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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1287

02/18/2021 Authored by Hollins and Schomacker
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying provisions governing child foster care and
1.3 background studies; appropriating money; amending Minnesota Statutes 2020,
1.4 sections 245A.05; 245A.07, subdivision 1; 245A.16, by adding a subdivision;
1.5 245C.05, subdivisions 2c, 2d, 4; 245C.08, subdivision 3; 245C.14, subdivision 1;
1.6 245C.15, by adding a subdivision; 245C.24, subdivisions 2, 3, 4, by adding a
1.7 subdivision.

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

1.9 Section 1. Minnesota Statutes 2020, section 245A.05, is amended to read:

1.10 245A.05 DENIAL OF APPLICATION.

1.11 (a) The commissioner may deny a license if an applicant or controlling individual:

1.12 (1) fails to submit a substantially complete application after receiving notice from the
1.13 commissioner under section 245A.04, subdivision 1;

1.14 (2) fails to comply with applicable laws or rules;

1.15 (3) knowingly withholds relevant information from or gives false or misleading
1.16 information to the commissioner in connection with an application for a license or during
1.17 an investigation;

1.18 (4) has a disqualification that has not been set aside under section 245C.22 and no
1.19 variance has been granted;

1.20 (5) has an individual living in the household who received a background study under
1.21 section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that
1.22 has not been set aside under section 245C.22, and no variance has been granted;

2.1 (6) is associated with an individual who received a background study under section
 2.2 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to
 2.3 children or vulnerable adults, and who has a disqualification that has not been set aside
 2.4 under section 245C.22, and no variance has been granted;

2.5 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);

2.6 (8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision
 2.7 6;

2.8 (9) has a history of noncompliance as a license holder or controlling individual with
 2.9 applicable laws or rules, including but not limited to this chapter and chapters 119B and
 2.10 245C; ~~or~~

2.11 (10) is prohibited from holding a license according to section 245.095; or

2.12 (11) for a family foster setting, has nondisqualifying background study information, as
 2.13 described in section 245C.05, subdivision 4, that reflects on the individual's ability to safely
 2.14 provide care to foster children.

2.15 (b) An applicant whose application has been denied by the commissioner must be given
 2.16 notice of the denial, which must state the reasons for the denial in plain language. Notice
 2.17 must be given by certified mail or personal service. The notice must state the reasons the
 2.18 application was denied and must inform the applicant of the right to a contested case hearing
 2.19 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may
 2.20 appeal the denial by notifying the commissioner in writing by certified mail or personal
 2.21 service. If mailed, the appeal must be postmarked and sent to the commissioner within 20
 2.22 calendar days after the applicant received the notice of denial. If an appeal request is made
 2.23 by personal service, it must be received by the commissioner within 20 calendar days after
 2.24 the applicant received the notice of denial. Section 245A.08 applies to hearings held to
 2.25 appeal the commissioner's denial of an application.

2.26 **EFFECTIVE DATE.** This section is effective July 1, 2022.

2.27 Sec. 2. Minnesota Statutes 2020, section 245A.07, subdivision 1, is amended to read:

2.28 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional
 2.29 under section 245A.06, the commissioner may suspend or revoke the license, impose a fine,
 2.30 or secure an injunction against the continuing operation of the program of a license holder
 2.31 who does not comply with applicable law or rule, or who has nondisqualifying background
 2.32 study information, as described in section 245C.05, subdivision 4, that reflects on the license
 2.33 holder's ability to safely provide care to foster children. When applying sanctions authorized

3.1 under this section, the commissioner shall consider the nature, chronicity, or severity of the
 3.2 violation of law or rule and the effect of the violation on the health, safety, or rights of
 3.3 persons served by the program.

3.4 (b) If a license holder appeals the suspension or revocation of a license and the license
 3.5 holder continues to operate the program pending a final order on the appeal, the commissioner
 3.6 shall issue the license holder a temporary provisional license. Unless otherwise specified
 3.7 by the commissioner, variances in effect on the date of the license sanction under appeal
 3.8 continue under the temporary provisional license. If a license holder fails to comply with
 3.9 applicable law or rule while operating under a temporary provisional license, the
 3.10 commissioner may impose additional sanctions under this section and section 245A.06, and
 3.11 may terminate any prior variance. If a temporary provisional license is set to expire, a new
 3.12 temporary provisional license shall be issued to the license holder upon payment of any fee
 3.13 required under section 245A.10. The temporary provisional license shall expire on the date
 3.14 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
 3.15 license shall be issued for the remainder of the current license period.

