with persons that the program serves;

(4) before an individual becomes a controlling individual as defined in section 245A.02, subdivision 5a;

(5) before an adult, regardless of whether or not the individual will have direct contact with persons served by the facility, begins working in the facility or setting;

(6) when directed to by the commissioner for an individual who resides in the household as described in section 245C.03, subdivision 1, paragraph (a), clause (5); and

(7) when directed to by the commissioner for an individual who may have unsupervised access to children or vulnerable adults as described in section 245C.03, subdivision 1, paragraph (a), clause (6).

Subd. 12. **Early intensive developmental and behavioral intervention providers.** Providers required to initiate background studies under section 245C.03, subdivision 15, must initiate a study using the electronic system known as NETStudy 2.0 before the individual begins in a position allowing direct contact with persons served by the provider or before the individual becomes an operator or acquires five percent or more ownership.

Subd. 13. **Recuperative care providers.** Providers required to initiate background studies under section 245C.03, subdivision 16, must initiate a study using the electronic system known as NETStudy 2.0 before the individual begins in a position allowing direct contact with persons served by the provider, before the individual becomes an operator of the provider, or before the individual acquires an ownership interest of at least five percent in the provider.

History: *2003 c 15 art 1 s 4; 2007 c 147 art 3 s 6; 2009 c 79 art 1 s 8; art 6 s 4; 2009 c 142 art 2 s 23; 2009 c 173 art 1 s 5,6; 2012 c 216 art 16 s 17; 2012 c 247 art 4 s 11; 2013 c 108 art 5 s 3; 2014 c 228 art 5 s 1; 2014 c 250 s 7,8; 2014 c 262 art 4 s 9; art 5 s 3,6; 2014 c 291 art 1 s 5; 2014 c 312 art 26 s 2; 2015 c 71 art 1 s 5; 2015 c 78 art 4 s 34-36; 2017 c 90 s 3; 1Sp2017 c 6 art 16 s 21,22; 2018 c 166 s 7; 2020 c 115 art 4 s 80; 1Sp2020 c 2 art 5 s 11,12; 2022 c 55 art 1 s 126; 2022 c 58 s 101; 2023 c 25 s 126; 2023 c 70 art 7 s 9; 2024 c 80 art 5 s 7; 1Sp2025 c 9 art 6 s 3; art 7 s 3,4; 2026 c 95 art 4 s 6; 2026 c 121 art 4 s 14; 2026 c 127 art 9 s 13*

245C.041 EMERGENCY WAIVER TO TEMPORARILY MODIFY BACKGROUND STUDY REQUIREMENTS.

(a) In the event of an emergency identified by the commissioner, the commissioner may temporarily waive or modify provisions in this chapter, except that the commissioner shall not waive or modify:

(1) disqualification standards in section 245C.14 or 245C.15; or

(2) any provision regarding the scope of individuals required to be subject to a background study conducted under this chapter.

(b) For the purposes of this section, an emergency may include but is not limited to a public health emergency, environmental emergency, natural disaster, or other unplanned event that the commissioner has determined prevents the requirements in this chapter from being met. This authority shall not exceed the amount of time needed to respond to the emergency and reinstate the requirements of this chapter. The

commissioner has the authority to establish the process and time frame for returning to full compliance with this chapter. The commissioner shall determine the length of time an emergency study is valid.

(c) At the conclusion of the emergency, entities must submit a new, compliant background study application and fee for each individual who was the subject of background study affected by the powers created in this section, referred to as an "emergency study" to have a new study that fully complies with this chapter within a time frame and notice period established by the commissioner.

History: *2024 c 127 art 62 s 15*

245C.05 BACKGROUND STUDY; INFORMATION AND DATA PROVIDED TO COMMISSIONER.

Subdivision 1. **Individual studied.** (a) The individual who is the subject of the background study must provide the applicant, license holder, or other entity under section 245C.04 with sufficient information to ensure an accurate study, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) current home address, city, and state of residence;

(3) current zip code;

(4) sex;

(5) date of birth;

(6) driver's license number or state identification number or, for those without a driver's license or state identification card, an acceptable form of identification as determined by the commissioner; and

(7) upon implementation of NETStudy 2.0, the home address, city, county, and state of residence for the past five years.

(b) Every subject of a background study conducted or initiated by counties or private agencies under this chapter must also provide the home address, city, county, and state of residence for the past five years.

(c) Every current or prospective foster or adoptive parent shall also provide the commissioner a signed consent for the release of any information received from national crime information databases to the private agency that initiated the background study.

(d) The subject of a background study shall provide fingerprints and a photograph as required in subdivision 5.

(e) The subject of a background study shall submit a completed criminal and maltreatment history records check consent form and criminal history disclosure form for applicable national and state level record checks.

(f) A background study subject who has access to the NETStudy 2.0 applicant portal must provide updated contact information to the commissioner via NETStudy 2.0 any time the subject's personal information changes for as long as they remain affiliated on any roster.

(g) An entity must update contact information in NETStudy 2.0 for a background study subject on the entity's roster any time the entity receives new contact information from the study subject.

[See Note.]

Subd. 2. **Applicant, license holder, or other entity.** (a) The applicant, license holder, or other entity initiating the background study as provided in this chapter shall verify that the information collected under subdivision 1 about an individual who is the subject of the background study is correct and must provide the information on forms or in a format prescribed by the commissioner.

(b) The information collected under subdivision 1 about an individual who is the subject of a completed background study may only be viewable by an entity that initiates a subsequent background study on that individual under NETStudy 2.0 after the entity has paid the applicable fee for the study and has provided the individual with the privacy notice in subdivision 2c.

Subd. 2a. **County or private agency.** For background studies related to child foster care when the applicant or license holder resides in the home where child foster care services are provided, county and private agencies initiating the background study must collect the information under subdivision 1 and forward it to the commissioner.

Subd. 2b. **County agency to collect and forward information to commissioner.** (a) For background studies related to all family adult day services and to adult foster care when the adult foster care license holder resides in the adult foster care residence, the county agency or private agency initiating the background study must collect the information required under subdivision 1 and forward it to the commissioner.

(b) Upon implementation of NETStudy 2.0, for background studies related to family child care and legal nonlicensed child care authorized under chapter 142E, the county agency initiating the background study must collect the information required under subdivision 1 and provide the information to the commissioner.

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

(b) The background study subject shall be informed that any previous background studies that received a set-aside will be reviewed, and without further contact with the background study subject, the commissioner may notify the agency that initiated the subsequent background study that the individual has a disqualification that has been set aside for the program or agency that initiated the study.

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

(1) the subject's fingerprints collected for purposes of completing the background study under this chapter must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or by the commissioner. The Federal Bureau of Investigation will not retain background study subjects' fingerprints;

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

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

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

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

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

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

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

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

Subd. 2d. **Fingerprint data notification.** The commissioner of human services shall notify all background study subjects under this chapter that the Department of Human Services, Department of Public Safety, and the Bureau of Criminal Apprehension do not retain fingerprint data after a background study is completed, and that the Federal Bureau of Investigation does not retain background study subjects' fingerprints.

Subd. 3. **Additional information from individual studied.** (a) For purposes of completing the background study, the commissioner may request the individual's Social Security number or race. The individual is not required to provide this information to the commissioner.

(b) The commissioner may also require additional information if the commissioner determines the information is necessary to complete the background study. Failure to provide the required information may result in a disqualification pursuant to section 245C.09.

Subd. 4. **Electronic transmission.** (a) For background studies conducted by the Department of Human Services, the commissioner shall implement a secure system for the electronic transmission of:

(1) background study information to the commissioner;

(2) background study results to the license holder;

(3) background study information obtained under this section and section 245C.08 to counties and private agencies for background studies conducted by the commissioner for child foster care, including a summary of nondisqualifying results, except as prohibited by law; and

(4) background study results to county agencies for background studies conducted by the commissioner for adult foster care and family adult day services and, upon implementation of NETStudy 2.0, family child care.

(b) Unless the commissioner has granted a hardship variance under paragraph (c), a license holder or an applicant must use the electronic transmission system known as NETStudy or NETStudy 2.0 to submit all requests for background studies to the commissioner as required by this chapter.

(c) A license holder or applicant whose program is located in an area in which high-speed Internet is inaccessible may request the commissioner to grant a variance to the electronic transmission requirement.

(d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under this subdivision.

(e) The background study subject shall access background study-related documents electronically in the applicant portal. A background study subject may request for the commissioner to grant a variance to the requirement to access documents electronically in the NETStudy 2.0 applicant portal and may also request paper documentation of their background studies.

Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (c), for background studies conducted by the commissioner for current or prospective child foster or adoptive parents, and for any adult working in a children's residential facility, the subject of the background study shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency for a national criminal history record check.

(b) Notwithstanding paragraph (c), for background studies conducted by the commissioner for Head Start programs, the subject of the background study shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency for a national criminal history record check.

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

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

(e) The fingerprints must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or the commissioner. The Federal Bureau of Investigation will not retain background study subjects' fingerprints.

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

(g) For any background study conducted under this chapter, except for family child foster care, adoption, family adult day services, or adult foster care studies, the subject shall provide the commissioner with a set of classifiable fingerprints when the commissioner has reasonable cause to require a national criminal history record check as defined in section 245C.02, subdivision 15a.

[See Note.]

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

(1) a legal nonlicensed child care provider authorized under chapter 142E;

(2) a licensed family child care program; or

(3) a licensed foster care home.

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

(c) For child care studies, a subject who is 17 years of age or younger is required to submit fingerprints and a photograph, and the commissioner shall conduct a national criminal history record check, if:

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

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

(d) For child care studies, a subject who is 17 years of age or younger is required to submit non-fingerprint-based data according to section 245C.08, subdivision 1, paragraph (a), clause (6), item (iii), and the commissioner shall conduct the check if:

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

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

[See Note.]

Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant, license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension, law enforcement agencies, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors substantiated under chapter 260E.

(b) If a background study is initiated by an applicant, license holder, or other entities as provided in this chapter, and the applicant, license holder, or other entity receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant, license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual:

(1) has been affiliated with a program or facility regulated by the Department of Human Services; Department of Children, Youth, and Families; or Department of Health, a facility serving children or youth licensed by the Department of Corrections, or any type of home care agency or provider of personal care assistance services within the preceding year; and

(2) has been convicted of a crime constituting a disqualification under section 245C.14.

(b) For the purpose of this subdivision, "conviction" has the meaning given it in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this subdivision and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes shall be reported to the commissioner by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care programs or legal nonlicensed child care programs for individuals whose background study was completed in NETStudy 2.0.

Subd. 8. **Study submitted.** The entity with which the background study subject is seeking affiliation shall initiate the background study in the NETStudy 2.0 system.

Subd. 9. **Electronic signature.** For documentation requiring a signature under this chapter, use of an electronic signature as defined under section 325L.02, paragraph (h), is allowed.

History: *2003 c 15 art 1 s 5; 1Sp2003 c 14 art 6 s 5; 2004 c 288 art 1 s 41-44; 2007 c 112 s 27; 2007 c 147 art 3 s 7-11; 2009 c 79 art 1 s 9,10; 2009 c 173 art 1 s 7; 2012 c 216 art 16 s 18-21; 2012 c 247 art 4 s 12; 2014 c 228 art 5 s 2; 2014 c 250 s 9-13; 2014 c 262 art 5 s 4; 2014 c 312 art 25 s 3; 2015 c 78 art 4 s 37; 2017 c 90 s 4; 1Sp2017 c 6 art 16 s 23-26; 2018 c 166 s 8-10,15; 1Sp2019 c 9 art 2 s 66-68; 1Sp2020 c 2 art 5 s 13; art 8 s 50; 1Sp2021 c 7 art 2 s 20-27; 2023 c 70 art 7 s 10-12; art 17 s 30; 2024 c 80 art 5 s 7; 2024 c 127 art 62 s 16; 2025 c 21 s 43; 2025 c 38 art 5 s 9; 1Sp2025 c 3 art 16 s 4-6; 2026 c 121 art 5 s 7*

NOTE: The amendments to subdivisions 1, 5, and 5a by Laws 2025, First Special Session chapter 3, article 16, sections 4 to 6, are effective upon implementation in NETStudy 2.0. The commissioner of human services shall notify the revisor of statutes when the commissioner implements the changes in NETStudy 2.0. Laws 2025, First Special Session chapter 3, article 16, sections 4 to 6, the effective dates.

