

S.F. No. 2683 and H.F. No. 4249, which had been referred to the Chief Clerk for comparison, were examined and found to be not identical.

The following document shows the differences between S.F. No. 2683, the third engrossment, and H.F. No. 4249, the first engrossment.

May 8, 2018

Patrick D. Murphy  
Chief Clerk, House of Representatives

### **Explanation of Comparison Reports**

When a Senate File is received from the Senate, it is given its first reading and must be referred to the appropriate standing committee or division under Rule 1.11.

But if the House File companion of that Senate File has already been reported out of Committee and given its second reading and is on the General Register, the Senate File must be referred to the Chief Clerk for comparison pursuant to Rule 1.15.

The Chief Clerk reports whether the bills were found to be identical or not identical. Once the bills have been compared and the differences have been reported, the Senate File is given its second reading and is substituted for the House File. The House File is then considered withdrawn.

Pursuant to rule 3.33, if the bills are not identical and the chief author of the bill wishes to use the House language, the chief author must give notice of their intent to substitute the House language when the bill is placed on the Calendar for the Day or the Fiscal Calendar. If the chief author of the bill wishes to keep the Senate language, no action is required.

1.1 A bill for an act  
 1.2 relating to human services; modifying background study provisions; amending  
 1.3 Minnesota Statutes 2017 Supplement, sections 245C.02, subdivision 6a; 245C.04,  
 1.4 subdivision 1; 245C.05, subdivisions 2b, 5; 245C.15, subdivision 1; 245C.16,  
 1.5 subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2017 Supplement, section 245C.02, subdivision 6a, is  
 1.8 amended to read:

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

- 1.12 (1) who is employed by a child care provider for compensation;
- 1.13 (2) whose activities involve the care or supervision of a child for a child care provider  
 1.14 or unsupervised access to a child who is cared for or supervised by a child care provider;
- 1.15 or
- 1.16 (3) an individual ~~13~~ 18 years of age or older residing in a licensed family child care  
 1.17 home or legal nonlicensed child care program.

1.18 **EFFECTIVE DATE.** This section is effective upon the implementation of enhanced  
 1.19 child care background studies under NETStudy 2.0.

1.1 A bill for an act  
 1.2 relating to human services; modifying background study provisions; amending  
 1.3 Minnesota Statutes 2016, sections 245C.02, subdivisions 4a, 15, by adding  
 1.4 subdivisions; 245C.05, subdivision 2c, by adding a subdivision; 245C.051;  
 1.5 Minnesota Statutes 2017 Supplement, sections 245C.02, subdivision 6a; 245C.03,  
 1.6 subdivision 1; 245C.04, subdivision 1; 245C.05, subdivision 5; 245C.08,  
 1.7 subdivision 1; 245C.10, subdivision 9a; 245C.15, subdivision 1.

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

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

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

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

1.15 Subd. 6a. **Child care staff person background study subject.** "Child care staff person  
 1.16 background study subject" means an individual ~~other than an individual who is related to~~  
 1.17 ~~all children for whom child care services are provided~~ who is affiliated with a licensed child  
 1.18 care center, certified license exempt child care center, licensed family child care program,  
 1.19 or legal nonlicensed child care provider authorized under chapter 119B, and:

- 1.20 (1) who is employed by a child care provider for compensation;
- 1.21 (2) whose activities involve the care or supervision of a child for a child care provider  
 1.22 or unsupervised access to a child who is cared for or supervised by a child care provider;
- 1.23 or
- 2.1 (3) who is required to have a background study under section 245C.03, subdivision 1.
- 2.2 ~~(3) an individual 13 years of age or older residing in a licensed family child care home~~  
 2.3 ~~or legal nonlicensed child care program.~~

