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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4311

02/26/2024 Authored by Acomb, Edelson, Coulter and Kotyza-Witthuhn
The bill was read for the first time and referred to the Committee on Children and Families Finance and Policy

1.1 A bill for an act
1.2 relating to children and youth programs; child welfare; requiring certification of
1.3 summer camp programs; amending Minnesota Statutes 2022, sections 245C.03,
1.4 by adding a subdivision; 245C.04, by adding a subdivision; 245C.05, by adding
1.5 a subdivision; 245C.10, by adding a subdivision; Minnesota Statutes 2023
1.6 Supplement, sections 245A.03, subdivision 2; 245C.08, subdivision 1; proposing
1.7 coding for new law in Minnesota Statutes, chapter 245A.

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

1.9 Section 1. Minnesota Statutes 2023 Supplement, section 245A.03, subdivision 2, is
1.10 amended to read:

1.11 Subd. 2. Exclusion from licensure. (a) This chapter does not apply to:

1.12 (1) residential or nonresidential programs that are provided to a person by an individual
1.13 who is related unless the residential program is a child foster care placement made by a
1.14 local social services agency or a licensed child-placing agency, except as provided in
1.15 subdivision 2a;

1.16 (2) nonresidential programs that are provided by an unrelated individual to persons from
1.17 a single related family;

1.18 (3) residential or nonresidential programs that are provided to adults who do not misuse
1.19 substances or have a substance use disorder, a mental illness, a developmental disability, a
1.20 functional impairment, or a physical disability;

1.21 (4) sheltered workshops or work activity programs that are certified by the commissioner
1.22 of employment and economic development;

1.23 (5) programs operated by a public school for children 33 months or older;

2.1 (6) nonresidential programs primarily for children that provide care or supervision for
2.2 periods of less than three hours a day while the child's parent or legal guardian is in the
2.3 same building as the nonresidential program or present within another building that is
2.4 directly contiguous to the building in which the nonresidential program is located;

2.5 (7) nursing homes or hospitals licensed by the commissioner of health except as specified
2.6 under section 245A.02;

2.7 (8) board and lodge facilities licensed by the commissioner of health that do not provide
2.8 children's residential services under Minnesota Rules, chapter 2960, mental health or
2.9 substance use disorder treatment;

2.10 (9) homes providing programs for persons placed by a county or a licensed agency for
2.11 legal adoption, unless the adoption is not completed within two years;

2.12 (10) programs licensed by the commissioner of corrections;

2.13 (11) recreation programs for children or adults that are operated or approved by a park
2.14 and recreation board whose primary purpose is to provide social and recreational activities;

2.15 (12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA
2.16 as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in
2.17 section 315.51, whose primary purpose is to provide child care or services to school-age
2.18 children;

2.19 (13) Head Start nonresidential programs which operate for less than 45 days in each
2.20 calendar year;

2.21 (14) noncertified boarding care homes unless they provide services for five or more
2.22 persons whose primary diagnosis is mental illness or a developmental disability;

2.23 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and art
2.24 programs, and nonresidential programs for children provided for a cumulative total of less
2.25 than 30 days in any 12-month period;

2.26 (16) residential programs for persons with mental illness, that are located in hospitals;

2.27 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or the
2.28 congregate care of children by a church, congregation, or religious society during the period
2.29 used by the church, congregation, or religious society for its regular worship;

2.30 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
2.31 4630;

3.1 (19) mental health outpatient services for adults with mental illness or children with
3.2 emotional disturbance;

3.3 (20) residential programs serving school-age children whose sole purpose is cultural or
3.4 educational exchange, until the commissioner adopts appropriate rules;

3.5 (21) community support services programs as defined in section 245.462, subdivision
3.6 6, and family community support services as defined in section 245.4871, subdivision 17;

3.7 (22) the placement of a child by a birth parent or legal guardian in a preadoptive home
3.8 for purposes of adoption as authorized by section 259.47;

3.9 (23) settings registered under chapter 144D which provide home care services licensed
3.10 by the commissioner of health to fewer than seven adults;

3.11 (24) substance use disorder treatment activities of licensed professionals in private
3.12 practice as defined in section 245G.01, subdivision 17;

3.13 (25) consumer-directed community support service funded under the Medicaid waiver
3.14 for persons with developmental disabilities when the individual who provided the service
3.15 is:

