

1.1 ..... moves to amend H.F. No. 2436, the delete everything amendment  
1.2 (H2436DE1), as follows:

1.3 Page 58, after line 30, insert:

1.4 "Sec. .... Minnesota Statutes 2024, section 245C.05, subdivision 2c, is amended to read:

1.5 Subd. 2c. **Privacy notice to background study subject.** (a) Prior to initiating each  
1.6 background study, the entity initiating the study must provide the commissioner's privacy  
1.7 notice to the background study subject required under section 13.04, subdivision 2. The  
1.8 notice must be available through the commissioner's electronic NETStudy and NETStudy  
1.9 2.0 systems and shall include the information in paragraphs (b) and (c).

1.10 (b) The background study subject shall be informed that any previous background studies  
1.11 that received a set-aside will be reviewed, and without further contact with the background  
1.12 study subject, the commissioner may notify the agency that initiated the subsequent  
1.13 background study that the individual has a disqualification that has been set aside for the  
1.14 program or agency that initiated the study.

1.15 (c) The background study subject must also be informed that:

1.16 (1) the subject's fingerprints collected for purposes of completing the background study  
1.17 under this chapter must not be retained by the Department of Public Safety, Bureau of  
1.18 Criminal Apprehension, or by the commissioner, except as required under section 299C.098.  
1.19 The Federal Bureau of Investigation will not retain background study subjects' fingerprints;

1.20 (2) effective upon implementation of NETStudy 2.0, the subject's photographic image  
1.21 will be retained by the commissioner, and if the subject has provided the subject's Social  
1.22 Security number for purposes of the background study, the photographic image will be  
1.23 available to prospective employers and agencies initiating background studies under this  
1.24 chapter to verify the identity of the subject of the background study;

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

(4) the commissioner shall provide the subject notice, as required in section 245C.17, subdivision 1, paragraph (a), when an entity initiates a background study on the individual;

(5) the subject may request in writing a report listing the entities that initiated a background study on the individual as provided in section 245C.17, subdivision 1, paragraph (b);

(6) the subject may request in writing that information used to complete the individual's background study in NETStudy 2.0 be destroyed if the requirements of section 245C.051, paragraph (a), are met; and

(7) notwithstanding clause (6), the commissioner shall destroy:

(i) the subject's photograph after a period of two years when the requirements of section 245C.051, paragraph (c), are met; and

(ii) any data collected on a subject under this chapter after a period of two years following the individual's death as provided in section 245C.051, paragraph (d).

Sec. .... Minnesota Statutes 2024, section 245C.05, subdivision 2d, is amended to read:

Subd. 2d. **Fingerprint data notification.** The commissioner of human services shall notify all background study subjects under this chapter that the Department of Human Services, Department of Public Safety, and the Bureau of Criminal Apprehension do not retain fingerprint data after a background study is completed, except as required under section 299C.098, and that the Federal Bureau of Investigation does not retain background study subjects' fingerprints.

Sec. .... Minnesota Statutes 2024, section 245C.05, subdivision 5, is amended to read:

Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (c), for background studies conducted by the commissioner for child foster care, children's residential facilities, adoptions, or a transfer of permanent legal and physical custody of a child, the subject of the background study, who is 18 years of age or older, shall provide the

3.1 commissioner with a set of classifiable fingerprints obtained from an authorized agency for  
3.2 a national criminal history record check.

3.3 (b) Notwithstanding paragraph (c), for background studies conducted by the commissioner  
3.4 for Head Start programs, the subject of the background study shall provide the commissioner  
3.5 with a set of classifiable fingerprints obtained from an authorized agency for a national  
3.6 criminal history record check.

3.7 (c) For background studies initiated on or after the implementation of NETStudy 2.0,  
3.8 except as provided under subdivision 5a, every subject of a background study must provide  
3.9 the commissioner with a set of the background study subject's classifiable fingerprints and  
3.10 photograph. The photograph and fingerprints must be recorded at the same time by the  
3.11 authorized fingerprint collection vendor or vendors and sent to the commissioner through  
3.12 the commissioner's secure data system described in section 245C.32, subdivision 1a,  
3.13 paragraph (b).

3.14 (d) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal  
3.15 Apprehension and, when specifically required by law, submitted to the Federal Bureau of  
3.16 Investigation for a national criminal history record check.

3.17 (e) The fingerprints must not be retained by the Department of Public Safety, Bureau  
3.18 of Criminal Apprehension, or the commissioner, except as required under section 299C.098.  
3.19 The Federal Bureau of Investigation will not retain background study subjects' fingerprints.