3.16 (c) If a license holder is under investigation and the license issued under this chapter is
 3.17 due to expire before completion of the investigation, the program shall be issued a new
 3.18 license upon completion of the reapplication requirements and payment of any applicable
 3.19 license fee. Upon completion of the investigation, a licensing sanction may be imposed
 3.20 against the new license under this section, section 245A.06, or 245A.08.

3.21 (d) Failure to reapply or closure of a license issued under this chapter by the license
 3.22 holder prior to the completion of any investigation shall not preclude the commissioner
 3.23 from issuing a licensing sanction under this section or section 245A.06 at the conclusion
 3.24 of the investigation.

3.25 **EFFECTIVE DATE.** This section is effective July 1, 2022.

3.26 Sec. 3. Minnesota Statutes 2020, section 245A.16, is amended by adding a subdivision to
 3.27 read:

3.28 **Subd. 9. Licensed family foster settings.** (a) Before recommending to grant a license,
 3.29 deny a license under section 245A.05, or revoke a license under section 245A.07 for
 3.30 nondisqualifying background study information received under section 245C.05, subdivision
 3.31 4, paragraph (a), clause (3), for a licensed family foster setting, a county agency or private
 3.32 agency that has been designated or licensed by the commissioner must review the following:

3.33 (1) the type of offenses;

- 4.1 (2) the number of offenses;
- 4.2 (3) the nature of the offenses;
- 4.3 (4) the age of the individual at the time of the offenses;
- 4.4 (5) the length of time that has elapsed since the last offense;
- 4.5 (6) the relationship of the offenses and the capacity to care for a child;
- 4.6 (7) evidence of rehabilitation;
- 4.7 (8) information or knowledge from community members regarding the individual's
4.8 capacity to provide foster care;
- 4.9 (9) any available information regarding child maltreatment reports or child in need of
4.10 protection or services petitions, or related cases, in which the individual has been involved
4.11 or implicated;
- 4.12 (10) a statement from the study subject;
- 4.13 (11) a statement from the license holder; and
- 4.14 (12) other aggravating and mitigating factors.
- 4.15 (b) For purposes of this section, "evidence of rehabilitation" includes but is not limited
4.16 to the following:
- 4.17 (1) maintaining a safe and stable residence;
- 4.18 (2) continuous, regular, or stable employment;
- 4.19 (3) successful participation in an education or job training program;
- 4.20 (4) positive involvement with the community or extended family;
- 4.21 (5) compliance with the terms and conditions of probation or parole following the
4.22 individual's most recent conviction;
- 4.23 (6) if the individual has had a substance use disorder, successful completion of a substance
4.24 use disorder assessment, substance use disorder treatment, and recommended continuing
4.25 care, if applicable, demonstrated abstinence from controlled substances, as defined in section
4.26 152.01, subdivision 4, or the establishment of a sober network;
- 4.27 (7) if the individual has had a mental illness or documented mental health issues,
4.28 demonstrated completion of a mental health evaluation, participation in therapy or other
4.29 recommended mental health treatment, or appropriate medication management, if applicable;

5.1 (8) if the individual's offense or conduct involved domestic violence, demonstrated
5.2 completion of a domestic violence or anger management program, or the absence of any
5.3 orders for protection or harassment restraining orders against the individual since the previous
5.4 offense or conduct;

5.5 (9) written letters of support from individuals of good repute, including but not limited
5.6 to employers, members of the clergy, probation or parole officers, volunteer supervisors,
5.7 or social services workers;

5.8 (10) demonstrated remorse for convictions or conduct, or demonstrated positive behavior
5.9 changes; and

5.10 (11) absence of convictions or arrests since the previous offense or conduct, including
5.11 any convictions that were expunged or pardoned.

5.12 (c) When licensing a relative for a family foster setting, the commissioner shall also
5.13 consider the importance of maintaining the child's relationship with relatives as an additional
5.14 significant factor in determining whether an application will be denied.

5.15 (d) When recommending that the commissioner deny or revoke a license, the county or
5.16 private licensing agency must send a summary of the review completed according to
5.17 paragraph (a), on a form developed by the commissioner, to the commissioner and include
5.18 any recommendation for licensing action.