3.16 (i) the same individual who is the direct payee of these specific waiver funds or paid by
3.17 a fiscal agent, fiscal intermediary, or employer of record; and

3.18 (ii) not otherwise under the control of a residential or nonresidential program that is
3.19 required to be licensed under this chapter when providing the service;

3.20 (26) a program serving only children who are age 33 months or older, that is operated
3.21 by a nonpublic school, for no more than four hours per day per child, with no more than 20
3.22 children at any one time, and that is accredited by:

3.23 (i) an accrediting agency that is formally recognized by the commissioner of education
3.24 as a nonpublic school accrediting organization; or

3.25 (ii) an accrediting agency that requires background studies and that receives and
3.26 investigates complaints about the services provided.

3.27 A program that asserts its exemption from licensure under item (ii) shall, upon request
3.28 from the commissioner, provide the commissioner with documentation from the accrediting
3.29 agency that verifies: that the accreditation is current; that the accrediting agency investigates
3.30 complaints about services; and that the accrediting agency's standards require background
3.31 studies on all people providing direct contact services;

4.1 (27) a program operated by a nonprofit organization incorporated in Minnesota or another
4.2 state that serves youth in kindergarten through grade 12; provides structured, supervised
4.3 youth development activities; and has learning opportunities take place before or after
4.4 school, on weekends, or during the summer or other seasonal breaks in the school calendar.

4.5 A program exempt under this clause is not eligible for child care assistance under chapter
4.6 119B. A program exempt under this clause must:

4.7 (i) have a director or supervisor on site who is responsible for overseeing written policies
4.8 relating to the management and control of the daily activities of the program, ensuring the
4.9 health and safety of program participants, and supervising staff and volunteers;

4.10 (ii) have obtained written consent from a parent or legal guardian for each youth
4.11 participating in activities at the site; and

4.12 (iii) have provided written notice to a parent or legal guardian for each youth at the site
4.13 that the program is ~~not licensed or~~ certified under section 245A.60 but is not otherwise
4.14 supervised by the state of Minnesota and is not eligible to receive child care assistance
4.15 payments;

4.16 (28) a county that is an eligible vendor under section 254B.05 to provide care coordination
4.17 and comprehensive assessment services;

4.18 (29) a recovery community organization that is an eligible vendor under section 254B.05
4.19 to provide peer recovery support services; or

4.20 (30) Head Start programs that serve only children who are at least three years old but
4.21 not yet six years old.

4.22 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a
4.23 building in which a nonresidential program is located if it shares a common wall with the
4.24 building in which the nonresidential program is located or is attached to that building by
4.25 skyway, tunnel, atrium, or common roof.

4.26 (c) Except for the home and community-based services identified in section 245D.03,
4.27 subdivision 1, nothing in this chapter shall be construed to require licensure for any services
4.28 provided and funded according to an approved federal waiver plan where licensure is
4.29 specifically identified as not being a condition for the services and funding.

4.30 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.1 **Sec. 2. [245A.60] SUMMER CAMP PROGRAM CERTIFICATION.**

5.2 **Subdivision 1. Certification required.** Beginning January 1, 2025, a summer day camp
5.3 program and a summer residential camp program must be certified each calendar year under
5.4 this section to operate in the state.

5.5 **Subd. 2. Definitions.** (a) The definitions in this subdivision apply to this section.

5.6 (b) "Commissioner" means the commissioner of children, youth, and families.

5.7 (c) "Department" means the Department of Children, Youth, and Families.

5.8 (d) "Summer day camp program" means a program that:

5.9 (1) operates on a scheduled basis at any time between June 1 and September 15;

5.10 (2) provides indoor or outdoor organized group activities under general supervision to
5.11 nine or more children who are under 16 years of age for a period of at least three hours but
5.12 less than 24 hours on any day; and

5.13 (3) does not provide for overnight occupancy by the children.

5.14 A summer day camp program includes but is not limited to programs that operate at a youth
5.15 camp, as defined in section 144.71, subdivision 2, that otherwise meet the definition in this
5.16 paragraph.

5.17 (e) "Summer residential camp program" means a program that:

5.18 (1) operates on a scheduled basis at any time between June 1 and September 15;

5.19 (2) provides indoor or outdoor organized activities to nine or more children who are
5.20 under 18 years of age; and

5.21 (3) provides for overnight occupancy by the children.