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

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

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

- 2.12 (b) For the purposes of this chapter, "national crime information database," "national  
2.13 criminal records repository," "criminal history with the Federal Bureau of Investigation,"  
2.14 and "national criminal record check" refer to a national criminal history record check as  
2.15 defined in this subdivision.
- 2.16 Sec. 4. Minnesota Statutes 2016, section 245C.02, subdivision 15, is amended to read:
- 2.17 Subd. 15. **Reasonable cause.** "Reasonable cause" means information or circumstances  
2.18 exist ~~which~~ that provide the commissioner with articulable suspicion that further pertinent  
2.19 information may exist concerning a subject. The commissioner has reasonable cause to  
2.20 require a background study when, ~~but not limited to,~~ the commissioner has received a report  
2.21 from the subject, the license holder, or a third party indicating that the subject has a history  
2.22 that would disqualify the individual or that may pose a risk to the health or safety of persons  
2.23 receiving services.
- 2.24 Sec. 5. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision to  
2.25 read:
- 2.26 Subd. 15a. **Reasonable cause to require a national criminal history record check.**  
2.27 (a) "Reasonable cause to require a national criminal history record check" means information  
2.28 or circumstances exist that provide the commissioner with articulable suspicion that further  
2.29 pertinent information may exist concerning a background study subject that merits conducting  
2.30 a national criminal history record check on that subject. The commissioner has reasonable  
2.31 cause to require a national criminal history record check when:
- 3.1 (1) information from the Bureau of Criminal Apprehension indicates that the subject is  
3.2 a multistate offender;
- 3.3 (2) information from the Bureau of Criminal Apprehension indicates that multistate  
3.4 offender status is undetermined;
- 3.5 (3) the commissioner has received a report from the subject or a third party indicating  
3.6 that the subject has a criminal history in a jurisdiction other than Minnesota; or
- 3.7 (4) information from the Bureau of Criminal Apprehension for a state-based name and  
3.8 date of birth background study in which the subject is a minor that indicates that the subject  
3.9 has a criminal history.
- 3.10 (b) In addition to the circumstances described in paragraph (a), the commissioner has  
3.11 reasonable cause to require a national criminal history record check if the subject is not  
3.12 currently residing in Minnesota or resided in a jurisdiction other than Minnesota during the  
3.13 previous five years.
- 3.14 Sec. 6. Minnesota Statutes 2017 Supplement, section 245C.03, subdivision 1, is amended  
3.15 to read:
- 3.16 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background  
3.17 study on:

2.1 Sec. 2. Minnesota Statutes 2017 Supplement, section 245C.04, subdivision 1, is amended  
 2.2 to read:

2.3 Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner  
 2.4 shall conduct a background study of an individual required to be studied under section  
 2.5 245C.03, subdivision 1, at least upon application for initial license for all license types.

2.6 (b) The commissioner shall conduct a background study of an individual required to be  
 2.7 studied under section 245C.03, subdivision 1, including a child care staff person as defined  
 2.8 in section 245C.02, subdivision 6a, in a family child care program, licensed child care center,  
 2.9 certified license-exempt child care center, or legal nonlicensed child care provider, on a  
 2.10 schedule determined by the commissioner. ~~The A child care background study, except for~~  
 2.11 a study on a subject who is 17 years of age or younger residing in a licensed family child  
 2.12 care home or legal nonlicensed child care program, who is not a child care staff person as  
 2.13 defined in section 245C.02, subdivision 6a, must include submission of fingerprints for a  
 2.14 national criminal history record check and a review of the information under section 245C.08.

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

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

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

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

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

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

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

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

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

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

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

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

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

2.15 The commissioner may require a subject who is 17 years of age or younger residing in a  
 2.16 licensed family child care home or legal nonlicensed child care program to submit fingerprints  
 2.17 and a photograph if the commissioner has reasonable cause to require a national criminal  
 2.18 history record check. A background study for a child care program must be repeated within  
 2.19 five years from the most recent study conducted under this paragraph.