5.19 **EFFECTIVE DATE.** This section is effective July 1, 2022.

5.20 Sec. 4. Minnesota Statutes 2020, section 245C.05, subdivision 2c, is amended to read:

5.21 Subd. 2c. **Privacy notice to background study subject.** (a) Prior to initiating each
5.22 background study, the entity initiating the study must provide the commissioner's privacy
5.23 notice to the background study subject required under section 13.04, subdivision 2. The
5.24 notice must be available through the commissioner's electronic NETStudy and NETStudy
5.25 2.0 systems and shall include the information in paragraphs (b) and (c).

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

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

5.32 (2) the reason for the disqualification; and

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

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

6.4 (1) the subject's fingerprints collected for purposes of completing the background study
6.5 under this chapter must not be retained by the Department of Public Safety, Bureau of
6.6 Criminal Apprehension, or by the commissioner. The Federal Bureau of Investigation will
6.7 ~~only retain fingerprints of subjects with a criminal history~~ not retain background study
6.8 subjects' fingerprints;

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

6.14 (3) the commissioner's authorized fingerprint collection vendor shall, for purposes of
6.15 verifying the identity of the background study subject, be able to view the identifying
6.16 information entered into NETStudy 2.0 by the entity that initiated the background study,
6.17 but shall not retain the subject's fingerprints, photograph, or information from NETStudy
6.18 2.0. The authorized fingerprint collection vendor shall retain no more than the subject's
6.19 name and the date and time the subject's fingerprints were recorded and sent, only as
6.20 necessary for auditing and billing activities;

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

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

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

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

6.30 (i) the subject's photograph after a period of two years when the requirements of section
6.31 245C.051, paragraph (c), are met; and

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

7.1 Sec. 5. Minnesota Statutes 2020, section 245C.05, subdivision 2d, is amended to read:

7.2 Subd. 2d. **Fingerprint data notification.** The commissioner of human services shall
7.3 notify all background study subjects under this chapter that the Department of Human
7.4 Services, Department of Public Safety, and the Bureau of Criminal Apprehension do not
7.5 retain fingerprint data after a background study is completed, and that the Federal Bureau
7.6 of Investigation ~~only retains the fingerprints of subjects who have a criminal history~~ does
7.7 not retain background study subjects' fingerprints.

7.8 Sec. 6. Minnesota Statutes 2020, section 245C.05, subdivision 4, is amended to read:

7.9 Subd. 4. **Electronic transmission.** (a) For background studies conducted by the
7.10 Department of Human Services, the commissioner shall implement a secure system for the
7.11 electronic transmission of:

7.12 (1) background study information to the commissioner;

7.13 (2) background study results to the license holder;

7.14 (3) background study results and relevant underlying investigative information to counties
7.15 for background studies conducted by the commissioner for child foster care, including a
7.16 summary of nondisqualifying results, except as prohibited by law; and

7.17 (4) background study results to county agencies for background studies conducted by
7.18 the commissioner for adult foster care and family adult day services and, upon
7.19 implementation of NETStudy 2.0, family child care and legal nonlicensed child care
7.20 authorized under chapter 119B.

7.21 (b) Unless the commissioner has granted a hardship variance under paragraph (c), a
7.22 license holder or an applicant must use the electronic transmission system known as
7.23 NETStudy or NETStudy 2.0 to submit all requests for background studies to the
7.24 commissioner as required by this chapter.

7.25 (c) A license holder or applicant whose program is located in an area in which high-speed
7.26 Internet is inaccessible may request the commissioner to grant a variance to the electronic
7.27 transmission requirement.

7.28 (d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under
7.29 this subdivision.

7.30 **EFFECTIVE DATE.** This section is effective July 1, 2022.

8.1 Sec. 7. Minnesota Statutes 2020, section 245C.08, subdivision 3, is amended to read:

8.2 Subd. 3. **Arrest and investigative information.** (a) For any background study completed
8.3 under this section, if the commissioner has reasonable cause to believe the information is
8.4 pertinent to the disqualification of an individual, the commissioner also may review arrest
8.5 and investigative information from:

8.6 (1) the Bureau of Criminal Apprehension;

8.7 (2) the commissioners of health and human services;

8.8 (3) a county attorney;

8.9 (4) a county sheriff;

8.10 (5) a county agency;

8.11 (6) a local chief of police;

8.12 (7) other states;

8.13 (8) the courts;

8.14 (9) the Federal Bureau of Investigation;

8.15 (10) the National Criminal Records Repository; and

8.16 (11) criminal records from other states.