5.22 A summer residential camp program includes but is not limited to programs that operate at
5.23 a youth camp, as defined in section 144.71, subdivision 2, that otherwise meet the definition
5.24 in this paragraph.

5.25 **Subd. 3. Background studies.** (a) An operator of a summer day or summer residential
5.26 camp program must conduct a background study under section 245C.03, subdivision 6b,
5.27 prior to hiring any individual for each applicant for paid or volunteer employment with the
5.28 program for a position with direct contact, as defined in section 245C.02, subdivision 11.

5.29 (b) For a summer day or summer residential camp program to be certified under this
5.30 section, each background study conducted by the program under paragraph (a) for an

6.1 individual hired by the program must result in a not disqualified determination under section
6.2 245C.14 or a disqualification that was set aside under section 245C.22.

6.3 Subd. 4. **Certification procedures.** (a) By February 1 of each year, the commissioner
6.4 must provide application instructions and information about obtaining and maintaining
6.5 certification under this section, including:

6.6 (1) the date by which a program's application for certification, including completed
6.7 background studies, must be submitted to the commissioner to determine initial certification;
6.8 and

6.9 (2) the process for maintaining initial certification while continuing to process applications
6.10 for paid or volunteer employment.

6.11 (b) If the commissioner receives an application for initial certification that is incomplete
6.12 because the applicant failed to submit the required background studies or because one or
6.13 more background studies does not meet the requirement in subdivision 2, paragraph (b),
6.14 the commissioner must provide the applicant written notice that the application is incomplete
6.15 or deficient. In the notice, the commissioner must identify documents that are missing or
6.16 deficient and give the applicant 30 days to resubmit a second application that is complete.
6.17 An applicant's failure to submit a complete application after receiving notice from the
6.18 commissioner may be the basis for certification denial.

6.19 (c) An applicant may request reconsideration of a certification denial by notifying the
6.20 commissioner by certified mail or by personal service. The request must be made in writing.
6.21 If sent by certified mail, the request must be postmarked and sent to the commissioner within
6.22 20 calendar days after the applicant received the order. If a request is made by personal
6.23 service, it must be received by the commissioner within 20 calendar days after the applicant
6.24 received the order. The applicant may submit with the request for reconsideration a written
6.25 argument or evidence in support of the request for reconsideration. The commissioner's
6.26 disposition of a request for reconsideration is final and not subject to appeal under chapter
6.27 14.

6.28 Subd. 5. **Decertification.** (a) The commissioner may decertify a program if the
6.29 certification holder:

6.30 (1) failed to comply with the requirements in this section; or

6.31 (2) knowingly withheld relevant information from or gave false or misleading information
6.32 to the commissioner in connection with an application for certification, in connection with

7.1 the background study status of an individual, during an investigation, or regarding compliance
 7.2 with applicable laws or rules.

7.3 (b) A certification holder may request reconsideration of decertification by notifying
 7.4 the commissioner by certified mail or by personal service. The request must be made in
 7.5 writing. If sent by certified mail, the request must be postmarked and sent to the
 7.6 commissioner within 20 calendar days after the certification holder received the order. If a
 7.7 request is made by personal service, it must be received by the commissioner within 20
 7.8 calendar days after the certification holder received the order. With the request for
 7.9 reconsideration, the certification holder may submit a written argument or evidence in
 7.10 support of the request for reconsideration. The commissioner's disposition of a request for
 7.11 reconsideration is final and not subject to appeal under chapter 14.

7.12 Subd. 6. **Exclusion from certification.** This section does not apply to:

7.13 (1) programs licensed as family child care providers under chapter 245A;

7.14 (2) programs licensed as child care centers under chapter 245A; or

7.15 (3) programs certified as license-exempt child care centers under chapter 245H.

7.16 **EFFECTIVE DATE.** This section is effective January 1, 2025.

7.17 Sec. 3. Minnesota Statutes 2022, section 245C.03, is amended by adding a subdivision to
 7.18 read:

7.19 Subd. 6b. **Summer day camp and summer residential camp programs.** The
 7.20 commissioner shall conduct all background studies initiated by an operator of a summer
 7.21 day camp program or a summer residential camp program under section 245A.60.