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

2.21 (1) except as provided in paragraph (b), for a background study affiliated with a licensed  
 2.22 family child care center or legal nonlicensed child care provider, the individual shall provide  
 2.23 information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to  
 2.24 the county agency, and be fingerprinted and photographed under section 245C.05, subdivision  
 2.25 5;

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

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

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

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

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

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

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

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

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

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

3.20 (f) The commissioner shall conduct a background study of an individual specified under  
 3.21 section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated

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

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

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

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

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

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

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

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

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

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

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

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

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

5.27 (1) except as provided in section 245C.05, subdivision 5a, the county shall collect and  
 5.28 forward to the commissioner the information required under section 245C.05, subdivision  
 5.29 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background  
 5.30 studies conducted by the commissioner for all family adult day services, for adult foster

3.22 with an adult foster care or family adult day services and with a family child care license  
 3.23 holder or a legal nonlicensed child care provider authorized under chapter 119B: (1) the  
 3.24 county shall collect and forward to the commissioner the information required under section  
 3.25 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and  
 3.26 (d), for background studies conducted by the commissioner for all family adult day services,  
 3.27 for adult foster care when the adult foster care license holder resides in the adult foster care  
 3.28 residence, and for family child care and legal nonlicensed child care authorized under chapter  
 3.29 119B; (2) the license holder shall collect and forward to the commissioner the information  
 3.30 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs  
 3.31 (a) and (b), for background studies conducted by the commissioner for adult foster care  
 3.32 when the license holder does not reside in the adult foster care residence; and (3) the  
 3.33 background study conducted by the commissioner under this paragraph must include a  
 4.1 review of the information required under section 245C.08, subdivision 1, paragraph (a),  
 4.2 and subdivisions 3 and 4.

4.3 (g) Applicants for licensure, license holders, and other entities as provided in this chapter  
 4.4 must submit completed background study requests to the commissioner using the electronic  
 4.5 system known as NETStudy before individuals specified in section 245C.03, subdivision  
 4.6 1, begin positions allowing direct contact in any licensed program.

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

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

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

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

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

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

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

5.31 care when the adult foster care license holder resides in the adult foster care residence, and  
 5.32 for family child care and legal nonlicensed child care authorized under chapter 119B;

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

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

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

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

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

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

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

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

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

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

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

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

4.30 **EFFECTIVE DATE.** This section is effective upon the implementation of enhanced  
4.31 child care background studies under NETStudy 2.0.

5.1 Sec. 3. Minnesota Statutes 2017 Supplement, section 245C.05, subdivision 2b, is amended  
5.2 to read:

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

5.8 (b) Upon implementation of NETStudy 2.0, for background studies related to family  
5.9 child care and legal nonlicensed child care authorized under chapter 119B, the county agency  
5.10 must collect the information required under subdivision 1 and provide the information to  
5.11 the commissioner. For a background study on a subject who is 17 years of age or younger  
5.12 residing in a licensed family child care home or legal nonlicensed child care program, who  
5.13 is not a child care staff person as defined in section 245C.02, subdivision 6a, the subject  
5.14 shall submit the information required under subdivision 1, paragraph (a), and shall not be  
5.15 required to be fingerprinted and photographed, unless the commissioner has reasonable  
5.16 cause to require a national criminal history record check.

5.17 **EFFECTIVE DATE.** This section is effective upon the implementation of enhanced  
5.18 child care background studies under NETStudy 2.0.

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

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

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

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

7.16 (2) the reason for the disqualification; and

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

5.19 Sec. 4. Minnesota Statutes 2017 Supplement, section 245C.05, subdivision 5, is amended  
5.20 to read:

5.21 Subd. 5. **Fingerprints and photograph.** (a) Before the implementation of NETStudy  
5.22 2.0, except as provided in paragraph (c), for any background study completed under this  
5.23 chapter, when the commissioner has reasonable cause to believe that further pertinent  
5.24 information may exist on the subject of the background study, the subject shall provide the  
5.25 commissioner with a set of classifiable fingerprints obtained from an authorized agency.

