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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2467

02/27/2014 Authored by Liebling

The bill was read for the first time and referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to human services; modifying requirements for human services
1.3 background studies; amending Minnesota Statutes 2012, sections 245C.03, by
1.4 adding a subdivision; 245C.05, subdivisions 1, 2c, 5; 245C.32, by adding a
1.5 subdivision; Minnesota Statutes 2013 Supplement, section 245C.08, subdivision
1.6 1; proposing coding for new law in Minnesota Statutes, chapter 245C.

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

1.8 Section 1. Minnesota Statutes 2012, section 245C.03, is amended by adding a
1.9 subdivision to read:

1.10 Subd. 8. Self-initiated background studies. Upon implementation of the enhanced
1.11 background study system, the commissioner shall conduct background studies according
1.12 to this chapter when initiated by an individual who is not currently affiliated with an entity
1.13 required to complete a background study under this chapter.

1.14 Sec. 2. Minnesota Statutes 2012, section 245C.05, subdivision 1, is amended to read:

1.15 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the
1.16 background study must provide the applicant, license holder, or other entity under section
1.17 245C.04 with sufficient information to ensure an accurate study, including:

- 1.18 (1) the individual's first, middle, and last name and all other names by which the
1.19 individual has been known;
- 1.20 (2) home address, city, and state of residence;
- 1.21 (3) zip code;
- 1.22 (4) sex;
- 1.23 (5) date of birth; and
- 1.24 (6) Minnesota driver's license number or state identification number.

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

2.4 (c) Every subject of a background study related to private agency adoptions or
 2.5 related to child foster care licensed through a private agency, who is 18 years of age
 2.6 or older, shall also provide the commissioner a signed consent for the release of any
 2.7 information received from national crime information databases to the private agency that
 2.8 initiated the background study.

2.9 (d) The subject of a background study shall provide fingerprints as required in
 2.10 subdivision 5, paragraph (c). This paragraph applies to background studies initiated prior
 2.11 to implementation of the commissioner's enhanced background study system.

2.12 (e) Under the enhanced background study system, every subject of a background
 2.13 study must provide the commissioner with a set of the background study subject's
 2.14 classifiable fingerprints and photograph obtained from an authorized agency. The
 2.15 fingerprints must be submitted using the commissioner's statewide fingerprint collection
 2.16 system.

2.17 Sec. 3. Minnesota Statutes 2012, section 245C.05, subdivision 2c, is amended to read:

2.18 Subd. 2c. **Privacy notice to background study subject.** (a) For every background
 2.19 study, the commissioner's notice to the background study subject required under section
 2.20 13.04, subdivision 2, that is provided through the commissioner's electronic NETStudy
 2.21 system or through the commissioner's background study forms shall include the
 2.22 information in ~~paragraph~~ paragraphs (b) and (c).

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

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

2.29 (2) the reason for the disqualification; and

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

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

2.34 (1) the subject's fingerprints collected for purposes of completing the background
 2.35 study under this chapter shall not be retained by the Minnesota Department of Public

3.1 Safety, Bureau of Criminal Apprehension, or by the commissioner, but will be retained
 3.2 by the Federal Bureau of Investigation and may be used for law enforcement-related
 3.3 activities performed by that agency; and

3.4 (2) effective upon implementation of the enhanced background study system, the
 3.5 subject's photographic image will be stored and made available to prospective employers
 3.6 and agencies initiating background studies under this chapter to verify the identity of the
 3.7 subject of the background study.

3.8 Sec. 4. Minnesota Statutes 2012, section 245C.05, subdivision 5, is amended to read:

3.9 Subd. 5. **Fingerprints.** (a) Paragraphs (a) to (c) apply to background studies
 3.10 initiated before implementation of the enhanced background study system. Except as
 3.11 provided in paragraph (c), for any background study completed under this chapter, when
 3.12 the commissioner has reasonable cause to believe that further pertinent information may
 3.13 exist on the subject of the background study, the subject shall provide the commissioner
 3.14 with a set of classifiable fingerprints obtained from an authorized agency.

3.15 (b) For purposes of requiring fingerprints, the commissioner has reasonable cause
 3.16 when, but not limited to, the:

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

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

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

3.23 (c) Except as specified under section 245C.04, subdivision 1, paragraph (d), for
 3.24 background studies conducted by the commissioner for child foster care or adoptions,
 3.25 the subject of the background study, who is 18 years of age or older, shall provide the
 3.26 commissioner with a set of classifiable fingerprints obtained from an authorized agency.

3.27 (d) For background studies initiated on or after implementation of the enhanced
 3.28 background study system, every subject of a background study must provide the
 3.29 commissioner with a set of the background study subject's classifiable fingerprints and
 3.30 photograph obtained from an authorized agency. The fingerprints must be submitted using
 3.31 the commissioner's statewide fingerprint collection system.

3.32 Sec. 5. **[245C.051] DESTRUCTION OF BACKGROUND STUDY**
 3.33 **INFORMATION AT REQUEST OF BACKGROUND STUDY SUBJECT.**

4.1 A subject of a background study who has had no affiliation with an entity required to
 4.2 complete a background study under this chapter for the previous two years and no current
 4.3 disqualifying characteristic may request in writing that the commissioner destroy any
 4.4 information used to complete the background study. Upon receipt of a written request
 4.5 from a background study subject, if the commissioner verifies the background study
 4.6 subject has had no such affiliation in the previous two years and no current disqualifying
 4.7 characteristic, the commissioner shall destroy the information used to complete the
 4.8 subject's background study and shall keep a record of the subject's name and a notation
 4.9 that the information was destroyed.

4.10 Sec. 6. Minnesota Statutes 2013 Supplement, section 245C.08, subdivision 1, is
 4.11 amended to read:

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

4.15 (1) information related to names of substantiated perpetrators of maltreatment of
 4.16 vulnerable adults that has been received by the commissioner as required under section
 4.17 626.557, subdivision 9c, paragraph (j);

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

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

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

4.26 (5) except as provided in ~~clause~~ clauses (6) and (7), information from the national
 4.27 crime information system when the commissioner has reasonable cause as defined under
 4.28 section 245C.05, subdivision 5; ~~and~~

4.29 (6) for a background study related to a child foster care application for licensure or
 4.30 adoptions, the commissioner shall also review:

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

4.33 (ii) information from national crime information databases, when the background
 4.34 study subject is 18 years of age or older; and

5.1 (7) for a background study required under section 245C.03, subdivision 2, and
5.2 initiated on or after implementation of the enhanced background study system, information
5.3 from national crime information databases.

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

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

5.12 Sec. 7. Minnesota Statutes 2012, section 245C.32, is amended by adding a subdivision
5.13 to read:

5.14 Subd. 1a. **Enhanced background study system.** The commissioner shall design,
5.15 develop, and test enhancements to the background study system, including changes to
5.16 NETStudy, and implement an enhanced background study system no later than July 1, 2015.