8.17 (b) Except when specifically required by law, the commissioner is not required to conduct
8.18 more than one review of a subject's records from the Federal Bureau of Investigation if a
8.19 review of the subject's criminal history with the Federal Bureau of Investigation has already
8.20 been completed by the commissioner and there has been no break in the subject's affiliation
8.21 with the entity that initiated the background study.

8.22 (c) If the commissioner conducts a national criminal history record check when required
8.23 by law and uses the information from the national criminal history record check to make a
8.24 disqualification determination, the data obtained is private data and cannot be shared with
8.25 ~~county agencies, private agencies, or prospective employers of the background study subject.~~

8.26 (d) If the commissioner conducts a national criminal history record check when required
8.27 by law and uses the information from the national criminal history record check to make a
8.28 disqualification determination, the license holder or entity that submitted the study is not
8.29 required to obtain a copy of the background study subject's disqualification letter under
8.30 section 245C.17, subdivision 3.

8.31 **EFFECTIVE DATE.** This section is effective July 1, 2021.

9.1 Sec. 8. Minnesota Statutes 2020, section 245C.14, subdivision 1, is amended to read:

9.2 Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall
9.3 disqualify an individual who is the subject of a background study from any position allowing
9.4 direct contact with persons receiving services from the license holder or entity identified in
9.5 section 245C.03, upon receipt of information showing, or when a background study
9.6 completed under this chapter shows any of the following:

9.7 (1) a conviction of, admission to, or Alford plea to one or more crimes listed in section
9.8 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor,
9.9 or misdemeanor level crime;

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

9.14 (3) an investigation results in an administrative determination listed under section
9.15 245C.15, subdivision 4, paragraph (b).

9.16 (b) No individual who is disqualified following a background study under section
9.17 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with
9.18 persons served by a program or entity identified in section 245C.03, unless the commissioner
9.19 has provided written notice under section 245C.17 stating that:

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

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

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

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

9.32 **EFFECTIVE DATE.** This section is effective July 1, 2022.

10.1 Sec. 9. Minnesota Statutes 2020, section 245C.15, is amended by adding a subdivision to
10.2 read:

10.3 Subd. 4a. Licensed family foster setting disqualifications. (a) Notwithstanding
10.4 subdivisions 1 to 4, for a background study affiliated with a licensed family foster setting,
10.5 regardless of how much time has passed, an individual is disqualified under section 245C.14
10.6 if the individual committed an act that resulted in a felony-level conviction for sections:
10.7 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder
10.8 in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in
10.9 the second degree); 609.2112 (criminal vehicular homicide); 609.221 (assault in the first
10.10 degree); 609.223, subdivision 2 (assault in the third degree, past pattern of child abuse);
10.11 609.223, subdivision 3 (assault in the third degree, victim under four); a felony offense
10.12 under sections 609.2242 and 609.2243 (domestic assault, spousal abuse, child abuse or
10.13 neglect, or a crime against children); 609.2247 (domestic assault by strangulation); 609.2325
10.14 (criminal abuse of a vulnerable adult resulting in the death of a vulnerable adult); 609.245
10.15 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.2661 (murder
10.16 of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second
10.17 degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter
10.18 of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the
10.19 second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault
10.20 of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the
10.21 commission of a crime); 609.322, subdivision 1 (solicitation, inducement, and promotion
10.22 of prostitution; sex trafficking in the first degree); 609.324, subdivision 1 (other prohibited
10.23 acts; engaging in, hiring, or agreeing to hire minor to engage in prostitution); 609.342
10.24 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second
10.25 degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual
10.26 conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree);
10.27 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage
10.28 in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or
10.29 endangerment of a child); 609.561 (arson in the first degree); 609.582, subdivision 1 (burglary
10.30 in the first degree); 609.746 (interference with privacy); 617.23 (indecent exposure); 617.246
10.31 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial
10.32 representations of minors); or 617.293 (dissemination and display of harmful materials to
10.33 minors).