- 7.19 (c) The background study subject must also be informed that:
- 7.20 (1) the subject's fingerprints collected for purposes of completing the background study
- 7.21 under this chapter must not be retained by the Department of Public Safety, Bureau of
- 7.22 Criminal Apprehension, or by the commissioner, but will be retained by. The Federal Bureau
- 7.23 of Investigation will only retain fingerprints of subjects with a criminal history;
- 7.24 (2) effective upon implementation of NETStudy 2.0, the subject's photographic image
- 7.25 will be retained by the commissioner, and if the subject has provided the subject's Social
- 7.26 Security number for purposes of the background study, the photographic image will be
- 7.27 available to prospective employers and agencies initiating background studies under this
- 7.28 chapter to verify the identity of the subject of the background study;
- 7.29 (3) the commissioner's authorized fingerprint collection vendor shall, for purposes of
- 7.30 verifying the identity of the background study subject, be able to view the identifying
- 7.31 information entered into NETStudy 2.0 by the entity that initiated the background study,
- 7.32 but shall not retain the subject's fingerprints, photograph, or information from NETStudy
- 8.1 2.0. The authorized fingerprint collection vendor shall retain no more than the subject's
- 8.2 name and the date and time the subject's fingerprints were recorded and sent, only as
- 8.3 necessary for auditing and billing activities;
- 8.4 (4) the commissioner shall provide the subject notice, as required in section 245C.17,
- 8.5 subdivision 1, paragraph (a), when an entity initiates a background study on the individual;
- 8.6 (5) the subject may request in writing a report listing the entities that initiated a
- 8.7 background study on the individual as provided in section 245C.17, subdivision 1, paragraph
- 8.8 (b);
- 8.9 (6) the subject may request in writing that information used to complete the individual's
- 8.10 background study in NETStudy 2.0 be destroyed if the requirements of section 245C.051,
- 8.11 paragraph (a), are met; and
- 8.12 (7) notwithstanding clause (6), the commissioner shall destroy:
- 8.13 (i) the subject's photograph after a period of two years when the requirements of section
- 8.14 245C.051, paragraph (c), are met; and
- 8.15 (ii) any data collected on a subject under this chapter after a period of two years following
- 8.16 the individual's death as provided in section 245C.051, paragraph (d).

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

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



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

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

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

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

6.1 (4) information from the Bureau of Criminal Apprehension indicates that the subject  
 6.2 has a criminal history, for a state-based name and date of birth background study on a subject  
 6.3 who is a minor.

6.4 (c) Notwithstanding paragraph (d), for background studies conducted by the commissioner  
 6.5 for child foster care, adoptions, or a transfer of permanent legal and physical custody of a  
 6.6 child, the subject of the background study, who is 18 years of age or older, shall provide  
 6.7 the commissioner with a set of classifiable fingerprints obtained from an authorized agency  
 6.8 for a national criminal history record check.

6.9 (d) For background studies initiated on or after the implementation of NETStudy 2.0,  
 6.10 every subject of a background study must provide the commissioner with a set of the  
 6.11 background study subject's classifiable fingerprints and photograph. The photograph and  
 6.12 fingerprints must be recorded at the same time by the commissioner's authorized fingerprint  
 6.13 collection vendor and sent to the commissioner through the commissioner's secure data  
 6.14 system described in section 245C.32, subdivision 1a, paragraph (b). The fingerprints shall  
 6.15 not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or  
 6.16 the commissioner, but will be retained by the Federal Bureau of Investigation. The  
 6.17 commissioner's authorized fingerprint collection vendor shall, for purposes of verifying the  
 6.18 identity of the background study subject, be able to view the identifying information entered  
 6.19 into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the  
 6.20 subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized  
 6.21 fingerprint collection vendor shall retain no more than the name and date and time the  
 6.22 subject's fingerprints were recorded and sent, only as necessary for auditing and billing  
 6.23 activities. A background study subject who is 17 years of age or younger residing in a  
 6.24 licensed family child care home or legal nonlicensed child care program, who is not a child  
 6.25 care staff person as defined in section 245C.02, subdivision 6a, shall not be required to  
 6.26 submit fingerprints and a photograph, unless the commissioner has reasonable cause to  
 6.27 require a national criminal history record check.

