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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SEVENTH SESSION**

**H. F. No. 1985**

01/26/2012 Authored by Schomacker, Abeler, Murray, Banaian and Anderson, P.,  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform  
03/05/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance  
03/15/2012 Adoption of Report: Pass and re-referred to the Committee on Ways and Means

1.1 A bill for an act  
1.2 relating to human services; modifying requirements for background studies;  
1.3 modifying notification requirements; amending Minnesota Statutes 2010,  
1.4 sections 245C.04, subdivision 1; 245C.05, subdivision 7.

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

1.6 Section 1. Minnesota Statutes 2010, section 245C.04, subdivision 1, is amended to read:

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

1.10 (b) The commissioner shall conduct a background study of an individual required  
1.11 to be studied under section 245C.03, subdivision 1, at reapplication for a license for  
1.12 family child care.

1.13 (c) The commissioner is not required to conduct a study of an individual at the time  
1.14 of reapplication for a license if the individual's background study was completed by the  
1.15 commissioner of human services for an adult foster care license holder that is also:

1.16 (1) registered under chapter 144D; or

1.17 (2) licensed to provide home and community-based services to people with  
1.18 disabilities at the foster care location and the license holder does not reside in the foster  
1.19 care residence; and

1.20 (3) the following conditions are met:

1.21 (i) a study of the individual was conducted either at the time of initial licensure or  
1.22 when the individual became affiliated with the license holder;

1.23 (ii) the individual has been continuously affiliated with the license holder since  
1.24 the last study was conducted; and

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

2.2 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall  
2.3 conduct a study of an individual required to be studied under section 245C.03, at the  
2.4 time of reapplication for a child foster care license. The county or private agency shall  
2.5 collect and forward to the commissioner the information required under section 245C.05,  
2.6 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background  
2.7 study conducted by the commissioner of human services under this paragraph must  
2.8 include a review of the information required under section 245C.08, subdivisions 1,  
2.9 paragraph (a), clauses (1) to (5), 3, and 4.

2.10 (e) The commissioner of human services shall conduct a background study of an  
2.11 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)  
2.12 to (6), who is newly affiliated with a child foster care license holder. The county or  
2.13 private agency shall collect and forward to the commissioner the information required  
2.14 under section 245C.05, subdivisions 1 and 5. The background study conducted by the  
2.15 commissioner of human services under this paragraph must include a review of the  
2.16 information required under section 245C.08, subdivisions 1, 3, and 4.

2.17 (f) From January 1, 2010, to December 31, 2012, unless otherwise specified in  
2.18 paragraph (c), the commissioner shall conduct a study of an individual required to  
2.19 be studied under section 245C.03 at the time of reapplication for an adult foster care  
2.20 or family adult day services license: (1) the county shall collect and forward to the  
2.21 commissioner the information required under section 245C.05, subdivision 1, paragraphs  
2.22 (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted  
2.23 by the commissioner for all family adult day services and for adult foster care when  
2.24 the adult foster care license holder resides in the adult foster care or family adult day  
2.25 services residence; (2) the license holder shall collect and forward to the commissioner  
2.26 the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b);  
2.27 and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for  
2.28 adult foster care when the license holder does not reside in the adult foster care residence;  
2.29 and (3) the background study conducted by the commissioner under this paragraph must  
2.30 include a review of the information required under section 245C.08, subdivision 1,  
2.31 paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

2.32 (g) The commissioner shall conduct a background study of an individual specified  
2.33 under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly  
2.34 affiliated with an adult foster care or family adult day services license holder: (1) the  
2.35 county shall collect and forward to the commissioner the information required under  
2.36 section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a)

3.1 and (b), for background studies conducted by the commissioner for all family adult day  
3.2 services and for adult foster care when the adult foster care license holder resides in  
3.3 the adult foster care residence; (2) the license holder shall collect and forward to the  
3.4 commissioner the information required under section 245C.05, subdivisions 1, paragraphs  
3.5 (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the  
3.6 commissioner for adult foster care when the license holder does not reside in the adult  
3.7 foster care residence; and (3) the background study conducted by the commissioner under  
3.8 this paragraph must include a review of the information required under section 245C.08,  
3.9 subdivision 1, paragraph (a), and subdivisions 3 and 4.

3.10 (h) Applicants for licensure, license holders, and other entities as provided in this  
3.11 chapter must submit completed background study forms to the commissioner before  
3.12 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct  
3.13 contact in any licensed program.

3.14 (i) A license holder must ~~provide the commissioner notice~~ initiate a new background  
3.15 study through the commissioner's online background study system or through a letter  
3.16 ~~mailed to the commissioner~~ when:

3.17 (1) an individual returns to a position requiring a background study following an  
3.18 absence of ~~45~~ 180 or more consecutive days; or

3.19 (2) a program that discontinued providing licensed direct contact services for ~~45~~ 180  
3.20 or more consecutive days begins to provide direct contact licensed services again.

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

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

3.30 (k) For purposes of family child care, substitute caregivers must receive repeat  
3.31 background studies at the time of each license renewal.

3.32 Sec. 2. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

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

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

4.5 (2) has been convicted of a crime constituting a disqualification under section  
4.6 245C.14.

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

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

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

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

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

4.23 (g) This subdivision does not apply to family child care programs.