3.20 (f) The authorized fingerprint collection vendor or vendors shall, for purposes of verifying  
3.21 the identity of the background study subject, be able to view the identifying information  
3.22 entered into NETStudy 2.0 by the entity that initiated the background study, but shall not  
3.23 retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The  
3.24 authorized fingerprint collection vendor or vendors shall retain no more than the name and  
3.25 date and time the subject's fingerprints were recorded and sent, only as necessary for auditing  
3.26 and billing activities.

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

3.31 Sec. .... Minnesota Statutes 2024, section 245C.14, subdivision 1, is amended to read:

3.32 Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall  
3.33 disqualify an individual who is the subject of a background study from any position allowing

direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of the evidence is for a felony, gross misdemeanor, or misdemeanor level crime;

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b); or

(4) the individual's parental rights have been terminated under section 260C.301, subdivision 1, paragraph (b), or section 260C.301, subdivision 3.

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

(c) Notwithstanding paragraph (a), for the purposes of a background study affiliated with a licensed family foster setting, the commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing or when a background study completed under this chapter shows reason for disqualification under section 245C.15, subdivision 4a.

(d) For the purposes of a background study affiliated with a licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care program, the commissioner shall disqualify an individual who is the

5.1 subject of a background study from any position allowing direct contact with or access to  
5.2 persons receiving services from the license holder upon receipt of information showing or  
5.3 when a background study completed under this chapter shows a reason for disqualification  
5.4 under section 245C.15, subdivision 4c.

5.5 Sec. .... Minnesota Statutes 2024, section 245C.15, is amended by adding a subdivision  
5.6 to read:

5.7 Subd. 4c. **One-year disqualification.** An individual affiliated with a licensed child care  
5.8 center, certified license-exempt child care center, licensed family child care program, or  
5.9 legal nonlicensed child care program is disqualified under section 245C.14 if less than one  
5.10 year has passed since the individual was arrested for an offense listed in subdivision 1,  
5.11 paragraph (a).

5.12 Sec. .... Minnesota Statutes 2024, section 245C.27, subdivision 1, is amended to read:

5.13 Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual  
5.14 who is disqualified on the basis of a preponderance of evidence that the individual committed  
5.15 an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a  
5.16 determination under section 626.557 or chapter 260E of substantiated maltreatment that  
5.17 was serious or recurring under section 245C.15; ~~or~~ for failure to make required reports under  
5.18 section 260E.06, subdivision 1 or 2; 260E.11, subdivision 1; or 626.557, subdivision 3,  
5.19 pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1); or for an individual  
5.20 affiliated with a licensed child care center, certified license-exempt child care center, licensed  
5.21 family child care program, or legal nonlicensed child care program, based on an arrest under  
5.22 section 245C.15, subdivision 4c, may request a fair hearing under section 256.045, following  
5.23 a reconsideration decision issued under section 245C.23, unless the disqualification is  
5.24 deemed conclusive under section 245C.29.

5.25 (b) The fair hearing is the only administrative appeal of the final agency determination  
5.26 for purposes of appeal by the disqualified individual. The disqualified individual does not  
5.27 have the right to challenge the accuracy and completeness of data under section 13.04.

5.28 (c) Except as provided under paragraph (e), if the individual was disqualified based on  
5.29 a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15,  
5.30 subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the  
5.31 reconsideration decision under section 245C.22 is the final agency determination for purposes  
5.32 of appeal by the disqualified individual and is not subject to a hearing under section 256.045.

If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both a preponderance of evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual."

Page 59, after line 21, insert:

"Sec. .... **[299C.098] CHILD CARE BACKGROUND STUDIES; RETENTION OF FINGERPRINTS.**

**Subdivision 1. Retention of fingerprints.** The superintendent must retain fingerprints submitted to the superintendent by the commissioner of human services for purposes of child care background studies authorized under chapter 245C, subject to the destruction requirement under subdivision 3.

**Subd. 2. Information to commissioner of human services.** Upon receiving from a law enforcement agency the fingerprints of a person arrested in Minnesota, the superintendent must determine whether the arrestee's fingerprints match the retained fingerprints of a child care background study subject. If the superintendent matches the arrestee's fingerprints to a child care background study subject, the superintendent must inform the commissioner of human services. Upon further request of the commissioner of human services, the superintendent must provide such data pertaining to the arrestee and arrest as is known to the superintendent.

**Subd. 3. Destruction of fingerprints.** The superintendent must promptly destroy the fingerprints of any individual that are retained by the superintendent solely in connection with a child care background study, upon notice from the commissioner of human services that the individual is no longer affiliated with a child care provider or five years after the date the fingerprints were submitted to the superintendent, whichever occurs first. "

- 7.1        Renumber the sections in sequence and correct the internal references
- 7.2        Amend the title accordingly