11.1 (b) Notwithstanding subdivisions 1 to 4, for the purposes of a background study affiliated
11.2 with a licensed family foster setting, an individual is disqualified under section 245C.14,
11.3 regardless of how much time has passed, if the individual:

11.4 (1) committed an action under paragraph (d) that resulted in death or involved sexual
11.5 abuse;

11.6 (2) committed an act that resulted in a gross misdemeanor-level conviction for section
11.7 609.3451 (criminal sexual conduct in the fifth degree);

11.8 (3) committed an act against or involving a minor that resulted in a felony-level conviction
11.9 for: section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the
11.10 third degree); 609.2231 (assault in the fourth degree); or 609.224 (assault in the fifth degree);
11.11 or

11.12 (4) had his or her parental rights involuntarily terminated under section 260C.301,
11.13 subdivision 1, paragraph (b).

11.14 (c) Notwithstanding subdivisions 1 to 4, for a background study affiliated with a licensed
11.15 family foster setting, an individual is disqualified under section 245C.14 if less than five
11.16 years have passed since a felony-level violation for sections: 152.021 (controlled substance
11.17 crime in the first degree); 152.022 (controlled substance crime in the second degree); 152.023
11.18 (controlled substance crime in the third degree); 152.024 (controlled substance crime in the
11.19 fourth degree); 152.025 (controlled substance crime in the fifth degree); 152.0261 (importing
11.20 controlled substances across state borders); 152.0262, subdivision 1, paragraph (b)
11.21 (possession of substance with intent to manufacture methamphetamine); 152.027, subdivision
11.22 6, paragraph (c) (sale or possession of synthetic cannabinoids); 152.096 (conspiracies
11.23 prohibited); 152.097 (simulated controlled substances); 152.136 (anhydrous ammonia;
11.24 prohibited conduct; criminal penalties; civil liabilities); 152.137 (methamphetamine-related
11.25 crimes involving children or vulnerable adults); 169A.24 (felony first-degree driving while
11.26 impaired); 243.166 (violation of predatory offender registration requirements); 609.2113
11.27 (criminal vehicular operation; bodily harm); 609.2114 (criminal vehicular operation; unborn
11.28 child); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal
11.29 abuse of a vulnerable adult not resulting in the death of a vulnerable adult); 609.233 (criminal
11.30 neglect); 609.235 (use of drugs to injure or facilitate a crime); 609.24 (simple robbery);
11.31 609.322, subdivision 1a (solicitation, inducement, and promotion of prostitution; sex
11.32 trafficking in the second degree); 609.498, subdivision 1 (tampering with a witness in the
11.33 first degree); 609.498, subdivision 1b (aggravated first-degree witness tampering); 609.562
11.34 (arson in the second degree); 609.563 (arson in the third degree); 609.582, subdivision 2

12.1 (burglary in the second degree); 609.66 (felony dangerous weapons); 609.687 (adulteration);
12.2 609.713 (terroristic threats); 609.749, subdivision 3, 4, or 5 (felony-level harassment or
12.3 stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); or
12.4 624.713 (certain people not to possess firearms).

12.5 (d) Notwithstanding subdivisions 1 to 4, except as provided in paragraph (a), for a
12.6 background study affiliated with a licensed family child foster care license, an individual
12.7 is disqualified under section 245C.14 if less than five years have passed since:

12.8 (1) a felony-level violation for an act not against or involving a minor that constitutes:
12.9 section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the third
12.10 degree); 609.2231 (assault in the fourth degree); or 609.224, subdivision 4 (assault in the
12.11 fifth degree);

12.12 (2) a violation of an order for protection under section 518B.01, subdivision 14;

12.13 (3) a determination or disposition of the individual's failure to make required reports
12.14 under section 260E.06 or 626.557, subdivision 3, for incidents in which the final disposition
12.15 under chapter 260E or section 626.557 was substantiated maltreatment and the maltreatment
12.16 was recurring or serious;

12.17 (4) a determination or disposition of the individual's substantiated serious or recurring
12.18 maltreatment of a minor under chapter 260E, a vulnerable adult under section 626.557, or
12.19 serious or recurring maltreatment in any other state, the elements of which are substantially
12.20 similar to the elements of maltreatment under chapter 260E or section 626.557 and meet
12.21 the definition of serious maltreatment or recurring maltreatment;

12.22 (5) a gross misdemeanor-level violation for sections: 609.224, subdivision 2 (assault in
12.23 the fifth degree); 609.2242 and 609.2243 (domestic assault); 609.233 (criminal neglect);
12.24 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child);
12.25 609.746 (interference with privacy); 609.749 (stalking); or 617.23 (indecent exposure); or

12.26 (6) committing an act against or involving a minor that resulted in a misdemeanor-level
12.27 violation of section 609.224, subdivision 1 (assault in the fifth degree).