NOTE: The amendment to subdivision 5 by Laws 2026, chapter 121, article 5, section 7, is effective January 25, 2028. Laws 2026, chapter 121, article 5, section 7, the effective date.

245C.051 DESTRUCTION OF BACKGROUND STUDY SUBJECT INFORMATION.

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

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

(2) has no current disqualifying characteristic.

(b) After receiving the request and verifying the information in paragraph (a), the commissioner shall destroy the information used to complete the subject's background study and shall keep a record of the subject's name and a notation of the date that the information was destroyed.

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

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

History: *2014 c 250 s 14; 2018 c 166 s 11*

245C.06 MS 2006 [Repealed, 2007 c 112 s 59]

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services; Department of Children, Youth, and Families; Department of Health; or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a license holder maintains background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closes, the license holder shall immediately notify the commissioner which staff must be transferred to an active license so that the background studies can be electronically paired with the license holder's active program.

(c) When a background study is being initiated by a licensed program or service or a foster care provider that is also licensed under chapter 144G, a study subject affiliated with multiple licensed programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.

(d) If a background study was conducted on an individual under a license other than child foster care and the requirements under paragraph (a) are met, the background study is transferable to all licensed programs except child foster care.

(e) The provisions of this section that allow a single background study in one or more licensed programs or services do not apply to background studies submitted by adoption agencies, supplemental nursing services agencies, personnel pool agencies, educational programs, professional services agencies, temporary personnel agencies, and unlicensed personal care provider organizations.

(f) For an entity operating under NETStudy 2.0, the entity's active roster must be the system used to document when a background study subject is affiliated with multiple entities. For a background study to be transferable:

(1) the background study subject must be on and moving to a roster for which the person designated to receive sensitive background study information is the same; and

(2) the same entity must own or legally control both the roster from which the transfer is occurring and the roster to which the transfer is occurring. For an entity that holds or controls multiple licenses, or unlicensed personal care provider organizations, there must be a common highest level entity that has a legally identifiable structure that can be verified through records available from the secretary of state.

History: *2003 c 15 art 1 s 7; 1Sp2005 c 4 art 1 s 27; 2007 c 112 s 28; 2009 c 142 art 2 s 24; 2012 c 216 art 16 s 22; 2014 c 250 s 15; 2015 c 78 art 4 s 38; 7Sp2020 c 1 art 6 s 25; 2023 c 70 art 17 s 31; 2025 c 21 s 44; 2026 c 121 art 4 s 15*

245C.08 BACKGROUND STUDY; COMMISSIONER REVIEWS.

Subdivision 1. **Background studies conducted by Department of Human Services.** (a) For a background study conducted by the Department of Human Services, the commissioner shall review:

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

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

(3) information from juvenile courts as required for studies under this chapter when there is reasonable cause;

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

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

(6) for a background study related to a child foster family setting application for licensure, foster residence settings, children's residential facilities, a transfer of permanent legal and physical custody of a child under sections 260C.503 to 260C.515, or adoptions, and for a background study required for family child care, certified license-exempt child care, child care centers, and legal nonlicensed child care authorized under chapter 142E, the commissioner shall also review:

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

(ii) information received from a national criminal history record check, if authorized for the study; and

(iii) when the background study subject is 18 years of age or older or a minor under section 245C.05, subdivision 5a, paragraph (d), for licensed family child care, certified license-exempt child care, licensed child care centers, and legal nonlicensed child care authorized under chapter 142E, information obtained using non-fingerprint-based data including information from the criminal and sex offender registries for any

state in which the background study subject resided for the past five years and information from the national crime information database and the national sex offender registry;

(7) for a background study required for family child care, certified license-exempt child care centers, licensed child care centers, and legal nonlicensed child care authorized under chapter 142E, the background study shall also include, to the extent practicable, a name and date-of-birth search of the National Sex Offender Public website; and

(8) for a background study required for treatment programs for sexual psychopathic personalities or sexually dangerous persons, the background study shall only include a review of the information required under clauses (1) to (4).

(b) Except as otherwise provided in this paragraph, notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless:

(1) the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner; or

(2) the commissioner received notice of the expungement order issued pursuant to section 609A.017, 609A.025, or 609A.035, and the order for expungement is directed specifically to the commissioner.

The commissioner may not consider information obtained under paragraph (a), clauses (3) and (4), or from any other source that identifies a violation of chapter 152 without determining if the offense involved the possession of marijuana or tetrahydrocannabinol and, if so, whether the person received a grant of expungement or order of expungement, or the person was resentenced to a lesser offense. If the person received a grant of expungement or order of expungement, the commissioner may not consider information related to that violation but may consider any other relevant information arising out of the same incident.

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

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

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

[See Note.]

Subd. 2. MS 2023 Supp [Repealed, 2024 c 127 art 62 s 53]

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

(1) the Bureau of Criminal Apprehension;

(2) the commissioners of children, youth, and families; health; and human services;

(3) a prosecutor;

(4) a county agency;

(5) a law enforcement agency;

(6) other states;

(7) the courts;

(8) the Federal Bureau of Investigation;

(9) the National Criminal Records Repository; and

(10) criminal records from other states.

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

(c) If the commissioner conducts a national criminal history record check when required by law and uses the information from the national criminal history record check to make a disqualification determination, the data obtained is private data and cannot be shared with private agencies or prospective employers of the background study subject.

(d) If the commissioner conducts a national criminal history record check when required by law and uses the information from the national criminal history record check to make a disqualification determination, the license holder or entity that submitted the study is not required to obtain a copy of the background study subject's disqualification letter under section 245C.17, subdivision 3.

Subd. 4. **Juvenile court records.** (a) For a background study conducted by the Department of Human Services, the commissioner shall review records from the juvenile courts for an individual studied under this chapter when the commissioner has reasonable cause.

(b) The juvenile courts shall help with the study by giving the commissioner existing juvenile court records relating to delinquency proceedings held on individuals who are subjects of studies under this chapter when requested pursuant to this subdivision.

(c) For purposes of this chapter, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(d) Juvenile courts shall provide orders of involuntary and voluntary termination of parental rights under section 260C.301 to the commissioner upon request for purposes of conducting a background study under this chapter.

Subd. 5. **Authorization.** The commissioner is authorized to receive information under this chapter.

History: *2003 c 15 art 1 s 8; 1Sp2003 c 14 art 6 s 5; 2004 c 288 art 1 s 45-47; 1Sp2005 c 4 art 1 s 28,29; 2007 c 112 s 29; 2007 c 147 art 3 s 12,13; 2008 c 361 art 5 s 1; 2009 c 79 art 1 s 11; 2009 c 142 art 2 s 25; art 3 s 2-4; 2013 c 108 art 5 s 4; 2014 c 228 art 5 s 3; 2014 c 312 art 25 s 4; 2015 c 71 art 7 s 8; 1Sp2017 c 6 art 16 s 27-29; 2018 c 166 s 12; 1Sp2019 c 9 art 2 s 69,70; 1Sp2020 c 2 art 5 s 14; 1Sp2021 c 7 art 2 s 28,29; 2023 c 52 art 7 s 4,5; 2023 c 63 art 6 s 43; 2023 c 70 art 7 s 13; 2024 c 80 art 5 s 7; art*

8 s 13; 2024 c 115 art 19 s 12; 2024 c 127 art 62 s 17; 2025 c 38 art 5 s 10; 1Sp2025 c 3 art 16 s 7,8; 2026 c 88 art 1 s 104

NOTE: The amendment to subdivision 1 by Laws 2025, First Special Session chapter 3, article 16, section 7, is effective upon implementation in NETStudy 2.0. The commissioner of human services shall notify the revisor of statutes when the commissioner implements the changes in NETStudy 2.0. Laws 2025, First Special Session chapter 3, article 16, section 7, the effective date.

245C.09 FAILURE OR REFUSAL TO COOPERATE WITH BACKGROUND STUDY.

Subdivision 1. **Disqualification; licensing action.** An applicant's, license holder's, or other entity's failure or refusal to cooperate with the commissioner, including failure to provide additional information required under section 245C.05, is reasonable cause to disqualify a subject, deny a license application, or immediately suspend or revoke a license or registration.

Subd. 2. **Employment action.** An individual's failure or refusal to cooperate with the background study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended or revoked.

Subd. 3. **False statement in connection with a background study.** A child care background study subject shall be disqualified for knowingly making a materially false statement in connection with a background study.

History: *2003 c 15 art 1 s 9; 2004 c 288 art 1 s 48; 2007 c 112 s 30; 1Sp2017 c 6 art 16 s 30; 2018 c 166 s 16*

245C.10 BACKGROUND STUDY; FEES.

Subdivision 1. MS 2008 [Repealed, 2009 c 142 art 2 s 49]

Subd. 1a. **Expenses.** Section 181.645 does not apply to background studies completed under this chapter.

Subd. 1b. **Background study fees.** (a) The commissioner shall recover the cost of background studies. Except as otherwise provided in subdivisions 1c and 1d, the fees collected under this section shall be appropriated to the commissioner for the purpose of conducting background studies under this chapter. Fees under this section are charges under section 16A.1283, paragraph (b), clause (3).

(b) Background study fees may include:

(1) a fee to compensate the commissioner's authorized fingerprint collection vendor or vendors for obtaining and processing a background study subject's classifiable fingerprints and photograph pursuant to subdivision 1c; and

(2) a separate fee under subdivision 1c to complete a review of background-study-related records as authorized under this chapter.

(c) Fees charged under paragraph (b) may be paid in whole or in part when authorized by law by a state agency or board; by state court administration; by a service provider, employer, license holder, or other organization that initiates the background study; by the commissioner or other organization with duly appropriated funds; by a background study subject; or by some combination of these sources.

Subd. 1c. **Fingerprint and photograph processing fees.** The commissioner shall enter into a contract with a qualified vendor or vendors to obtain and process a background study subject's classifiable fingerprints and photograph as required by section 245C.05. The commissioner may, at their discretion, directly collect fees and reimburse the commissioner's authorized fingerprint collection vendor for the vendor's services or require the vendor to collect the fees. The authorized vendor is responsible for reimbursing the vendor's subcontractors at a rate specified in the contract with the commissioner.

Subd. 1d. **State; national criminal history record check fees.** The commissioner may increase background study fees as necessary, commensurate with an increase in state Bureau of Criminal Apprehension or the national criminal history record check fees.

Subd. 2. **Supplemental nursing services agencies.** The commissioner shall recover the cost of the background studies initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1, through a fee of no more than $44 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 2a. **Occupations regulated by commissioner of health.** The commissioner shall set fees to recover the cost of combined background studies and criminal background checks initiated by applicants, licensees, and certified practitioners regulated under sections 148.511 to 148.5198 and chapter 153A through a fee of no more than $44 per study charged to the entity. The fees collected under this subdivision shall be deposited in the special revenue fund and are appropriated to the commissioner for the purpose of conducting background studies and criminal background checks.

Subd. 3. **Personal care provider organizations.** The commissioner shall recover the cost of background studies initiated by a personal care provider organization under sections 256B.0651 to 256B.0654 and 256B.0659 through a fee of no more than $44 per study charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 4. **Temporary personnel agencies, personnel pool agencies, educational programs, and professional services agencies.** The commissioner shall recover the cost of the background studies initiated by temporary personnel agencies, personnel pool agencies, educational programs, and professional services agencies that initiate background studies under section 245C.03, subdivision 4, through a fee of no more than $44 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 5. **Adult foster care and family adult day services.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for the purposes of adult foster care and family adult day services licensing, through a fee of no more than $44 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** The commissioner shall recover the cost of background studies initiated by unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities under section 256B.4912 through a fee of no more than $44 per study.

Subd. 7. **Private agencies.** The commissioner shall recover the cost of conducting background studies under section 245C.33 for studies initiated by private agencies for the purpose of adoption through a fee of no more than $70 per study charged to the private agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 8. **Children's therapeutic services and supports providers.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 7, for the purposes of children's therapeutic services and supports under section 245I.30, through a fee of no more than $44 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

[See Note.]