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

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

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

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

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

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

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

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

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

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

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

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

- 10.1 Sec. 10. Minnesota Statutes 2016, section 245C.05, is amended by adding a subdivision  
10.2 to read:
- 10.3 Subd. 5a. **Background study requirements for minors.** (a) A background study  
10.4 completed under this chapter on a subject who is required to be studied under section  
10.5 245C.03, subdivision 1, and is 17 years of age or younger shall be completed by the  
10.6 commissioner for:
- 10.7 (1) a legal nonlicensed child care provider authorized under chapter 119B;  
10.8 (2) a licensed family child care program; or  
10.9 (3) a licensed foster care home.
- 10.10 (b) The subject shall submit to the commissioner only the information under subdivision  
10.11 1, paragraph (a).
- 10.12 (c) A subject who is 17 years of age or younger is required to submit fingerprints and a  
10.13 photograph, and the commissioner shall conduct a national criminal history record check,  
10.14 if:
- 10.15 (1) the commissioner has reasonable cause to require a national criminal history record  
10.16 check defined in section 245C.02, subdivision 15a; or
- 10.17 (2) under paragraph (a), clauses (1) and (2), the subject is employed by the provider or  
10.18 supervises children served by the program.
- 10.19 **EFFECTIVE DATE.** This section is effective 30 days following final enactment.
- 10.20 Sec. 11. Minnesota Statutes 2016, section 245C.051, is amended to read:
- 10.21 **245C.051 DESTRUCTION OF BACKGROUND STUDY SUBJECT**  
10.22 **INFORMATION.**
- 10.23 (a) A background study subject may request in writing to the commissioner that  
10.24 information used to complete the individual's study in NETStudy 2.0 be destroyed if the  
10.25 individual:
- 10.26 (1) has not been affiliated with any entity for the previous two years; and  
10.27 (2) has no current disqualifying characteristic.
- 10.28 (b) After receiving the request and verifying the information in paragraph (a), the  
10.29 commissioner shall destroy the information used to complete the subject's background study  
10.30 and shall keep a record of the subject's name and a notation of the date that the information  
10.31 was destroyed.
- 11.1 (c) When a previously studied individual has not been on the master roster for two years,  
11.2 the commissioner shall destroy the photographic image of the individual obtained under  
11.3 section 245C.05, subdivision 5, paragraph ~~(a)~~ (b).
- 11.4 (d) Any data collected on an individual under this chapter that is maintained by the  
11.5 commissioner that has not been destroyed according to paragraph (b) or (c) shall be destroyed  
11.6 when two years have elapsed from the individual's actual death that is reported to the

- 11.7 commissioner or when 90 years have elapsed since the individual's birth except when readily  
 11.8 available data indicate that the individual is still living.
- 11.9 Sec. 12. Minnesota Statutes 2017 Supplement, section 245C.08, subdivision 1, is amended  
 11.10 to read:
- 11.11 Subdivision 1. **Background studies conducted by Department of Human Services.**  
 11.12 (a) For a background study conducted by the Department of Human Services, the  
 11.13 commissioner shall review:
- 11.14 (1) information related to names of substantiated perpetrators of maltreatment of  
 11.15 vulnerable adults that has been received by the commissioner as required under section  
 11.16 626.557, subdivision 9c, paragraph (j);
- 11.17 (2) the commissioner's records relating to the maltreatment of minors in licensed  
 11.18 programs, and from findings of maltreatment of minors as indicated through the social  
 11.19 service information system;
- 11.20 (3) information from juvenile courts as required in subdivision 4 for individuals listed  
 11.21 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;
- 11.22 (4) information from the Bureau of Criminal Apprehension, including information  
 11.23 regarding a background study subject's registration in Minnesota as a predatory offender  
 11.24 under section 243.166;
- 11.25 (5) except as provided in clause (6), information received as a result of submission of  
 11.26 fingerprints for a national criminal history record check, as defined in section 245C.02,  
 11.27 subdivision 13c, when the commissioner has reasonable cause for a national criminal history  
 11.28 record check as defined under section ~~245C.05, subdivision 5~~ 245C.02, subdivision 15a, or  
 11.29 as required under section 144.057, subdivision 1, clause (2);
- 11.30 (6) for a background study related to a child foster care application for licensure, a  
 11.31 transfer of permanent legal and physical custody of a child under sections 260C.503 to  
 11.32 260C.515, or adoptions, and for a background study required for family child care, certified  
 12.1 license-exempt child care, child care centers, and legal nonlicensed child care authorized  
 12.2 under chapter 119B, the commissioner shall also review:
- 12.3 (i) information from the child abuse and neglect registry for any state in which the  
 12.4 background study subject has resided for the past five years; and
- 12.5 (ii) when the background study subject is 18 years of age or older, or a minor under  
 12.6 section 245C.05, subdivision 5a, paragraph (c), information received following submission  
 12.7 of fingerprints for a national criminal history record check; and
- 12.8 (7) for a background study required for family child care, certified license-exempt child  
 12.9 care centers, licensed child care centers, and legal nonlicensed child care authorized under  
 12.10 chapter 119B, the background study shall also include, to the extent practicable, a name  
 12.11 and date-of-birth search of the National Sex Offender Public Web site.

