

# House Research Act Summary

**CHAPTER:** 112

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**TOPIC:** Human services licensing

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## Overview

This act modifies licensing provisions, program administration, conditional license provisions, and procedures for contested case hearings. It consolidates training requirements currently contained in various statutory sections and rules for child care centers and for family child care programs. The act makes changes to permanent, 15-year, 10-year, and seven-year disqualifications. It changes definitions of abuse and neglect.

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- 1** **General.** Amends § 13.46, subd. 2. Allows the Department of Human Services to exchange data with the Department of Revenue for the purpose of calculating parental fees for certain assistance programs. Allows the Department of Human Services, the Department of Employment and Economic Development, and the Department of Education to share information to monitor eligibility for benefits and programs, to administer rehabilitation or child care programs, to monitor and evaluate public assistance programs, and to analyze processes and outcomes related to public assistance programs.
- 2** **Licensing data.** Amends § 13.46, subd. 4. Adds that specific data on applicants is public data. Adds that the address of an applicant who is denied a license is public data. Adds record of informal resolution of denial, orders of hearings, findings of fact, conclusions of law, and specifications of the final order are public on applicants who are denied a license.
- 3** **Exclusion from licensure.** Amends § 245A.03, subd. 2. Adds, as exempt from licensure, homes that provide programs for persons placed by a county agency for legal adoption.
- 4** **Educational program; additional requirement.** Amends § 245A.04, subd. 11. Adds that a

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person may have a continued stay at a residential program licensed by the commissioner of human services through the age of 19 under specific circumstances. Makes a technical change to a citation to Minnesota Rules.

**5 Policies and procedures for program administration required and enforceable.**

Amends § 245A.04, by adding subd. 14. Paragraph (a). Requires that license holders develop program policies and procedures necessary to maintain compliance with statutes and rules.

Paragraph (b). Requires that license holders provide training on the policies and procedures developed under paragraph (a); document the training; and ensure that the policies and procedures are consistently implemented by the staff.

Paragraph (c). Requires that license holders keep the policy and procedures manual accessible and index the volume with a table of contents or other method approved by the commissioner.

**6 Pandemic planning.** Amends § 245A.04, by adding subd. 15. Provides that license holders must cooperate with state and local agencies to prepare for or react to emergencies presented by a pandemic.**7 Notice of conditional license; reconsideration of conditional license.** Amends § 245A.06, subd. 4. Adds that if a license is made conditional and a fine is imposed, if the license holder does not appeal both the fine and the conditional license, the license holder does not have the right to a contested case hearing. Reconsideration of the conditional license will be conducted under this subdivision.**8 Immediate suspension expedited hearing.** Amends § 245A.07, subd. 2a. Adds that if reasonable cause exists to believe the actions of other individuals or conditions in the program pose an imminent risk of harm to persons served by the program, then the commissioner has met the burden of proof in the expedited hearing.**9 License suspension, revocation, or fine.** Amends § 245A.07, subd. 3. Clarifies that the commissioner may suspend or revoke a license if a controlling individual or a person subject to a background study has a disqualification that has not been set aside.**10 Appeal of multiple sanctions.** Amends § 245A.07, by adding subd. 6. Paragraph (a). Requires the license holder to specify the actions or sanctions being appealed if more than one licensing action was issued by the commissioner.

Paragraph (b). Requires the license holder to submit the appeal within the shortest of the timelines if different timelines are specified in statute for the licensing actions being appealed.

Paragraph (c). Requires the appeal to be in writing and delivered by certified mail or personal service. Provides the method for calculating when the timeline begins.

Paragraph (d). Requires the commissioner to specify in the notice of licensing action the timeline for appeal under paragraph (b).

**11 Consolidated contested case hearings.** Amends § 247A.08, subd. 2a. Provides that for programs directly licensed by the department, reconsideration of a maltreatment determination and reconsideration of a disqualification will not be conducted when:

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- the denial of a license or the licensing sanction is based on a determination that the license holder is responsible for maltreatment or the disqualification of the license holder is based on serious or recurring maltreatment;
- the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and
- the license holder appeals both the maltreatment determination and the licensing sanction or denial of license.

A contested case hearing will be held and will include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Adds that for the hearing of all parties to be consolidated into a single contested case hearing, the individual must have a hearing right under section 245C.27, Fair Hearing Rights.

Clarifies the scope of the administrative law judge's review.