Subd. 9. **Human services licensed programs.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for all programs that are licensed by the commissioner through a fee of no more than $44 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 9a. **Child care programs.** The commissioner shall recover the cost of a background study required for family child care, certified license-exempt child care centers, licensed child care centers, and legal nonlicensed child care providers authorized under chapter 142E through a fee of no more than $44 per study charged to the license holder. A fee of no more than $44 per study shall be charged for studies conducted under section 245C.05, subdivision 5a, paragraph (a). The fees collected under this subdivision are appropriated to the commissioner to conduct background studies.

Subd. 9b. **Child foster care and adoption programs.** The commissioner shall recover the cost of a background study required for child foster care and adoption studies through a fee of no more than $44 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 10. **Community first services and supports organizations.** The commissioner shall recover the cost of background studies initiated by an agency-provider delivering services under section 256B.85, subdivision 11, or a financial management services provider providing service functions under section 256B.85, subdivision 13, through a fee of no more than $44 per study, charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 11. **Providers of housing support.** The commissioner shall recover the cost of background studies initiated by providers of housing support under section 256I.04 through a fee of no more than $44 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 12. **Child protection workers or social services staff having responsibility for child protective duties.** The commissioner shall recover the cost of background studies initiated by county social services agencies and local welfare agencies for individuals who are required to have a background study under section 260E.36, subdivision 3, through a fee of no more than $44 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 13. **Providers of special transportation service.** The commissioner shall recover the cost of background studies initiated by providers of special transportation service under section 174.30 through a fee of no more than $44 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 14. **Children's residential facilities.** The commissioner shall recover the cost of background studies initiated by a licensed children's residential facility through a fee of no more than $53 per study.

Fees collected under this subdivision are appropriated to the commissioner for purposes of conducting background studies.

Subd. 15. **Guardians and conservators.** (a) The commissioner shall recover the cost of conducting maltreatment and state licensing agency checks for guardians and conservators under section 245C.033 through a fee of no more than $50. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting maltreatment and state licensing agency checks.

(b) The fee must be paid directly to and in the manner prescribed by the commissioner before any maltreatment and state licensing agency checks under section 245C.033 may be conducted.

(c) Notwithstanding paragraph (b), the court shall pay the fee for an applicant who has been granted in forma pauperis status upon receipt of the invoice from the commissioner.

Subd. 16. MS 2024 [Repealed, 1Sp2025 c 9 art 7 s 26]

Subd. 17. **Early intensive developmental and behavioral intervention providers.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 15, for the purposes of early intensive developmental and behavioral intervention under section 256B.0949, through a fee of no more than $44 per study charged to the enrolled agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 18. **Applicants, licensees, and other occupations regulated by commissioner of health.** The applicant or license holder is responsible for paying to the Department of Human Services all fees associated with the preparation of the fingerprints, the criminal records check consent form, and, through a fee of no more than $44 per study, the criminal background check.

Subd. 19. **Occupations regulated by MNsure.** The commissioner shall set fees to recover the cost of background studies and criminal background checks initiated by MNsure under sections 62V.05 and 245C.031. The fee amount shall be established through interagency agreement between the commissioner and the board of MNsure or its designee. The fees collected under this subdivision shall be deposited in the special revenue fund and are appropriated to the commissioner for the purpose of conducting background studies and criminal background checks.

Subd. 20. **Professional Educators Licensing Standards Board.** The commissioner shall recover the cost of background studies initiated by the Professional Educators Licensing Standards Board through a fee of no more than $53 per study. Fees collected under this subdivision are appropriated to the commissioner for purposes of conducting background studies.

Subd. 21. **Board of School Administrators.** The commissioner shall recover the cost of background studies initiated by the Board of School Administrators through a fee of no more than $53 per study. Fees collected under this subdivision are appropriated to the commissioner for purposes of conducting background studies.

Subd. 22. **Recuperative care providers.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 16, for recuperative care under section 256B.0701, through a fee of no more than $44 per study charged to the enrolled provider. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

History: *2003 c 15 art 1 s 10; 1Sp2005 c 4 art 5 s 7,8; 2007 c 147 art 3 s 14; 2009 c 79 art 1 s 12,13; art 6 s 5; 2009 c 173 art 1 s 8,9; 1Sp2011 c 9 art 3 s 3; art 4 s 8; 2014 c 262 art 4 s 9; art 5 s 6; 2014 c 312 art 26 s 3; 2015 c 71 art 1 s 6,7; art 11 s 9; 2015 c 78 art 4 s 39; art 6 s 3; 2017 c 90 s 5; 1Sp2017 c 6 art*

2 s 39; art 10 s 134; art 16 s 31,32; 2018 c 166 s 13; 1Sp2019 c 9 art 2 s 71; 1Sp2020 c 2 art 1 s 12; art 5 s 15; 1Sp2021 c 7 art 2 s 30-51; 2023 c 70 art 7 s 14-33; 2024 c 80 art 5 s 7; 2024 c 115 art 19 s 13; 2024 c 127 art 62 s 18; 1Sp2025 c 3 art 16 s 9,10; 1Sp2025 c 9 art 7 s 5,6; 2026 c 95 art 4 s 7; 2026 c 121 art 8 s 10

NOTE: The amendment to subdivision 8 by Laws 2026, chapter 121, article 8, section 10, is effective January 1, 2028. Laws 2026, chapter 121, article 8, section 17.

245C.11 Subdivision 1. MS 2008 [Repealed, 2009 c 79 art 1 s 21]

Subd. 2. MS 2008 [Repealed, 2009 c 79 art 1 s 21]

Subd. 3. MS 2024 [Repealed, 2023 c 70 art 7 s 47; 2023 c 70 art 12 s 36]

Subd. 4. MS 2024 [Repealed, 2025 c 20 s 294]

245C.12 BACKGROUND STUDY; TRIBAL ORGANIZATIONS.

Subdivision 1. **Access to data.** For the purposes of background studies completed by Tribal organizations performing licensing activities otherwise required of the commissioner under this chapter, after obtaining consent from the background study subject, Tribal licensing agencies shall have access to criminal history data in the same manner as county licensing agencies and private licensing agencies under this chapter.

Subd. 2. **Adoptions; child foster care.** Tribal organizations may contract with the commissioner to obtain background study data on individuals under Tribal jurisdiction related to adoptions according to section 245C.34. Tribal organizations may also contract with the commissioner to obtain background study data on individuals under Tribal jurisdiction related to child foster care according to section 245C.34.

Subd. 3. **Nursing facility.** For the purposes of background studies completed to comply with a Tribal organization's licensing requirements for individuals affiliated with a Tribally licensed nursing facility, the commissioner shall obtain criminal history data from the National Criminal Records Repository in accordance with section 245C.32.

Subd. 4. **Child care.** (a) Tribal organizations may contract with the commissioner to:

(1) conduct background studies on individuals affiliated with a child care program sponsored, managed, or licensed by a Tribal organization; and

(2) obtain background study data on individuals affiliated with a child care program sponsored, managed, or licensed by a Tribal organization.

(b) The commissioner must include a national criminal history record check in a background study conducted under paragraph (a).

(c) A Tribally affiliated child care program that does not contract with the commissioner to conduct background studies is exempt from the relevant requirements in this chapter. For a background study conducted under this subdivision to be transferable to other child care entities, the study must include all components of studies for a certified license-exempt child care center under this chapter.

History: *2003 c 15 art 1 s 12; 2007 c 147 art 3 s 17; 2015 c 71 art 7 s 9; 1Sp2019 c 11 art 8 s 9*

245C.125 MS 2022 [Repealed, 2024 c 127 art 62 s 53]

245C.13 BACKGROUND STUDY PROCESSING.

Subdivision 1. **Completion of background study.** Upon receipt of the background study forms from an applicant, license holder, or other entity as provided in this chapter required to initiate a background study under section 245C.04, the commissioner shall complete the background study and provide the notice required under section 245C.17, subdivision 1.

Subd. 2. **Activities pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (c) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (c) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The notice that more time is needed to complete the study must also indicate whether the individual is required to be under continuous direct supervision prior to completion of the background study. When more time is necessary to complete a background study of an individual affiliated with a Title IV-E eligible children's residential facility or foster residence setting, the individual may not work in the facility or setting regardless of whether or not the individual is supervised;

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) For a child care background study subject required to submit fingerprints for a national criminal history check, except as provided in section 245C.05, subdivision 5a, the notice sent under paragraph (a), clause (1), item (ii), must not be issued until the commissioner receives a qualifying result for the individual for the fingerprint-based national criminal history record check or the fingerprint-based criminal history information from the Bureau of Criminal Apprehension. The notice must require the individual to be under continuous direct supervision prior to completion of the remainder of the background study except as permitted in subdivision 3.

(c) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision;

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03 unless the subject is under continuous direct supervision;

(5) for a child care background study subject, performing any act listed in section 245C.02, subdivision 6a, unless the study is being renewed under section 245C.04, subdivision 1, paragraph (b), and it has been less than five years since the child care background study subject was previously disqualified or provided notice under paragraph (a), clause (1), item (i);

(6) for children's residential facilities or foster residence settings, working in the facility or setting; or

(7) for background studies affiliated with a personal care provider organization, early intensive developmental and behavioral intervention provider, adult rehabilitative mental health services provider, housing support or supplementary services provider, special transportation services provider, or community first services and supports provider before an individual provides services, the entity must initiate a background study of the individual under this chapter and the entity must have received a notice from the commissioner that the individual is:

(i) not disqualified under section 245C.14; or

(ii) disqualified, but the individual has received a set aside of the disqualification under section 245C.22.

[See Note.]

Subd. 3. **Other state information.** If the commissioner has not received criminal, sex offender, or maltreatment information from another state that is required to be reviewed under this chapter within ten days of requesting the information, and the lack of the information is the only reason that a notice is issued under subdivision 2, paragraph (a), clause (1), item (ii), the commissioner may issue a notice under subdivision 2, paragraph (a), clause (1), item (i). The commissioner may take action on information received from other states after issuing a notice under subdivision 2, paragraph (a), clause (1), item (ii).

History: *2003 c 15 art 1 s 13; 2004 c 288 art 1 s 49; 2005 c 136 art 6 s 1; 2007 c 112 s 32; 2009 c 142 art 2 s 26; 2014 c 250 s 16; 1Sp2019 c 9 art 2 s 72,73; 1Sp2020 c 2 art 5 s 16; 1Sp2021 c 7 art 2 s 52; 1Sp2025 c 3 art 16 s 11; 1Sp2025 c 9 art 6 s 4; 2026 c 121 art 4 s 16; art 5 s 8; art 7 s 9*

NOTE: The amendment to subdivision 2 by Laws 2026, chapter 121, article 7, section 9, is effective January 1, 2028. Laws 2026, chapter 121, article 7, section 56.

245C.14 DISQUALIFICATION.

Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of the evidence is for a felony, gross misdemeanor, or misdemeanor level crime;

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b); or

(4) the individual's parental rights have been terminated under section 260C.301, subdivision 1, paragraph (b), or section 260C.301, subdivision 3.

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

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

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

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

(c) Notwithstanding paragraph (a), for the purposes of a background study affiliated with a licensed family foster setting, the commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing or when a background study completed under this chapter shows reason for disqualification under section 245C.15, subdivision 4a.

Subd. 2. **Disqualification from access.** (a) If an individual who is studied under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), is disqualified from direct contact under subdivision 1, the commissioner shall also disqualify the individual from access to a person receiving services from the license holder.