6.30 Sec. 5. Minnesota Statutes 2017 Supplement, section 245C.15, subdivision 1, is amended  
6.31 to read:

6.32 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under  
6.33 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the  
6.34 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of  
7.1 the level of the offense, the individual has committed any of the following offenses: sections  
7.2 243.166 (violation of predatory offender registration law); 609.185 (murder in the first  
7.3 degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20  
7.4 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony  
7.5 offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense  
7.6 under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or  
7.7 neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228  
7.8 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25  
7.9 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder

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

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

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

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

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

12.30 Subd. 9a. **Child care programs.** The commissioner shall recover the cost of a background  
12.31 study required for family child care, certified license-exempt child care centers, licensed  
12.32 child care centers, and legal nonlicensed child care providers authorized under chapter 119B  
12.33 through a fee of no more than \$40 per study charged to the license holder. A fee of no more  
13.1 than \$20 per study shall be charged for studies conducted under section 245C.05, subdivision  
13.2 5a, paragraph (a). The fees collected under this subdivision are appropriated to the  
13.3 commissioner to conduct background studies.

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

13.6 Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under  
13.7 section 245C.14 if: (1) regardless of how much time has passed since the discharge of the  
13.8 sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of  
13.9 the level of the offense, the individual has committed any of the following offenses: sections  
13.10 243.166 (violation of predatory offender registration law); 609.185 (murder in the first  
13.11 degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20  
13.12 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony  
13.13 offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense  
13.14 under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or  
13.15 neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228  
13.16 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25  
13.17 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder

7.10 of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third  
7.11 degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324,  
7.12 subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree);  
7.13 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct  
7.14 in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451  
7.15 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct);  
7.16 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony  
7.17 offense under 609.377 (malicious punishment of a child); a felony offense under 609.378  
7.18 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision  
7.19 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level stalking); 609.855,  
7.20 subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2,  
7.21 clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use  
7.22 of minors in sexual performance prohibited); 617.247 (possession of pictorial representations  
7.23 of minors); or, for a child care staff person or an individual 13 years of age or older residing  
7.24 in a licensed family child care home or legal nonlicensed child care program, conviction of  
7.25 a crime that would make the individual ineligible for employment under United States Code,  
7.26 title 42, section 9858f, regardless of whether a period of disqualification under subdivisions  
7.27 2 to 4, would apply if the individual were not a child care staff person or an individual living  
7.28 in a licensed family child care home or legal nonlicensed child care program.

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

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

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

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

8.14 (f) A child care staff person or an individual 13 years of age or older residing in a licensed  
8.15 family child care home or legal nonlicensed child care program shall be disqualified as long  
8.16 as the individual is registered, or required to be registered, on a state sex offender registry  
8.17 or repository or the National Sex Offender Registry.