7.22 **EFFECTIVE DATE.** This section is effective January 1, 2025.

7.23 Sec. 4. Minnesota Statutes 2022, section 245C.04, is amended by adding a subdivision to
 7.24 read:

7.25 Subd. 2a. **Summer day camp and summer residential camp programs.** An operator
 7.26 of a summer day camp program or a summer residential camp program that initiates a
 7.27 background study under section 245A.60 of an applicant for paid or volunteer employment
 7.28 with the program for a position with direct contact must submit completed background
 7.29 study forms to the commissioner according to a schedule determined by the commissioner
 7.30 of children, youth, and families.

7.31 **EFFECTIVE DATE.** This section is effective January 1, 2025.

8.1 Sec. 5. Minnesota Statutes 2022, section 245C.05, is amended by adding a subdivision to
8.2 read:

8.3 Subd. 5b. **Background study requirements for employees and volunteers of summer**
8.4 **camp programs.** (a) A background study subject who is required to be studied under section
8.5 245C.03, subdivision 6b, shall submit to the commissioner only the information under
8.6 subdivision 1, paragraph (a).

8.7 (b) For a background study subject who is required to be studied under section 245C.03,
8.8 subdivision 6b, the commissioner shall review information obtained using
8.9 non-fingerprint-based data, including but not limited to information under subdivision 1,
8.10 paragraph (a).

8.11 Sec. 6. Minnesota Statutes 2023 Supplement, section 245C.08, subdivision 1, is amended
8.12 to read:

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

8.16 (1) information related to names of substantiated perpetrators of maltreatment of
8.17 vulnerable adults that has been received by the commissioner as required under section
8.18 626.557, subdivision 9c, paragraph (j);

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

8.22 (3) information from juvenile courts as required in subdivision 4 for individuals listed
8.23 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

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

8.27 (5) except as provided in ~~clause~~ clauses (6) and (9), information received as a result of
8.28 submission of fingerprints for a national criminal history record check, as defined in section
8.29 245C.02, subdivision 13c, when the commissioner has reasonable cause for a national
8.30 criminal history record check as defined under section 245C.02, subdivision 15a, or as
8.31 required under section 144.057, subdivision 1, clause (2);

9.1 (6) for a background study related to a child foster family setting application for licensure,
9.2 foster residence settings, children's residential facilities, a transfer of permanent legal and
9.3 physical custody of a child under sections 260C.503 to 260C.515, or adoptions, and for a
9.4 background study required for family child care, certified license-exempt child care, child
9.5 care centers, and legal nonlicensed child care authorized under chapter 119B, the
9.6 commissioner shall also review:

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

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

9.12 (iii) when the background study subject is 18 years of age or older or a minor under
9.13 section 245C.05, subdivision 5a, paragraph (d), for licensed family child care, certified
9.14 license-exempt child care, licensed child care centers, and legal nonlicensed child care
9.15 authorized under chapter 119B, information obtained using non-fingerprint-based data
9.16 including information from the criminal and sex offender registries for any state in which
9.17 the background study subject resided for the past five years and information from the national
9.18 crime information database and the national sex offender registry;

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

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

9.26 (9) for a background study required for a subject under section 245C.03, subdivision
9.27 6b, the background study shall only include a review of information obtained using
9.28 non-fingerprint-based data based on information provided under section 245C.05, subdivision
9.29 1, paragraph (a).

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

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

10.3 (2) the commissioner received notice of the expungement order issued pursuant to section
10.4 609A.017, 609A.025, or 609A.035, and the order for expungement is directed specifically
10.5 to the commissioner.

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

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

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

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

10.26 **EFFECTIVE DATE.** This section is effective January 1, 2025.

10.27 Sec. 7. Minnesota Statutes 2022, section 245C.10, is amended by adding a subdivision to
10.28 read:

10.29 **Subd. 2b. Summer day camp and summer residential camp programs.** The
10.30 commissioner shall recover the cost of the background studies initiated under section 245A.60
10.31 by an operator of a summer day camp program or summer residential camp program through
10.32 a fee of no more than \$44 per study charged to the operator of the summer day camp program
10.33 or summer residential camp program.

11.1 **EFFECTIVE DATE.** This section is effective January 1, 2025.