(b) No individual who is disqualified following a background study under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), or as provided elsewhere in statute who is disqualified as a result of this section, may be allowed access to persons served by the program unless the commissioner has provided written notice under section 245C.17 stating that:

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

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

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

Subd. 3. **Disqualification from working in children's residential facilities and foster residence settings.** (a) For a background study affiliated with a children's residential facility or foster residence setting, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in the children's residential facility or foster residence setting and from having access to a person receiving services from the facility or setting.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a Title IV-E eligible children's residential facility or foster residence setting, if an individual is disqualified, the individual may not work in the facility or setting until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

Subd. 4. **Disqualification from working in licensed child care centers or certified license-exempt child care centers.** (a) For a background study affiliated with a licensed child care center or certified license-exempt child care center, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in any position regardless of whether the individual would have direct contact with or access to children served in the licensed child care center or

certified license-exempt child care center and from having access to a person receiving services from the center.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a licensed child care center or a certified license-exempt child care center, if an individual is disqualified, the individual may not work in the child care center until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

Subd. 5. **Basis for disqualification.** Information obtained by entities from public web-based data through NETStudy 2.0 or any other source that is not direct correspondence from the commissioner is not a notice of disqualification from the commissioner under this chapter.

Subd. 6. **Disqualification from owning, operating, or billing.** The commissioner shall disqualify an individual who is the subject of a background study from any position involving ownership, management, or control of a program or billing activities if a background study completed under this chapter shows a violation of section 142A.12, 245.095, or 256B.064.

History: *2003 c 15 art 1 s 14; 2004 c 288 art 1 s 50; 2007 c 112 s 33; 2009 c 142 art 3 s 5; 1Sp2020 c 2 art 5 s 17; 1Sp2021 c 7 art 2 s 53,54; 2024 c 127 art 62 s 19,20; 1Sp2025 c 3 art 16 s 12*

245C.15 DISQUALIFYING CRIMES OR CONDUCT.

Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the offense, the individual has committed any of the following offenses: sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.247, subdivision 2 or 3 (carjacking in the first or second degree); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.3458 (sexual extortion); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); 609.3775 (child torture); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment or stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of child sexual abuse material); or, for a child care background study subject, conviction of a crime that would make the individual ineligible for employment under United States Code, title 42, section 9858f,

except for a felony drug conviction, regardless of whether a period of disqualification under subdivisions 2 to 4, would apply if the individual were not a child care background study subject.

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

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

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

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

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

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 152.021, subdivision 1 or 2b, (aggravated controlled substance crime in the first degree; sale crimes); 152.022, subdivision 1 (controlled substance crime in the second degree; sale crimes); 152.023, subdivision 1 (controlled substance crime in the third degree; sale crimes); 152.024, subdivision 1 (controlled substance crime in the fourth degree; sale crimes); 256.98 (wrongfully obtaining assistance); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal SNAP fraud); 518B.01, subdivision 14 (violation of an order for protection); 609.165 (felon ineligible to possess firearm); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2334 (violation of an order for protection against financial exploitation of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.247, subdivision 4 (carjacking in the third degree); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); Minnesota Statutes 2024, section 609.466 or section 609.467 (medical assistance fraud); 609.495 (aiding an offender); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.522 (organized retail theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance

of dishonored checks); 609.542 (illegal remunerations); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.746 (interference with privacy); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); or 624.713 (certain persons not to possess firearms).

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than 15 years has passed since the termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a) or since the termination of parental rights in any other state or country, the elements of which are substantially similar to the elements listed in paragraph (c).

(e) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified but the disqualification look-back period for the offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

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

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 260B.425 (criminal jurisdiction for contributing to status as a juvenile petty offender or delinquency); 260C.425 (criminal jurisdiction for contributing to need for protection or services); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal SNAP fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2334 (violation of an order for protection against financial exploitation of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision

1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); Minnesota Statutes 2024, section 609.466 or section 609.467 (medical assistance fraud); 609.52 (theft); 609.522 (organized retail theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.746 (interference with privacy); 609.749, subdivision 2 (harassment); 609.82 (fraud in obtaining credit); 609.821(financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the offense is the period applicable to misdemeanors.

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

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 260B.425 (criminal jurisdiction for contributing to status as a juvenile petty offender or delinquency); 260C.425 (criminal jurisdiction for contributing to need for protection or services); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal SNAP fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2334 (violation of an order for protection against financial exploitation of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); Minnesota Statutes 2024, section 609.466 or section 609.467 (medical assistance fraud); 609.52 (theft); 609.522 (organized retail theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening;

harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 260E.06 or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.557 or chapter 260E was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under chapter 260E, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.557 or chapter 260E for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

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

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Subd. 4a. **Licensed family foster setting disqualifications.** (a) Notwithstanding subdivisions 1 to 4, 4b, and 4c, for a background study affiliated with a licensed family foster setting, regardless of how much time has passed, an individual is disqualified under section 245C.14 if the individual committed an act that resulted in a felony-level conviction for sections: 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular homicide); 609.221 (assault in the first degree); 609.223, subdivision 2 (assault in the third degree, past pattern of child abuse); 609.223, subdivision 3 (assault in the third degree, victim under four); a felony offense under sections 609.2242 and 609.2243 (domestic assault, spousal abuse, child abuse or neglect, or a crime against children); 609.2247 (domestic assault by strangulation); 609.2325 (criminal abuse of a vulnerable adult resulting in the death of a vulnerable adult); 609.245 (aggravated robbery); 609.247, subdivision 2 or 3 (carjacking in the first or second degree); 609.25 (kidnapping); 609.255 (false imprisonment); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of

an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.322, subdivision 1 (solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree); 609.324, subdivision 1 (other prohibited acts; engaging in, hiring, or agreeing to hire minor to engage in prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.3458 (sexual extortion); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.3775 (child torture); 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.582, subdivision 1 (burglary in the first degree); 609.746 (interference with privacy); 617.23 (indecent exposure); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of child sexual abuse material).

(b) Notwithstanding subdivisions 1 to 4, 4b, and 4c, for the purposes of a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14, regardless of how much time has passed, if the individual:

(1) committed an action under paragraph (e) that resulted in death or involved sexual abuse, as defined in section 260E.03, subdivision 20;

(2) committed an act that resulted in a gross misdemeanor-level conviction for section 609.3451 (criminal sexual conduct in the fifth degree);

(3) committed an act against or involving a minor that resulted in a felony-level conviction for: section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the third degree); 609.2231 (assault in the fourth degree); or 609.224 (assault in the fifth degree); or

(4) committed an act that resulted in a misdemeanor or gross misdemeanor-level conviction for section 617.293 (dissemination and display of harmful materials to minors).

(c) Notwithstanding subdivisions 1 to 4, 4b, and 4c, for a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14 if fewer than 20 years have passed since the termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or if the individual consented to a termination of parental rights under section 260C.301, subdivision 1, paragraph (a), to settle a petition to involuntarily terminate parental rights. An individual is disqualified under section 245C.14 if fewer than 20 years have passed since the termination of the individual's parental rights in any other state or country, where the conditions for the individual's termination of parental rights are substantially similar to the conditions in section 260C.301, subdivision 1, paragraph (b).

(d) Notwithstanding subdivisions 1 to 4, 4b, and 4c, for a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14 if fewer than five years have passed since a felony-level violation for sections: 152.021 (controlled substance crime in the first degree); 152.022 (controlled substance crime in the second degree); 152.023 (controlled substance crime in the third degree); 152.024 (controlled substance crime in the fourth degree); 152.025 (controlled substance crime in the fifth degree); 152.0261 (importing controlled substances across state borders); 152.0262, subdivision 1, paragraph (b) (possession of substance with intent to manufacture methamphetamine); 152.027, subdivision 6, paragraph (c) (sale or possession of synthetic cannabinoids); 152.096 (conspiracies prohibited); 152.097 (simulated controlled substances); 152.136 (anhydrous ammonia; prohibited conduct; criminal penalties; civil liabilities); 152.137 (fentanyl- and methamphetamine-related crimes involving children or vulnerable adults); 169A.24 (felony first-degree driving while impaired); 243.166 (violation of predatory offender registration

requirements); 609.2113 (criminal vehicular operation; bodily harm); 609.2114 (criminal vehicular operation; unborn child); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult not resulting in the death of a vulnerable adult); 609.233 (criminal neglect); 609.235 (use of drugs to injure or facilitate a crime); 609.24 (simple robbery); 609.247, subdivision 4 (carjacking in the third degree); 609.322, subdivision 1a (solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree); 609.498, subdivision 1 (tampering with a witness in the first degree); 609.498, subdivision 1b (aggravated first-degree witness tampering); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582, subdivision 2 (burglary in the second degree); 609.66 (felony dangerous weapons); 609.687 (adulteration); 609.713 (terroristic threats); 609.749, subdivision 3, 4, or 5 (felony-level harassment or stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); or 624.713 (certain people not to possess firearms).

(e) Notwithstanding subdivisions 1 to 4, 4b, and 4c, except as provided in paragraph (a), for a background study affiliated with a licensed family child foster care license, an individual is disqualified under section 245C.14 if fewer than five years have passed since:

(1) a felony-level violation for an act not against or involving a minor that constitutes: section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the third degree); 609.2231 (assault in the fourth degree); or 609.224, subdivision 4 (assault in the fifth degree);

(2) a violation of an order for protection under section 518B.01, subdivision 14;

(3) a determination or disposition of the individual's failure to make required reports under section 260E.06 or 626.557, subdivision 3, for incidents in which the final disposition under chapter 260E or section 626.557 was substantiated maltreatment and the maltreatment was recurring or serious;

(4) a determination or disposition of the individual's substantiated serious or recurring maltreatment of a minor under chapter 260E, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under chapter 260E or section 626.557 and meet the definition of serious maltreatment or recurring maltreatment;

(5) a gross misdemeanor-level violation for sections: 609.224, subdivision 2 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); 609.233 (criminal neglect); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.746 (interference with privacy); 609.749 (stalking); or 617.23 (indecent exposure); or

(6) committing an act against or involving a minor that resulted in a misdemeanor-level violation of section 609.224, subdivision 1 (assault in the fifth degree).

(f) For purposes of this subdivision, the disqualification begins from:

(1) the date of the alleged violation, if the individual was not convicted;

(2) the date of conviction, if the individual was convicted of the violation but not committed to the custody of the commissioner of corrections; or

(3) the date of release from prison, if the individual was convicted of the violation and committed to the custody of the commissioner of corrections.

Notwithstanding clause (3), if the individual is subsequently reincarcerated for a violation of the individual's supervised release, the disqualification begins from the date of release from the subsequent incarceration.

(g) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14. An individual is disqualified under section 245C.14 if fewer than five years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (d) and (e).

(h) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraphs (a) and (b), permanently disqualifies the individual under section 245C.14. An individual is disqualified under section 245C.14 if fewer than five years have passed since an offense in any other state or country, the elements of which are substantially similar to the elements of any offense listed in paragraphs (d) and (e).

Subd. 4b. **Five-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than five years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony, gross misdemeanor, or misdemeanor-level violation of any of the following offenses: section 152.021, subdivision 2 or 2a (controlled substance possession crime in the first degree; methamphetamine manufacture crime); 152.022, subdivision 2 (controlled substance possession crime in the second degree); 152.023, subdivision 2 (controlled substance possession crime in the third degree); 152.024, subdivision 2 (controlled substance possession crime in the fourth degree); 152.025 (controlled substance crime in the fifth degree); 152.0261 (importing controlled substances across state borders); 152.0262 (possession of substances with intent to manufacture methamphetamine); 152.027, subdivision 6, paragraph (c) (sale of synthetic cannabinoids); 152.096 (conspiracy to commit controlled substance crime); or 152.097 (simulated controlled substances).

(b) An individual is disqualified under section 245C.14 if less than five years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than five years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

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

Subd. 4c. **Two-year disqualification.** An individual is disqualified under section 245C.14, subdivision 6, if fewer than two years have passed since a determination that the individual violated section 142A.12, 245.095, or 256B.064.

Subd. 5. **Mental illness.** The commissioner may not disqualify an individual subject to a background study under this chapter because that individual has, or has had, a mental illness as defined in section 245.462, subdivision 20.

Subd. 6. **Reproductive health care services.** The commissioner may not disqualify an individual subject to a background study under this chapter for accessing or providing reproductive health care services, as defined in section 147.091, subdivision 1c.

