

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 588

(SENATE AUTHORS: SHERAN, Eaton and Latz)

DATE	D-PG	OFFICIAL STATUS
02/21/2013	343	Introduction and first reading Referred to Health, Human Services and Housing
02/28/2013	425a	Comm report: To pass as amended and re-refer to Judiciary
	460	Author added Latz
03/05/2013		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
 1.2 relating to health occupations; establishing a criminal background check process
 1.3 for individuals licensed by the health-related licensing boards; appropriating
 1.4 money; amending Minnesota Statutes 2012, section 13.411, subdivision 7;
 1.5 proposing coding for new law in Minnesota Statutes, chapter 214.

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

1.7 Section 1. Minnesota Statutes 2012, section 13.411, subdivision 7, is amended to read:

1.8 Subd. 7. **Examining and licensing boards.** (a) **Health licensing boards.** Data
 1.9 held by health licensing boards are classified under sections 214.10, subdivision 8, and
 1.10 214.25, subdivision 1.

1.11 (b) **Combined boards data.** Data held by licensing boards participating in a health
 1.12 professional services program are classified under sections 214.34 and 214.35.

1.13 (c) **Criminal background checks.** Criminal history record information obtained by
 1.14 a health-related licensing board is classified under section 214.075, subdivision 7.

1.15 Sec. 2. **[214.075] HEALTH-RELATED LICENSING BOARDS; CRIMINAL**
 1.16 **BACKGROUND CHECKS.**

1.17 Subdivision 1. **Applications.** (a) By January 1, 2018, each health-related licensing
 1.18 board, as defined in section 214.01, subdivision 2, shall require applicants for initial
 1.19 licensure, licensure by endorsement, or reinstatement or other relicensure after a lapse
 1.20 in licensure, as defined by the individual health-related licensing boards to submit to
 1.21 a criminal history records check of state data completed by the Bureau of Criminal
 1.22 Apprehension (BCA) and a national criminal history records check, including a search of
 1.23 the records of the Federal Bureau of Investigation (FBI).

2.1 (b) An applicant must complete a criminal background check if more than one year
2.2 has elapsed since the applicant last submitted a background check to the board.

2.3 Subd. 2. **Investigations.** If a health-related licensing board has reasonable cause
2.4 to believe a licensee has been charged with or convicted of a crime in this or any other
2.5 jurisdiction, the health-related licensing board may require the licensee to submit to a
2.6 criminal history records check of state data completed by the BCA and a national criminal
2.7 history records check, including a search of the records of the FBI.

2.8 Subd. 3. **Consent form; fees; and fingerprints.** In order to effectuate the federal
2.9 and state level, fingerprint-based criminal background check, the applicant or licensee
2.10 must submit a completed criminal history records check consent form and a full set of
2.11 fingerprints to the respective health-related licensing board or a designee in the manner
2.12 and form specified by the board. The applicant or licensee is responsible for all fees
2.13 associated with preparation of the fingerprints, the criminal records check consent form,
2.14 and the criminal background check. The fees for the criminal records background check
2.15 shall be set by the BCA and the FBI and are not refundable.

2.16 Subd. 4. **Refusal to consent.** (a) The health-related licensing boards shall not issue
2.17 a license to any applicant who refuses to consent to a criminal background check or fails
2.18 to submit fingerprints within 90 days after submission of an application for licensure. Any
2.19 fees paid by the applicant to the board shall be forfeited if the applicant refuses to consent
2.20 to the criminal background check or fails to submit the required fingerprints.

2.21 (b) The failure of a licensee to submit to a criminal background check as provided in
2.22 subdivision 3 is grounds for disciplinary action by the respective health licensing board.

2.23 Subd. 5. **Submission of fingerprints to the Bureau of Criminal Apprehension.**
2.24 The health-related licensing board or designee shall submit applicant or licensee
2.25 fingerprints to the BCA. The BCA shall perform a check for state criminal justice
2.26 information and shall forward the applicant's or licensee's fingerprints to the FBI to
2.27 perform a check for national criminal justice information regarding the applicant or
2.28 licensee. The BCA shall report to the board or the commissioner the results of the state
2.29 and national criminal justice information checks.

2.30 Subd. 6. **Alternatives to fingerprint-based criminal background checks.** The
2.31 health-related licensing board may require an alternative method of criminal history
2.32 checks for an applicant or licensee who has submitted at least three sets of fingerprints in
2.33 accordance with this section that have been unreadable by the BCA or the FBI.

2.34 Subd. 7. **Data practices.** (a) State criminal history record information obtained by
2.35 the health-related licensing board under this section is private data on individuals under
2.36 section 13.02, subdivision 12.

3.1 (b) National criminal history record information obtained by the health-related
3.2 licensing board under this section is confidential data on individuals under section 13.02,
3.3 subdivision 3.

3.4 Subd. 8. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary
3.5 action against an applicant or a licensee based on a criminal conviction, the health-related
3.6 licensing board shall provide the applicant or the licensee an opportunity to complete or
3.7 challenge the accuracy of the criminal history information reported to the board. The
3.8 applicant or licensee shall have 30 calendar days following notice from the board of the
3.9 intent to deny licensure or to take disciplinary action to request an opportunity to correct or
3.10 complete the record prior to the board taking disciplinary action based on the information
3.11 reported to the board. The board shall provide the applicant up to 180 days to challenge
3.12 the accuracy or completeness of the report with the agency responsible for the record.

3.13 Subd. 9. **Instructions to the board; plans.** The health-related licensing boards, in
3.14 collaboration with the commissioner of human services and the BCA, shall establish a
3.15 plan for completing criminal background checks of all licensees who were licensed before
3.16 the effective date requirement under subdivision 1. The plan must seek to minimize
3.17 duplication of requirements for background checks of licensed health professionals. The
3.18 plan for background checks of current licensees shall be developed no later than January
3.19 1, 2017, and may be contingent upon the implementation of a system by the BCA or FBI
3.20 in which any new crimes that an applicant or licensee commits after an initial background
3.21 check are flagged in the BCA's or FBI's database and reported back to the board. The plan
3.22 shall include recommendations for any necessary statutory changes.

3.23 Sec. 3. **INCLUSION OF OTHER HEALTH-RELATED OCCUPATIONS TO**
3.24 **CRIMINAL BACKGROUND CHECKS.**

3.25 (a) If the Department of Health is not reviewed by the Sunset Advisory Commission
3.26 according to the schedule in Minnesota Statutes, section 3D.21, the commissioner
3.27 of health, as the regulator for occupational therapy practitioners, speech-language
3.28 pathologists, audiologists, and hearing instrument dispensers, shall require applicants
3.29 for licensure or renewal to submit to a criminal history records check as required under
3.30 Minnesota Statutes, section 214.075, for other health-related licensed occupations
3.31 regulated by the health-related licensing boards.

3.32 (b) Any statutory changes necessary to include the commissioner of health to
3.33 Minnesota Statutes, section 214.075, shall be included in the plan required in Minnesota
3.34 Statutes, section 214.075, subdivision 9.

4.1 Sec. 4. **APPROPRIATION.**

4.2 \$..... is appropriated for fiscal year 2014 from the state government special revenue
4.3 fund to the Administrative Services Unit for the implementation of a criminal background
4.4 check program.