12.28 (e) For purposes of this section, the five-year disqualification begins from:

12.29 (1) the date of the alleged violation, if the individual was not convicted;

12.30 (2) the date of conviction or date on which the felony sentence or stay of imposition
12.31 expired or was discharged, whichever is later, if the individual was convicted but the sentence
12.32 was never executed; or

13.1 (3) the date of the expiration of the individual's sentence or final release from
13.2 confinement, if the individual was convicted and the sentence was executed.

13.3 (f) An individual's aiding and abetting, attempt, or conspiracy to commit any of the
13.4 offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota
13.5 Statutes, permanently disqualifies the individual under section 245C.14. An individual is
13.6 disqualified under section 245C.14 if less than five years have passed since the individual's
13.7 aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs
13.8 (c) and (d).

13.9 (g) An individual's offense in any other state or country, where the elements of the
13.10 offense are substantially similar to any of the offenses listed in paragraphs (a) and (b),
13.11 permanently disqualifies the individual under section 245C.14. An individual is disqualified
13.12 under section 245C.14 if less than five years has passed since an offense in any other state
13.13 or country, the elements of which are substantially similar to the elements of any offense
13.14 listed in paragraphs (c) and (d).

13.15 **EFFECTIVE DATE.** This section is effective July 1, 2022.

13.16 Sec. 10. Minnesota Statutes 2020, section 245C.24, subdivision 2, is amended to read:

13.17 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
13.18 paragraphs (b) to (e), the commissioner may not set aside the disqualification of any
13.19 individual disqualified pursuant to this chapter, regardless of how much time has passed,
13.20 if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision
13.21 1.

13.22 (b) For an individual in the chemical dependency or corrections field who was disqualified
13.23 for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification
13.24 was set aside prior to July 1, 2005, the commissioner must consider granting a variance
13.25 pursuant to section 245C.30 for the license holder for a program dealing primarily with
13.26 adults. A request for reconsideration evaluated under this paragraph must include a letter
13.27 of recommendation from the license holder that was subject to the prior set-aside decision
13.28 addressing the individual's quality of care to children or vulnerable adults and the
13.29 circumstances of the individual's departure from that service.

13.30 (c) If an individual who requires a background study for nonemergency medical
13.31 transportation services under section 245C.03, subdivision 12, was disqualified for a crime
13.32 or conduct listed under section 245C.15, subdivision 1, and if more than 40 years have
13.33 passed since the discharge of the sentence imposed, the commissioner may consider granting

14.1 a set-aside pursuant to section 245C.22. A request for reconsideration evaluated under this
 14.2 paragraph must include a letter of recommendation from the employer. This paragraph does
 14.3 not apply to a person disqualified based on a violation of sections 243.166; 609.185 to
 14.4 609.205; 609.25; 609.342 to 609.3453; 609.352; 617.23, subdivision 2, clause (1), or 3,
 14.5 clause (1); 617.246; or 617.247.

14.6 (d) When a licensed foster care provider adopts an individual who had received foster
 14.7 care services from the provider for over six months, and the adopted individual is required
 14.8 to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause
 14.9 (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30
 14.10 to permit the adopted individual with a permanent disqualification to remain affiliated with
 14.11 the license holder under the conditions of the variance when the variance is recommended
 14.12 by the county of responsibility for each of the remaining individuals in placement in the
 14.13 home and the licensing agency for the home.

14.14 (e) For an individual 18 years of age or older affiliated with a licensed family foster
 14.15 setting, the commissioner must not set aside or grant a variance for the disqualification of
 14.16 any individual disqualified pursuant to this chapter, regardless of how much time has passed,
 14.17 if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision
 14.18 4a, paragraphs (a) and (b).

14.19 (f) In connection with a family foster setting license, the commissioner may grant a
 14.20 variance to the disqualification for an individual who is under 18 years of age at the time
 14.21 the background study is submitted.

14.22 **EFFECTIVE DATE.** This section is effective July 1, 2022.