History: *2003 c 15 art 1 s 15; 1Sp2003 c 14 art 6 s 7; 2004 c 288 art 1 s 51-53; 2005 c 136 art 6 s 2; 1Sp2005 c 4 art 1 s 30-33; 2006 c 212 art 3 s 17; 2007 c 112 s 34-37; 2009 c 142 art 2 s 27-30; 2010 c 299 s 14; 2010 c 329 art 1 s 15; 1Sp2017 c 6 art 16 s 34; 2018 c 166 s 14; 2018 c 182 art 1 s 108; 1Sp2019 c 5 art 2 s 29; 1Sp2019 c 9 art 1 s 42; 1Sp2020 c 2 art 8 s 51; 1Sp2021 c 7 art 2 s 55; 1Sp2021 c 11 art 4 s 31; 2023 c 31 s 6; 2023 c 52 art 20 s 5-7; 2023 c 70 art 7 s 34,35; 2024 c 127 art 62 s 21-24; 2025 c 35 art 4 s 16; art 5 s 27; 1Sp2025 c 3 art 16 s 13-15; 2026 c 121 art 4 s 17-20; 2026 c 127 art 8 s 3-5*

245C.16 DISQUALIFIED INDIVIDUAL'S RISK OF HARM.

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside;

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program and from working in a children's residential facility or foster residence setting; and

(9) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 2, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense during the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with or access to persons receiving services from the center and from working in a licensed child care center or certified license-exempt child care center.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.557 or chapter 260E.

(d) This section does not apply to a background study related to an initial application for a child foster family setting license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 245C.13, subdivision 2, paragraph (c), clause (7).

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Subd. 2. **Findings.** (a) After evaluating the information immediately available under subdivision 1, the commissioner may have reason to believe one of the following:

(1) the individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact or access to persons served by the program or where the individual studied will work;

(2) the individual poses a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration; or

(3) the individual does not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration.

(b) After determining an individual's risk of harm under this section, the commissioner must notify the subject of the background study and the applicant or license holder as required under section 245C.17.

(c) For Title IV-E eligible children's residential facilities and foster residence settings, the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

(d) For licensed child care centers or certified license-exempt child care centers, the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

Subd. 3. **County agency.** (a) County licensing agencies performing duties under this section may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under subdivision 2, paragraph (b), and documenting the action taken by the county licensing agency.

(b) Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner.

(c) Notwithstanding this alternative system, county licensing agencies shall complete the requirements of section 245C.17.

History: *2003 c 15 art 1 s 16; 2004 c 288 art 1 s 54; 2007 c 112 s 38; 2007 c 147 art 3 s 18; 2012 c 216 art 16 s 23; 2014 c 228 art 5 s 4; 1Sp2017 c 6 art 16 s 35; 2018 c 166 s 16; 1Sp2020 c 2 art 5 s 18,19; art 8 s 52; 1Sp2021 c 7 art 2 s 56,57; 1Sp2025 c 9 art 6 s 5; 2026 c 121 art 5 s 9*

245C.17 NOTICE OF BACKGROUND STUDY RESULTS.

Subdivision 1. **Time frame for notice of study results and auditing system access.** (a) Within three working days after the commissioner's receipt of a request for a background study submitted through the commissioner's NETStudy or NETStudy 2.0 system, the commissioner shall notify the background study subject and the license holder or other entity as provided in this chapter in writing or by electronic transmission of the results of the study or that more time is needed to complete the study. The notice to the individual shall include the identity of the entity that initiated the background study.

(b) Before being provided access to NETStudy 2.0, the license holder or other entity under section 245C.04 shall sign an acknowledgment of responsibilities form developed by the commissioner that includes identifying the sensitive background study information person, who must be an employee of the license holder or entity. All queries to NETStudy 2.0 are electronically recorded and subject to audit by the commissioner. The electronic record shall identify the specific user. A background study subject may request in writing to the commissioner a report listing the entities that initiated a background study on the individual.

(c) When the commissioner has completed a prior background study on an individual that resulted in an order for immediate removal and more time is necessary to complete a subsequent study, the notice that more time is needed that is issued under paragraph (a) shall include an order for immediate removal of the individual from any position allowing direct contact with or access to people receiving services and from working in a children's residential facility, foster residence setting, child care center, or certified license-exempt child care center pending completion of the background study.

Subd. 2. **Disqualification notice sent to subject.** (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

(1) the information causing disqualification;

(2) instructions on how to request a reconsideration of the disqualification;

(3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, when applicable to the individual;

(4) a statement that when a subsequent background study is initiated on the individual following a set-aside of the individual's disqualification, and the commissioner makes a determination under section 245C.22, subdivision 5, paragraph (b), that the previous set-aside applies to the subsequent background study, the applicant, license holder, or other entity that initiated the background study will be informed in the notice under section 245C.22, subdivision 5, paragraph (c), that the individual's disqualification is set aside for that program or agency; and

(5) the commissioner's determination of the individual's immediate risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact with, or access to, people receiving services, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires immediate removal, the individual shall be informed of the conditions under which the agency that initiated the background study may allow the individual to have direct contact with, or access to, people receiving services, as provided under subdivision 3.

Subd. 3. **Disqualification notification.** (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from being in a position allowing direct contact with, or access to, people served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people served by the program, the commissioner shall order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to, people served by the program.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in a position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity, as provided in this chapter, must:

(i) ensure that the individual studied is under continuous, direct supervision when in a position allowing direct contact with, or access to, people receiving services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(ii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in any position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity as provided in this chapter must ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Subd. 4. **Disqualification notice to family child care or foster care provider.** For studies on individuals pertaining to a license to provide family child care or group family child care, foster care for children in the

provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

Subd. 5. **Notice to county or private agency.** For studies on individuals related to a license to provide child foster care when the applicant or license holder resides in the home where child foster care services are provided, the commissioner shall also provide a notice of the background study results to the county or private agency that initiated the background study.

Subd. 6. **Notice to county agency.** For studies on individuals related to a license to provide adult foster care when the applicant or license holder resides in the adult foster care residence and family adult day services and, effective upon implementation of NETStudy 2.0, family child care, the commissioner shall also provide a notice of the background study results to the county agency that initiated the background study.

Subd. 7. **Disqualification notice to children's residential facilities and foster residence settings.** (a) For children's residential facilities and foster residence settings, all notices under this section that order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to a person served by the program, must also order the license holder to immediately remove the individual studied from working in the program, facility, or setting.

(b) For Title IV-E eligible children's residential facilities and foster residence settings, notices under this section must not allow an individual to work in the program, facility, or setting under supervision.

Subd. 8. **Disqualification notice to child care centers and certified license-exempt child care centers.** (a) For child care centers and certified license-exempt child care centers, all notices under this section that order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to a person served by the center, must also order the license holder to immediately remove the individual studied from working in any position regardless of whether the individual would have direct contact with or access to children served in the center.

(b) For child care centers and certified license-exempt child care centers, notices under this section must not allow an individual to work in the center.

History: *2003 c 15 art 1 s 17; 2004 c 288 art 1 s 55,56; 2005 c 136 art 6 s 3-5; 2007 c 112 s 39,40; 2007 c 147 art 3 s 19; 2009 c 79 art 1 s 14; 2012 c 216 art 16 s 24; 2014 c 250 s 17; 2017 c 90 s 6,7; 1Sp2017 c 6 art 16 s 36; 1Sp2020 c 2 art 5 s 20,21; art 8 s 53; 1Sp2021 c 7 art 2 s 58,59; 2023 c 70 art 7 s 36-38*

245C.18 OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM DIRECT CONTACT AND FROM WORKING IN A PROGRAM, FACILITY, SETTING, OR CENTER.

(a) Upon receipt of notice from the commissioner, the license holder must remove a disqualified individual from direct contact with persons served by the licensed program if:

(1) the individual does not request reconsideration under section 245C.21 within the prescribed time;

(2) the individual submits a timely request for reconsideration, the commissioner does not set aside the disqualification under section 245C.22, subdivision 4, and the individual does not submit a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14; or

(3) the individual submits a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, and the commissioner does not set aside or rescind the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) For children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the disqualified individual from working in the program, facility, or setting and from access to persons served by the licensed program.

(c) For Title IV-E eligible children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the disqualified individual from working in the program and from access to persons served by the program and must not allow the individual to work in the facility or setting until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

(d) For licensed child care center and certified license-exempt child care center license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must remove the disqualified individual from working in any position regardless of whether the individual would have direct contact with or access to children served in the center and from having access to persons served by the center and must not allow the individual to work in the center until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

History: *2003 c 15 art 1 s 18; 2004 c 288 art 1 s 57; 1Sp2020 c 2 art 5 s 22; 1Sp2021 c 7 art 2 s 60*

245C.19 TERMINATION OF AFFILIATION BASED ON DISQUALIFICATION NOTICE.

An applicant or license holder that terminates affiliation with persons studied under section 245C.03, when the termination is made in good faith reliance on a notice of disqualification provided by the commissioner, shall not be subject to civil liability.

History: *2003 c 15 art 1 s 19*

245C.20 LICENSE HOLDER RECORD KEEPING.

Subdivision 1. **Background studies initiated by program.** A licensed program shall document the date the program initiates a background study under this chapter and the date the subject of the study first has direct contact with persons served by the program in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. Except when background studies are initiated through the commissioner's online system, if a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request, the licensed program must contact the human services licensing division to inquire about the status of the study. If a license holder initiates a background study under the commissioner's online system, but the background study subject's

name does not appear in the list of active or recent studies initiated by that license holder, the license holder must either contact the human services licensing division or resubmit the background study information online for that individual.

Subd. 2. **Background studies initiated by others; personnel pool agencies, temporary personnel agencies, supplemental nursing services agencies, or professional services agencies.** When a license holder relies on a background study initiated by a personnel pool agency, a temporary personnel agency, a supplemental nursing services agency, or a professional services agency for a person required to have a background study completed under section 245C.03, the license holder must maintain a copy of the background study results in the license holder's files.

Subd. 2a. **Background studies initiated by others; educational programs.** When a license holder relies on a background study initiated by an educational program for a person required to have a background study completed under section 245C.03 and the person is on the educational program's active roster, the license holder is responsible for ensuring that the background study has been completed. The license holder may satisfy the documentation requirements through a written agreement with the educational program verifying that documentation of the background study may be provided upon request and that the educational program will inform the license holder if there is a change in the person's background study status. The license holder remains responsible for ensuring that all background study requirements are met.

Subd. 3. **Background studies identified on active rosters.** The requirements in subdivisions 1 and 2 are met for entities for which active rosters are implemented and for whom all individuals affiliated with the entity are recorded on the active roster.

History: *2003 c 15 art 1 s 20; 2004 c 288 art 1 s 58; 2009 c 79 art 1 s 15; 2010 c 329 art 1 s 16; 2014 c 228 art 5 s 5; 2014 c 250 s 18; 2015 c 78 art 4 s 40,41*

245C.21 REQUESTING RECONSIDERATION OF DISQUALIFICATION.

Subdivision 1. **Who may request reconsideration.** An individual who is the subject of a disqualification may request a reconsideration of the disqualification pursuant to this section. The individual must submit the request for reconsideration to the commissioner in writing.

Subd. 1a. **Submission of reconsideration request.** (a) For disqualifications related to studies conducted by county agencies for family child care, and for disqualifications related to studies conducted by the commissioner for child foster care, adult foster care, and family adult day services when the applicant or license holder resides in the home where services are provided, the individual shall submit the request for reconsideration to the county agency that initiated the background study.

(b) For disqualifications related to studies conducted by the commissioner for child foster care providers monitored by private licensing agencies under section 245A.16, the individual shall submit the request for reconsideration to the private agency that initiated the background study.

(c) A reconsideration request shall be submitted within 30 days of the individual's receipt of the disqualification notice.

(d) The county or private agency shall forward the individual's request for reconsideration and provide the commissioner with a recommendation whether to set aside the individual's disqualification.

Subd. 2. **Time frame for requesting reconsideration.** (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days

of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification.

(c) An individual who was determined to have maltreated a child under chapter 260E or a vulnerable adult under section 626.557, and who is disqualified on the basis of serious or recurring maltreatment, may request a reconsideration of both the maltreatment and the disqualification determinations. The request must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045 must not be conducted under sections 245C.27, 260E.33, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 260E.33, and 626.557, subdivision 9d.