13.18 of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third  
13.19 degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324,  
13.20 subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree);  
13.21 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct  
13.22 in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451  
13.23 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct);  
13.24 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony  
13.25 offense under 609.377 (malicious punishment of a child); a felony offense under 609.378  
13.26 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision  
13.27 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level stalking); 609.855,  
13.28 subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2,  
13.29 clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use  
13.30 of minors in sexual performance prohibited); 617.247 (possession of pictorial representations  
13.31 of minors); or, for a child care staff person background study subject, conviction of a crime  
13.32 that would make the individual ineligible for employment under United States Code, title  
13.33 42, section 9858f, except for a felony drug conviction, regardless of whether a period of  
13.34 disqualification under subdivisions 2 to 4, would apply if the individual were not a child  
13.35 care staff person background study subject.

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

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

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

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

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

- 8.18 **EFFECTIVE DATE.** This section is effective upon the implementation of enhanced  
8.19 child care background studies under NETStudy 2.0.
- 8.20 Sec. 6. Minnesota Statutes 2017 Supplement, section 245C.16, subdivision 1, is amended  
8.21 to read:
- 8.22 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines  
8.23 that the individual studied has a disqualifying characteristic, the commissioner shall review  
8.24 the information immediately available and make a determination as to the subject's immediate  
8.25 risk of harm to persons served by the program where the individual studied will have direct  
8.26 contact with, or access to, people receiving services.
- 8.27 (b) The commissioner shall consider all relevant information available, including the  
8.28 following factors in determining the immediate risk of harm:
- 8.29 (1) the recency of the disqualifying characteristic;
- 8.30 (2) the recency of discharge from probation for the crimes;
- 8.31 (3) the number of disqualifying characteristics;
- 8.32 (4) the intrusiveness or violence of the disqualifying characteristic;
- 9.1 (5) the vulnerability of the victim involved in the disqualifying characteristic;
- 9.2 (6) the similarity of the victim to the persons served by the program where the individual  
9.3 studied will have direct contact;
- 9.4 (7) whether the individual has a disqualification from a previous background study that  
9.5 has not been set aside; and
- 9.6 (8) if the individual has a disqualification which may not be set aside because it is a  
9.7 permanent bar under section 245C.24, subdivision 1, or the individual is a child care staff  
9.8 person or is 13 years of age or older residing in a licensed family child care home or legal  
9.9 nonlicensed child care program who has a felony-level conviction for a drug-related offense  
9.10 in the last five years, the commissioner may order the immediate removal of the individual  
9.11 from any position allowing direct contact with, or access to, persons receiving services from  
9.12 the program.
- 9.13 (c) This section does not apply when the subject of a background study is regulated by  
9.14 a health-related licensing board as defined in chapter 214, and the subject is determined to  
9.15 be responsible for substantiated maltreatment under section 626.556 or 626.557.
- 9.16 (d) This section does not apply to a background study related to an initial application  
9.17 for a child foster care license.
- 9.18 (e) Except for paragraph (f), this section does not apply to a background study that is  
9.19 also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a  
9.20 personal care assistant or a qualified professional as defined in section 256B.0659,  
9.21 subdivision 1.

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

9.27 **EFFECTIVE DATE.** This section is effective upon the implementation of enhanced  
 9.28 child care background studies under NETStudy 2.0.

14.23 Sec. 15. **DIRECTION TO COMMISSIONER; FINGERPRINT DATA**

14.24 **NOTIFICATION.**

14.25 The commissioner of human services shall notify all background study subjects under  
 14.26 Minnesota Statutes, chapter 245C, that the Department of Human Services, Department of  
 14.27 Public Safety, and the Bureau of Criminal Apprehension do not retain fingerprint data after  
 14.28 a background study is completed, and that the Federal Bureau of Investigation only retains  
 14.29 the fingerprints of subjects who have a criminal history.

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

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