14.23 Sec. 11. Minnesota Statutes 2020, section 245C.24, subdivision 3, is amended to read:

14.24 Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set
 14.25 aside the disqualification of an individual in connection with a license to provide family
 14.26 child care for children, ~~foster care for children in the provider's home~~, or foster care or day
 14.27 care services for adults in the provider's home if: (1) less than ten years has passed since
 14.28 the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based
 14.29 on a preponderance of evidence determination under section 245C.14, subdivision 1,
 14.30 paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph
 14.31 (a), clause (1), and less than ten years has passed since the individual committed the act or
 14.32 admitted to committing the act, whichever is later; and (3) the individual has committed a
 14.33 violation of any of the following offenses: sections 609.165 (felon ineligible to possess
 14.34 firearm); criminal vehicular homicide or criminal vehicular operation causing death under

15.1 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.215 (aiding
15.2 suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault
15.3 in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713
15.4 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple
15.5 robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot);
15.6 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a
15.7 witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous
15.8 weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns);
15.9 609.749, subdivision 2 (gross misdemeanor harassment); 152.021 or 152.022 (controlled
15.10 substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or
15.11 subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024,
15.12 subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree);
15.13 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable
15.14 adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or
15.15 patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a
15.16 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure
15.17 to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in
15.18 the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first,
15.19 second, or third degree); 609.268 (injury or death of an unborn child in the commission of
15.20 a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or
15.21 displaying harmful material to minors); a felony-level conviction involving alcohol or drug
15.22 use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a
15.23 gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross
15.24 misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision
15.25 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess
15.26 firearms); or Minnesota Statutes 2012, section 609.21.

15.27 (b) The commissioner may not set aside the disqualification of an individual if less than
15.28 ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to
15.29 commit any of the offenses listed in paragraph (a) as each of these offenses is defined in
15.30 Minnesota Statutes.

15.31 (c) The commissioner may not set aside the disqualification of an individual if less than
15.32 ten years have passed since the discharge of the sentence imposed for an offense in any
15.33 other state or country, the elements of which are substantially similar to the elements of any
15.34 of the offenses listed in paragraph (a).

15.35 **EFFECTIVE DATE.** This section is effective July 1, 2022.

16.1 Sec. 12. Minnesota Statutes 2020, section 245C.24, subdivision 4, is amended to read:

16.2 Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set
 16.3 aside the disqualification of an individual in connection with a license to provide family
 16.4 child care for children, ~~foster care for children in the provider's home,~~ or foster care or day
 16.5 care services for adults in the provider's home if within seven years preceding the study:

16.6 (1) the individual committed an act that constitutes maltreatment of a child under sections
 16.7 260E.24, subdivisions 1, 2, and 3, and 260E.30, subdivisions 1, 2, and 4, and the maltreatment
 16.8 resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial
 16.9 mental or emotional harm as supported by competent psychological or psychiatric evidence;
 16.10 or

16.11 (2) the individual was determined under section 626.557 to be the perpetrator of a
 16.12 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial
 16.13 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional
 16.14 harm as supported by competent psychological or psychiatric evidence.

16.15 **EFFECTIVE DATE.** This section is effective July 1, 2022.

16.16 Sec. 13. Minnesota Statutes 2020, section 245C.24, is amended by adding a subdivision
 16.17 to read:

16.18 **Subd. 6. Five-year bar to set aside disqualification; family foster setting.** (a) The
 16.19 commissioner shall not set aside or grant a variance for the disqualification of an individual
 16.20 18 years of age or older in connection with a foster family setting license if within five years
 16.21 preceding the study the individual is convicted of a felony in section 245C.15, subdivision
 16.22 4a, paragraph (c).

16.23 (b) In connection with a foster family setting license, the commissioner may set aside
 16.24 or grant a variance to the disqualification for an individual who is under 18 years of age at
 16.25 the time the background study is submitted.

16.26 **EFFECTIVE DATE.** This section is effective July 1, 2022.

16.27 Sec. 14. **APPROPRIATION; FAMILY FOSTER SETTING BACKGROUND STUDY**
 16.28 **ADMINISTRATION.**

16.29 \$115,000 in fiscal year 2022 and \$..... in fiscal year 2023 are appropriated from the
 16.30 general fund to the commissioner of human services for costs related to implementing
 16.31 licensed family foster setting background study requirements established in this act. This

- 17.1 appropriation assumes federal financial participation of \$37,000 in fiscal years 2022 and
- 17.2 2023.