Subd. 3. **Disqualified individuals; information for reconsideration.** (a) The disqualified individual requesting reconsideration must submit information showing that:

(1) the information the commissioner relied upon in determining the underlying conduct that gave rise to the disqualification is incorrect;

(2) for maltreatment, the information the commissioner relied upon in determining that maltreatment was serious or recurring is incorrect; or

(3) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or other entities as provided in this chapter, by addressing the information required under section 245C.22, subdivision 4.

(b) In order to determine the individual's risk of harm, the commissioner may require additional information from the disqualified individual as part of the reconsideration process. If the individual fails to provide the required information, the commissioner may deny the individual's request.

Subd. 4. **Notice of request for reconsideration.** Upon request, the commissioner may inform the applicant, license holder, or other entities as provided in this chapter who received a notice of the individual's disqualification under section 245C.17, subdivision 3, or has the consent of the disqualified individual, whether the disqualified individual has requested reconsideration.

History: *2003 c 15 art 1 s 21; 2004 c 288 art 1 s 59,60; 1Sp2005 c 4 art 1 s 34; 2007 c 112 s 41,42; 2007 c 147 art 3 s 20; 2009 c 79 art 1 s 16; 2009 c 173 art 1 s 10; 2017 c 90 s 8; 1Sp2017 c 6 art 16 s 37; 1Sp2020 c 2 art 8 s 54; 2023 c 70 art 7 s 39,40*

245C.22 REVIEW AND ACTION ON A RECONSIDERATION REQUEST.

Subdivision 1. **Time frame; response to disqualification reconsideration requests.** (a) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information the commissioner relied upon to disqualify is incorrect or inaccurate within 30 working days of receipt of a complete request and all required relevant information.

(b) If the basis for a disqualified individual's reconsideration request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving a complete request for reconsideration and all required relevant information.

(c) If the disqualified individual's reconsideration request is based on both the correctness or accuracy of the information the commissioner relied upon to disqualify the individual and the individual's risk of harm, the commissioner shall respond to the request within 45 working days after receiving a complete request for reconsideration and all required relevant information.

Subd. 2. **Incorrect information; rescission.** The commissioner shall rescind the disqualification if the commissioner finds that the information relied upon to disqualify the subject is incorrect.

Subd. 3. **Preeminent weight given to safety of persons being served and program integrity.** In reviewing a request for reconsideration of a disqualification, the commissioner shall give preeminent weight to the safety of each person served by the license holder, applicant, or other entities as provided in this chapter and to program integrity through protection of state and federal money supporting the program over the interests of the disqualified individual, license holder, applicant, or other entity as provided in this chapter, and any single factor under subdivision 4, paragraph (b), may be determinative of the commissioner's decision whether to set aside the individual's disqualification.

Subd. 4. **Risk of harm; set aside.** (a) The commissioner may set aside the disqualification if the commissioner finds that the individual has submitted sufficient information to demonstrate that the individual

does not pose a risk of harm to any person served by the applicant, license holder, or other entities as provided in this chapter.

(b) In determining whether the individual has met the burden of proof by demonstrating the individual does not pose a risk of harm, the commissioner shall consider:

(1) the nature, severity, and consequences of the event or events that led to the disqualification;

(2) whether there is more than one disqualifying event;

(3) the age and vulnerability of the victim at the time of the event;

(4) the harm suffered by the victim;

(5) vulnerability of persons served by the program;

(6) the similarity between the victim and persons served by the program;

(7) the time elapsed without a repeat of the same or similar event;

(8) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and

(9) any other information relevant to reconsideration.

(c) For an individual seeking a child foster care license who is a relative of the child, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether a background study disqualification should be set aside.

(d) If the individual requested reconsideration on the basis that the information relied upon to disqualify the individual was incorrect or inaccurate and the commissioner determines that the information relied upon to disqualify the individual is correct, the commissioner must also determine if the individual poses a risk of harm to persons receiving services in accordance with paragraph (b).

(e) For an individual seeking employment in the substance use disorder treatment field, the commissioner shall set aside the disqualification if the following criteria are met:

(1) the individual is not disqualified for a crime of violence as listed under section 624.712, subdivision 5, except for the following crimes: crimes listed under section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023, subdivision 2; 152.024; or 152.025;

(2) the individual is not disqualified under section 245C.15, subdivision 1;

(3) the individual is not disqualified under section 245C.15, subdivision 4, paragraph (b);

(4) the individual provided documentation of successful completion of treatment, at least one year prior to the date of the request for reconsideration, at a program licensed under chapter 245G, and has had no disqualifying crimes or conduct under section 245C.15 after the successful completion of treatment;

(5) the individual provided documentation demonstrating abstinence from controlled substances, as defined in section 152.01, subdivision 4, for the period of one year prior to the date of the request for reconsideration; and

(6) the individual is seeking employment in the substance use disorder treatment field.

Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. Except as provided in paragraph (b), the commissioner's set-aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice under section 245C.23. For personal care provider organizations, financial management services organizations, community first services and supports organizations, unlicensed home and community-based organizations, and consumer-directed community supports organizations, the commissioner's set-aside may further be limited to a specific individual who is receiving services. For new background studies required under section 245C.04, subdivision 1, paragraph (g), if an individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(b) If the commissioner has previously set aside an individual's disqualification for one or more programs or agencies, and the individual is the subject of a subsequent background study for a different program or agency, the commissioner shall determine whether the disqualification is set aside for the program or agency that initiated the subsequent background study. A notice of a set-aside under paragraph (c) shall be issued within 15 working days if all of the following criteria are met:

(1) the subsequent background study was initiated in connection with a program licensed or regulated under the same provisions of law and rule for at least one program for which the individual's disqualification was previously set aside by the commissioner;

(2) the individual is not disqualified for an offense specified in section 245C.15, subdivision 1 or 2;

(3) the commissioner has received no new information to indicate that the individual may pose a risk of harm to any person served by the program; and

(4) the previous set-aside was not limited to a specific person receiving services.

(c) Notwithstanding paragraph (b), clause (2), for an individual who is employed in the substance use disorder field, if the commissioner has previously set aside an individual's disqualification for one or more programs or agencies in the substance use disorder treatment field, and the individual is the subject of a subsequent background study for a different program or agency in the substance use disorder treatment field, the commissioner shall set aside the disqualification for the program or agency in the substance use disorder treatment field that initiated the subsequent background study when the criteria under paragraph (b), clauses (1), (3), and (4), are met and the individual is not disqualified for an offense specified in section 245C.15, subdivision 1. A notice of a set-aside under paragraph (d) shall be issued within 15 working days.

(d) When a disqualification is set aside under paragraph (b), the notice of background study results issued under section 245C.17, in addition to the requirements under section 245C.17, shall state that the disqualification is set aside for the program or agency that initiated the subsequent background study. The notice must inform the individual that the individual may request reconsideration of the disqualification under section 245C.21 on the basis that the information used to disqualify the individual is incorrect.

Subd. 6. **Recision of set-aside.** The commissioner may rescind a previous set aside of a disqualification under this section based on new information that indicates the individual may pose a risk of harm to persons served by the applicant, license holder, or other entities as provided in this chapter. If the commissioner rescinds a set-aside of a disqualification under this subdivision, the appeal rights under sections 245C.21, 245C.27, subdivision 1, and 245C.28, subdivision 3, shall apply.

Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, except as provided in paragraph (e), upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set-aside and the individual's disqualifying characteristics are private data on individuals, as defined in section 13.02, subdivision 12.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are private data on individuals, as defined in section 13.02, subdivision 12.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted, except as provided under section 13.46, subdivision 4;

(2) the data are not public under paragraph (a) or (b);

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect;

(4) the disqualification relates to a license to provide relative child foster care. As used in this clause, "relative" has the meaning given it under section 260C.007, subdivision 26b or 27;

(5) the disqualified individual is a household member of a licensed foster care provider and:

(i) the disqualified individual previously received foster care services from this licensed foster care provider;

(ii) the disqualified individual was subsequently adopted by this licensed foster care provider; and

(iii) the disqualifying act occurred before the adoption; or

(6) a variance is granted to a child care center or family child care license holder for an individual's disqualification that is based on a felony-level conviction for a drug-related offense that occurred within the past five years.

(d) Notwithstanding paragraphs (a) and (b), the identity of household members who are the subject of a disqualification related set-aside or variance is not public data if:

(1) the household member resides in the residence where the family child care is provided;

(2) the subject of the set-aside or variance is under the age of 18 years; and

(3) the set-aside or variance only relates to a disqualification under section 245C.15, subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

(e) When the commissioner has reason to know that a disqualified individual has received an order for expungement for the disqualifying record that does not limit the commissioner's access to the record, and the record was opened or exchanged with the commissioner for purposes of a background study under this chapter, the data that would otherwise become public under paragraph (a) or (b) remain private data.

Subd. 8. **Sharing of certain data for reconsiderations and appeals.** (a) The following commissioners shall be responsible for making final agency decisions on background study reconsiderations and defending appeals of background study determinations:

(1) the commissioner of human services for all programs under this chapter, unless otherwise specified in this subdivision;

(2) the commissioner of health for programs under section 245C.03, subdivision 5a;

(3) the commissioner of corrections for programs under section 245C.03, subdivision 5b; and

(4) the commissioner of the children, youth, and families for programs under section 245C.03, subdivision 5c.

(b) The commissioner of human services shall share all relevant background study data to allow the commissioners specified in paragraph (a) to complete reconsiderations and appeals for programs licensed or regulated by their agencies.

History: *2003 c 15 art 1 s 22; 1Sp2003 c 14 art 6 s 6; 2004 c 288 art 1 s 61-64; 2005 c 136 art 6 s 6; 1Sp2005 c 4 art 1 s 35-37; 2006 c 264 s 9; 2007 c 112 s 43,44; 2009 c 142 art 2 s 31; 2010 c 329 art 1 s 17; 2012 c 216 art 16 s 25; 2014 c 228 art 5 s 6; 2014 c 246 s 1; 2015 c 21 art 1 s 49; 2015 c 78 art 1 s 6; 1Sp2017 c 6 art 16 s 38,39; 1Sp2019 c 9 art 2 s 74,75; 2020 c 83 art 1 s 69; 2023 c 70 art 7 s 41; 2024 c 80 art 8 s 14; 2024 c 127 art 62 s 25; 2025 c 38 art 5 s 11; 1Sp2025 c 3 art 16 s 16,17; 2026 c 121 art 4 s 21*

245C.23 COMMISSIONER'S RECONSIDERATION NOTICE.

Subdivision 1. **Disqualification that is rescinded or set aside.** (a) If the commissioner rescinds or sets aside a disqualification, the commissioner shall notify the applicant, license holder, or other entity in writing or by electronic transmission of the decision.

(b) In the notice from the commissioner that a disqualification has been rescinded, the commissioner must inform the applicant, license holder, or other entity that the information relied upon to disqualify the individual was incorrect.

(c) In response to a reconsideration request, the commissioner must inform the applicant, license holder, or other entity that the reason for the individual's disqualification and the information about which factors under section 245C.22, subdivision 4, were the basis of the reconsideration decision are not public data.

Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder if:

(1) the individual studied does not submit a timely request for reconsideration under section 245C.21;

(2) the individual submits a timely request for reconsideration, but the commissioner does not set aside the disqualification for that license holder under section 245C.22, unless the individual has a right to request a hearing under section 245C.27, 245C.28, or 256.045;

(3) an individual who has a right to request a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does not request a hearing within the specified time; or

(4) an individual submitted a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) If the commissioner does not set aside the disqualification under section 245C.22, and the license holder was previously ordered under section 245C.17 to immediately remove the disqualified individual from direct contact with persons receiving services or to ensure that the individual is under continuous, direct supervision when providing direct contact services, the order remains in effect pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

(c) If the commissioner does not set aside the disqualification under section 245C.22, and the license holder was not previously ordered under section 245C.17 to immediately remove the disqualified individual from direct contact with persons receiving services or to ensure that the individual is under continuous direct supervision when providing direct contact services, the commissioner shall order the individual to remain under continuous direct supervision pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

(d) For background studies related to child foster care when the applicant or license holder resides in the home where services are provided, the commissioner shall also notify the county or private agency that initiated the study of the results of the reconsideration.

(e) For background studies related to family child care, adult foster care programs when the applicant or license holder resides in the home where services are provided, and family adult day services, the commissioner shall also notify the county that initiated the study of the results of the reconsideration.

History: *2003 c 15 art 1 s 23; 2004 c 288 art 1 s 65,66; 1Sp2005 c 4 art 1 s 38; 2007 c 147 art 3 s 21; 2009 c 79 art 1 s 17; 2014 c 228 art 5 s 7; 2014 c 246 s 2; 2017 c 90 s 9; 1Sp2017 c 6 art 16 s 40; 2023 c 70 art 7 s 42,43*

245C.24 DISQUALIFICATION; BAR TO SET ASIDE A DISQUALIFICATION; REQUEST FOR VARIANCE.

Subdivision 1. **Minimum disqualification periods.** The disqualification periods under subdivisions 3 to 5 are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the individual continues to pose a risk of harm to persons served by that individual, even after the minimum disqualification period has passed.

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

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

(c) If an individual who requires a background study for nonemergency medical transportation services under section 245C.03, subdivision 12, was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and if more than 40 years have passed since the discharge of the sentence imposed, the commissioner may consider granting a set-aside pursuant to section 245C.22. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the employer. This paragraph

does not apply to a person disqualified based on a violation of sections 243.166; 609.185 to 609.205; 609.25; 609.342 to 609.3453; 609.352; 617.23, subdivision 2, clause (1), or 3, clause (1); 617.246; or 617.247.

(d) When a licensed foster care provider adopts an individual who had received foster care services from the provider for over six months, and the adopted individual is required to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30 to permit the adopted individual with a permanent disqualification to remain affiliated with the license holder under the conditions of the variance when the variance is recommended by the county of responsibility for each of the remaining individuals in placement in the home and the licensing agency for the home.

(e) For an individual 18 years of age or older affiliated with a licensed family foster setting, the commissioner must not set aside or grant a variance for the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 4a, paragraphs (a) and (b).

(f) In connection with a family foster setting license, the commissioner may grant a variance to the disqualification for an individual who is under 18 years of age at the time the background study is submitted.

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal vehicular operation causing death under 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.247, subdivision 4 (carjacking in the third degree); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct against a

vulnerable adult); or 624.713 (certain persons not to possess firearms); or Minnesota Statutes 2012, section 609.21.

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children or foster care or day care services for adults in the provider's home if within seven years preceding the study:

(1) the individual committed an act that constitutes maltreatment of a child under sections 260E.24, subdivisions 1, 2, and 3, and 260E.30, subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(2) the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

Subd. 5. **Five-year bar to set aside or variance for disqualification; children's residential facilities, foster residence settings.** The commissioner shall not set aside or grant a variance for the disqualification of an individual in connection with a license for a children's residential facility or foster residence setting who was convicted of a felony within the past five years for: (1) physical assault or battery; or (2) a drug-related offense.

Subd. 6. **Five-year bar to set aside disqualification; family foster setting.** (a) The commissioner shall not set aside or grant a variance for the disqualification of an individual 18 years of age or older in connection with a foster family setting license if within five years preceding the study the individual is convicted of a felony in section 245C.15, subdivision 4a, paragraph (d).

(b) In connection with a foster family setting license, the commissioner may set aside or grant a variance to the disqualification for an individual who is under 18 years of age at the time the background study is submitted.

History: *2003 c 15 art 1 s 24; 2005 c 136 art 6 s 7; 1Sp2005 c 4 art 1 s 39,40; 2006 c 264 s 10; 2007 c 112 s 45; 2008 c 361 art 1 s 1; 2009 c 142 art 2 s 32,33; 2010 c 299 s 14; 1Sp2019 c 5 art 2 s 29; 1Sp2019 c 9 art 2 s 76-78; 1Sp2020 c 2 art 8 s 55; 1Sp2021 c 7 art 2 s 61-64; 2022 c 98 art 4 s 51; 2023 c 52 art 20 s 8; 2024 c 127 art 62 s 26,27; 2026 c 121 art 4 s 22*

245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT DETERMINATION AND DISQUALIFICATION.

(a) If an individual is disqualified on the basis of a determination of maltreatment under section 626.557 or chapter 260E, which was serious or recurring, and the individual requests reconsideration of the maltreatment determination under section 260E.33 or 626.557, subdivision 9d, and also requests

reconsideration of the disqualification under section 245C.21, the commissioner shall consolidate the reconsideration of the maltreatment determination and the disqualification into a single reconsideration.

(b) In cases where an individual seeks reconsideration of license denial or sanction by the commissioners of children, youth, and families and human services based on the same disqualification under chapter 245C or maltreatment determination under chapter 260E or 626, the individual shall send their reconsideration request to the commissioner of human services. The commissioner of human services shall consolidate the requests pursuant to this subdivision and review the decision of the commissioner of children, youth, and families pursuant to chapter 142B.

History: *2003 c 15 art 1 s 25; 2004 c 288 art 1 s 67; 2009 c 142 art 2 s 34; 1Sp2017 c 6 art 16 s 41; 1Sp2020 c 2 art 8 s 56; 2024 c 80 art 8 s 15*

245C.26 RECONSIDERATION OF A DISQUALIFICATION FOR AN INDIVIDUAL LIVING IN A LICENSED HOME.

In the case of any ground for disqualification under this chapter, if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

History: *2003 c 15 art 1 s 26; 2004 c 288 art 1 s 68*

245C.27 FAIR HEARING RIGHTS.

Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual who is disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section 626.557 or chapter 260E of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section 260E.06, subdivision 1 or 2; 260E.11, subdivision 1; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), may request a fair hearing under section 256.045, following a reconsideration decision issued under section 245C.23, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both a preponderance of evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard

to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an individual who is disqualified on the bases of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 260E.33 or 626.557, subdivision 9d, and requests a fair hearing under this section on the disqualification following a reconsideration decision under section 245C.23, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification.

(b) A fair hearing is the only administrative appeal of the final agency determination. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

History: *2003 c 15 art 1 s 27; 1Sp2003 c 14 art 6 s 6; 2004 c 288 art 1 s 69,70; 1Sp2005 c 4 art 1 s 41; 2007 c 112 s 46; 2009 c 142 art 2 s 35; 2010 c 329 art 2 s 1,2; 1Sp2020 c 2 art 8 s 57,58*

245C.28 CONTESTED CASE HEARING RIGHTS.

Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification for which reconsideration was timely requested and which was not set aside is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under section 245A.05 or 245A.07, subdivision 3.

(b) As provided under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a disqualification for which reconsideration was timely requested and was not set aside, the scope of the consolidated contested case hearing must include:

(1) the disqualification, to the extent the license holder otherwise has a hearing right on the disqualification under this chapter; and

(2) the licensing sanction or denial of a license.

(c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a determination of maltreatment under section 626.557 or chapter 260E, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing must include:

(1) the maltreatment determination, if the maltreatment is not conclusive under section 245C.29;

(2) the disqualification, if the disqualification is not conclusive under section 245C.29; and

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.557 or chapter 260E, the appeal must be submitted under section 245A.07, subdivision 3, 260E.33, or 626.557, subdivision 9d.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, 260E.33, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 260E.33, and 626.557, subdivision 9d.

Subd. 2. **Individual other than license holder.** If the basis for the commissioner's denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is a maltreatment determination or disqualification that was not set aside under section 245C.22, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Subd. 3. **Employees of public employer.** (a) A disqualified individual who is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14, and specifically Minnesota Rules, parts 1400.8505 to 1400.8612, following a reconsideration decision under section 245C.23, unless the disqualification is deemed conclusive under section 245C.29. The request for a contested case hearing must be made in writing and must be postmarked and sent within 30 calendar days after the employee receives notice of the reconsideration decision. If the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, the scope of the contested case hearing shall be limited solely to whether the individual poses a risk of harm pursuant to section 245C.22.

(b) When an individual is disqualified based on a maltreatment determination, the scope of the contested case hearing under paragraph (a), must include the maltreatment determination and the disqualification. In such cases, a fair hearing must not be conducted under section 256.045.

(c) Rules adopted under this chapter may not preclude an employee in a contested case hearing for a disqualification from submitting evidence concerning information gathered under this chapter.

(d) When an individual has been disqualified from multiple licensed programs, if at least one of the disqualifications entitles the person to a contested case hearing under this subdivision, the scope of the contested case hearing shall include all disqualifications from licensed programs.

(e) In determining whether the disqualification should be set aside, the administrative law judge shall consider all of the characteristics that cause the individual to be disqualified, as well as all the factors set forth in section 245C.22, in order to determine whether the individual has met the burden of demonstrating that the individual does not pose a risk of harm. The administrative law judge's recommendation and the commissioner's order to set aside a disqualification that is the subject of the hearing constitutes a determination

that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside.

(f) An individual may not request a contested case hearing under this section if a contested case hearing has previously been held regarding the individual's disqualification on the same basis.

Subd. 4. **Final agency order.** The commissioner's final order under section 245A.08, subdivision 5, is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent background studies. The contested case hearing under this section is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

History: *2003 c 15 art 1 s 28; 2004 c 288 art 1 s 71-73; 1Sp2005 c 4 art 1 s 42; 2007 c 112 s 47; 2010 c 329 art 2 s 3; 2014 c 228 art 5 s 8,9; 1Sp2020 c 2 art 8 s 59*

245C.29 CONCLUSIVE DETERMINATIONS OR DISPOSITIONS.

Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless otherwise specified in statute, a maltreatment determination or disposition under section 626.557 or chapter 260E is conclusive, if:

(1) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;

(2) the individual did not request reconsideration of the maltreatment determination or disposition under section 626.557 or chapter 260E; or

(3) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045.

Subd. 2. **Conclusive disqualification determination.** (a) A disqualification is conclusive for purposes of current and future background studies if:

(1) the commissioner has issued a final order in an appeal of the disqualification under section 245A.08, subdivision 5, 245C.28, subdivision 3, or 256.045, or a court has issued a final decision;

(2) the individual did not request reconsideration of the disqualification under section 245C.21 on the basis that the information relied upon to disqualify the individual was incorrect; or

(3) the individual did not timely request a hearing on the disqualification under this chapter, chapter 14, or section 256.045 after previously being given the right to do so.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a disqualification is conclusive under this section, the individual has a right to request reconsideration on the risk of harm under section 245C.21 unless the commissioner is barred from setting aside the

disqualification under section 245C.24. The commissioner's decision regarding the risk of harm shall be the final agency decision and is not subject to a hearing under this chapter, chapter 14, or section 256.045.

History: *2003 c 15 art 1 s 29; 2004 c 288 art 1 s 74; 2014 c 228 art 5 s 10; 1Sp2020 c 2 art 8 s 60*

245C.30 VARIANCE FOR A DISQUALIFIED INDIVIDUAL.

Subdivision 1. **License holder and license-exempt child care center certification holder variance.** (a) Except for any disqualification under section 245C.15, subdivision 1, when the commissioner has not set aside a background study subject's disqualification, and there are conditions under which the disqualified individual may provide direct contact services or have access to people receiving services that minimize the risk of harm to people receiving services, the commissioner may grant a time-limited variance to a license holder or license-exempt child care center certification holder.

(b) The variance shall state the reason for the disqualification, the services that may be provided by the disqualified individual, and the conditions with which the license holder, license-exempt child care center certification holder, or applicant must comply for the variance to remain in effect.

(c) Except for programs licensed to provide family child care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the variance must be requested by the license holder or license-exempt child care center certification holder.

Subd. 1a. MS 2022 [Repealed, 2023 c 70 art 7 s 47]

Subd. 1b. **Child foster care variances.** For an individual seeking a child foster care license who is a relative of the child, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether the individual should be granted a variance.

Subd. 2. **Disclosure of reason for disqualification.** (a) The commissioner may not grant a variance for a disqualified individual unless the applicant, license-exempt child care center certification holder, or license holder requests the variance and the disqualified individual provides written consent for the commissioner to disclose to the applicant, license-exempt child care center certification holder, or license holder the reason for the disqualification.

(b) This subdivision does not apply to programs licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home.

Subd. 3. **Consequences for failing to comply with conditions of variance.** When a license holder or license-exempt child care center certification holder permits a disqualified individual to provide any services for which the subject is disqualified without complying with the conditions of the variance, the commissioner may terminate the variance effective immediately and subject the license holder to a licensing action under sections 245A.06 and 245A.07 or a license-exempt child care center certification holder to an action under sections 142C.06 and 142C.07.

Subd. 4. **Termination of a variance.** The commissioner may terminate a variance for a disqualified individual at any time for cause.

Subd. 5. **Final decision.** The commissioner's decision to grant or deny a variance is final and not subject to appeal under the provisions of chapter 14.

History: *2003 c 15 art 1 s 30; 1Sp2005 c 4 art 1 s 43,44; 1Sp2017 c 6 art 16 s 42; 1Sp2019 c 9 art 2 s 79-81; 1Sp2021 c 7 art 2 s 65; 2023 c 70 art 7 s 44; 2024 c 80 art 3 s 3; 2024 c 127 art 62 s 28*

245C.301 MS 2022 [Repealed, 2023 c 70 art 17 s 63]

245C.31 INDIVIDUAL REGULATED BY A HEALTH-RELATED LICENSING BOARD; DISQUALIFICATION BASED ON MALTREATMENT.

Subdivision 1. **Board determines disciplinary or corrective action.** (a) The commissioner shall notify a health-related licensing board as defined in section 214.01, subdivision 2, if the commissioner determines that an individual who is licensed by the health-related licensing board and who is included on the board's roster list provided in accordance with subdivision 3a is responsible for substantiated maltreatment under section 626.557 or chapter 260E, in accordance with subdivision 2. Except as provided in paragraph (b), the health-related licensing board shall make a determination as to whether to impose disciplinary or corrective action under chapter 214, rather than the commissioner making the decision regarding disqualification.

(b) The prohibition on disqualification in paragraph (a) does not apply to a background study of an individual regulated by a health-related licensing board if the individual's study is related to child foster care, adult foster care, or family child care licensure.

Subd. 2. **Commissioner's notice to board.** The commissioner shall notify a health-related licensing board:

(1) of a record showing that the individual licensed by the board was determined to have been responsible for substantiated maltreatment;

(2) upon the commissioner's completion of an investigation that determined an individual licensed by the board was responsible for substantiated maltreatment; or

(3) upon receipt from another agency of a finding of substantiated maltreatment for which an individual licensed by the board was responsible.

Subd. 3. **Commissioner's or local agency's referral to board.** (a) When the commissioner or a local agency has reason to believe that the direct contact services provided by an individual may fall within the jurisdiction of a health-related licensing board, the commissioner or local agency shall refer the matter to the board as provided in this section.

(b) If, upon review of the information provided by the commissioner, a health-related licensing board informs the commissioner that the board does not have jurisdiction to take disciplinary or corrective action, the commissioner shall make the appropriate disqualification decision regarding the individual as otherwise provided in this chapter.

Subd. 3a. **Agreements with health-related licensing boards.** The commissioner and each health-related licensing board shall enter into an agreement in order for each board to provide the commissioner with a daily roster list of individuals who have a license issued by the board in active status. The list must include for each licensed individual: the individual's name, aliases, date of birth, and license number; the date the license was issued; status of the license; and the last four digits of the individual's Social Security number.

Subd. 3b. **Maltreatment study; fees.** (a) The administrative service unit for the health-related licensing boards shall apportion between the health-related licensing boards that are required to submit a daily roster

list in accordance with subdivision 3a an amount to be paid through an additional fee collected by each board in accordance with paragraph (b). The amount apportioned to each health-related licensing board must equal the board's share of the annual appropriation from the state government special revenue fund to the commissioner of human services to conduct the maltreatment studies on licensees who are listed on the daily roster lists and to comply with the notification requirement under subdivision 2. Each board's apportioned share must be based on the number of licensees that each health-related licensing board licenses as a percentage of the total number of licensees licensed collectively by all health-related licensing boards.

(b) Each health-related licensing board may collect an additional fee from a licensee at the time the initial license fee is collected to compensate for the amount apportioned to each board by the administrative services unit. If an additional fee is collected by the health-related licensing board under this paragraph, the fee must be deposited in the state government special revenue fund.

Subd. 4. **Facility monitoring.** (a) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated individuals practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated individual from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated individual poses an immediate risk of harm to persons receiving services in a licensed facility.

(b) A facility that allows a regulated individual to provide direct contact services while not complying with the requirements imposed by the health-related licensing board is subject to action by the commissioner as specified under sections 245A.06 and 245A.07.

(c) The commissioner shall notify a health-related licensing board immediately upon receipt of knowledge of a facility's or individual's noncompliance with requirements the board placed on a facility or upon an individual regulated by the board.

History: *2003 c 15 art 1 s 31; 1Sp2020 c 2 art 8 s 61; 2022 c 98 art 1 s 63-66; 2023 c 70 art 17 s 32; 2024 c 127 art 66 s 13*

245C.32 SYSTEMS AND RECORDS.

Subdivision 1. **Establishment.** The commissioner may establish systems and records to fulfill the requirements of this chapter.

Subd. 1a. **NETStudy 2.0 system.** (a) The commissioner shall design, develop, and test the NETStudy 2.0 system and implement it no later than September 1, 2015.

(b) The NETStudy 2.0 system developed and implemented by the commissioner shall incorporate and meet all applicable data security standards and policies required by the Federal Bureau of Investigation (FBI), Department of Public Safety, Bureau of Criminal Apprehension, and the Department of Information Technology Services. The system shall meet all required standards for encryption of data at the database level as well as encryption of data that travels electronically among agencies initiating background studies, the commissioner's authorized fingerprint collection vendor or vendors, the commissioner, the Bureau of Criminal Apprehension, and in cases involving national criminal record checks, the FBI.

(c) The data system developed and implemented by the commissioner shall incorporate a system of data security that allows the commissioner to control access to the data field level by the commissioner's employees. The commissioner shall establish that employees have access to the minimum amount of private data on any individual as is necessary to perform their duties under this chapter.

(d) The commissioner shall oversee regular quality and compliance audits of the authorized fingerprint collection vendor or vendors.

Subd. 1b. **Civil remedies.** When accessing private data on individuals through NETStudy 2.0, entities that are authorized to initiate background studies and the commissioner's authorized fingerprint collection vendors shall be subject to all responsibilities and civil remedies applicable to a responsible authority or government entity as specified under section 13.08.

Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the Bureau of Criminal Apprehension, criminal history data held by the commissioner, and data about substantiated maltreatment under section 626.557 or chapter 260E, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

(c) The commissioner may use these systems to share background study documentation electronically with entities and individuals who are the subject of a background study.

(d) The commissioner may recover the cost of obtaining and providing background study data by charging the individual or entity requesting the study a fee as described in section 245C.10. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 3. **National records search.** (a) When specifically required by statute, the commissioner shall also obtain criminal history data from the National Criminal Records Repository.

(b) To obtain criminal history data from the National Criminal Records Repository, the commissioner shall require classifiable fingerprints of the data subject and must submit these fingerprint requests through the Bureau of Criminal Apprehension.

(c) The commissioner may require the background study subject to submit fingerprint images electronically. The commissioner may not require electronic fingerprint images until the electronic recording and transfer system is available for noncriminal justice purposes and the necessary equipment is in use in the law enforcement agency in the background study subject's local community.

(d) The commissioner may recover the cost of obtaining and providing criminal history data from the National Criminal Records Repository by charging the individual or entity requesting the study a fee of no more than $30 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of obtaining criminal history data from the National Criminal Records Repository.

History: *2003 c 12 art 2 s 4; 2003 c 15 art 1 s 32; 1Sp2005 c 4 art 5 s 9; 2013 c 86 art 2 s 1; 2014 c 250 s 19,20; 1Sp2020 c 2 art 1 s 13; art 8 s 62; 2021 c 31 art 2 s 16; 1Sp2021 c 7 art 2 s 66,67; 2023 c 70 art 7 s 45*

245C.33 ADOPTION AND TRANSFER OF PERMANENT LEGAL AND PHYSICAL CUSTODY BACKGROUND STUDY REQUIREMENTS.

Subdivision 1. **Background study requirements.** (a) Before placement of a child for purposes of adoption, the commissioner shall conduct a background study on individuals listed in sections 259.41, subdivision 3, and 260C.611, for county agencies and private agencies licensed to place children for adoption. When a prospective adoptive parent is seeking to adopt a child who is currently placed in the prospective adoptive parent's home and is under the guardianship of the commissioner according to section 260C.325, subdivision 1, paragraph (b), and the prospective adoptive parent holds a child foster care license, a new background study is not required when:

(1) a background study was completed on persons required to be studied under section 245C.03 in connection with the application for child foster care licensure after July 1, 2007;

(2) the background study included a review of the information in section 245C.08, subdivisions 1, 3, and 4; and

(3) as a result of the background study, the individual was either not disqualified or, if disqualified, the disqualification was set aside under section 245C.22, or a variance was issued under section 245C.30.

(b) Before the kinship placement agreement is signed for the purpose of transferring permanent legal and physical custody to a relative under sections 260C.503 to 260C.515, the commissioner shall conduct a background study on each person age 13 or older living in the home. When a prospective relative custodian has a child foster care license, a new background study is not required when:

(1) a background study was completed on persons required to be studied under section 245C.03 in connection with the application for child foster care licensure after July 1, 2007;

(2) the background study included a review of the information in section 245C.08, subdivisions 1, 3, and 4; and

(3) as a result of the background study, the individual was either not disqualified or, if disqualified, the disqualification was set aside under section 245C.22, or a variance was issued under section 245C.30. The commissioner and the county agency shall expedite any request for a set-aside or variance for a background study required under sections 142A.60 to 142A.612.

Subd. 2. **Information and data provided to county or private agency.** The subject of the background study shall provide the information specified in section 245C.05.

Subd. 3. **Information and data provided to commissioner.** The county or private agency shall forward the data collected under subdivision 2 to the commissioner.

Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the following information regarding the background study subject:

(1) the information under section 245C.08, subdivisions 1, 3, and 4;

(2) information from the child abuse and neglect registry for any state in which the subject has resided for the past five years; and

(3) information from national crime information databases, when required under section 245C.08.

(b) The commissioner shall provide any information collected under this subdivision to the county or private agency that initiated the background study. The commissioner shall also provide the agency with a notice whether the information collected shows that the subject of the background study has a conviction listed in United States Code, title 42, section 671(a)(20)(A).

History: *2007 c 147 art 3 s 22; 2010 c 269 art 2 s 1; 2014 c 312 art 25 s 5,6; 2023 c 70 art 17 s 33; 2024 c 80 art 1 s 96; 2024 c 115 art 16 s 34*

245C.34 ADOPTION AND CHILD FOSTER CARE BACKGROUND STUDIES; TRIBAL ORGANIZATIONS.

Subdivision 1. **Background studies may be conducted by commissioner.** (a) Tribal organizations may contract with the commissioner under section 245C.12 to obtain background study data on individuals under Tribal jurisdiction related to adoptions.

(b) Tribal organizations may contract with the commissioner under section 245C.12 to obtain background study data on individuals under Tribal jurisdiction related to child foster care.

(c) Background studies initiated by Tribal organizations under paragraphs (a) and (b) must be conducted as provided in subdivisions 2 and 3.

Subd. 2. **Information and data provided to Tribal organization.** The background study subject must provide the information specified in section 245C.05.

Subd. 3. **Information and data provided to commissioner.** The Tribal organization shall forward the data collected under subdivision 2 to the commissioner.

Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the following information regarding the background study subject:

(1) the information under section 245C.08, subdivisions 1, 3, and 4;

(2) information from the child abuse and neglect registry for any state in which the subject has resided for the past five years; and

(3) information from national crime information databases, when required under section 245C.08.

(b) The commissioner shall provide any information collected under this subdivision to the Tribal organization that initiated the background study. The commissioner shall indicate if the information collected shows that the subject of the background study has a conviction listed in United States Code, title 42, section 671(a)(20)(A).

History: *2007 c 147 art 3 s 23*