- 12 County fees for background studies and licensing inspections.** Amends § 245A.10, subd. 2. Permits a county to charge a fee to corporate providers of adult and child foster care to recover the cost of background studies. Permits the county to charge a fee to these providers to recover the actual cost of licensing inspections, not to exceed \$500 annually. Allows the county to waive the fee under specified circumstances. Provides an effective date of August 1, 2008.
- 13 Adult foster care; variance for alternate overnight supervision.** Amends § 245A.11, subd. 7. Adds use of technology as an alternative method of overnight supervision. Permits a license holder who requests a variance based on use of technology, to ask the commissioner to review a county's recommendation for variance. Instructs the commissioner to review the variance request with the county.
- 14 Experienced aides; child care centers.** Amends § 245A.14, subd. 8. Clarifies that an experienced child care aide may work with children without direct supervision if the aide has received first aid training within the past three years that meets the requirements of section 245A.40, subdivision 3, and CPR training that meets the requirements of section 245A.40, subdivision 4.
- 15 Reduction of risk of sudden infant death syndrome in licensed programs.** Adds § 245A.1435. States that an infant must be placed to sleep on the infant's back, unless the license holder has documentation from the infant's parent directing an alternate sleeping position. Provides that the infant must be placed in a crib on a firm mattress with no soft products in the crib with the infant. States that licensed providers must comply with the crib requirements in section 245A.146.
- 16 Sudden infant death and shaken baby syndrome for child foster care providers.** Amends § 245A.144. Makes technical changes that reflect this section applies only to child foster care providers. Provides that this section does not apply to emergency relative foster care under section 245A.035.
- 17 Training on risk of sudden infant death syndrome and shaken baby syndrome by other programs.** Adds § 245A.1444. Provides that a licensed chemical dependency

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program that serves clients with infants who sleep at the program and a licensed residential facility that serves infants must document that staff and volunteers are instructed in the standards in section 245A.1435. Mandates training for staff and volunteers on reducing the risk of sudden infant death syndrome and shaken baby syndrome. States that this section does not apply to child care centers or family child care programs.

- 18 Dangers of shaking infants and young children.** Amends § 245A.1445. Clarifies that the commissioner must make a video available to all legal nonlicensed child care providers on the dangers associated with shaking infants and young children.
- 19 Policies and procedures.** Amends § 245A.145, subd. 1. Makes a technical change.
- 20 Child passenger restraint systems; training requirement.** Amends § 245A.18, subd. 2. Provides that all residential programs licensed by the commissioner of human services under Minnesota Rules, chapter 2960, that serve children under nine years old, must document training required under this subdivision. States that this training must be obtained by December 31, 2007, for all providers licensed prior to July 1, 2006.
- 21 Child care center training requirements.** Adds § 245A.40. This section consolidates training requirements for child care centers currently found in Minnesota Rules, part 9503.0035, and in Minnesota Statutes, chapter 245A. Some new language is included.

**Subd. 1. Orientation.** Provides that every employee and volunteer must be given and successfully complete specified training before starting assigned duties. (Minn. Rules, part 9503.0035, subp. 1.)

**Subd. 2. Child growth and development training.** Defines "child growth and development training," the number of training hours required, and exemptions from the training requirement. (Minn. Stat. § 245A.14, subd. 9a.)

**Subd. 3. First aid.** Requires all teachers and assistant teachers complete first aid training within 90 days of employment, unless training has been completed within the prior three years. Training must be completed every three years. A staff person trained in first aid must be present during all field trips or while transporting children. (Minn. Rules, part 9503.0035, subp. 2.)

**Subd. 4. Cardiopulmonary resuscitation.** Requires at least one staff person to be present who has completed approved CPR training. Training must be completed every three years. (Minn. Rules, part 9503.0035, subp. 3.)

**Subd. 5. Sudden infant death syndrome and shaken baby syndrome training.** Requires all staff persons who care for infants to complete at least one hour of training at least once every five years on reducing the risk of sudden infant death syndrome and shaken baby syndrome. (Minn. Stat. §§ 245A.144 and 245A.1445.)

**Subd. 6. Child passenger restraint systems; training requirement.** Requires compliance with the seat belt and child passenger restraint system law. Provides that centers serving a child or children under nine years old document staff training on proper use and installation of child restraint systems in motor vehicles. This training must be at least one hour, completed at orientation, and repeated at least every five years. Exempts providers that only transport school-age children in school buses.

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(Minn. Stat. § 245A.18.)

**Subd. 7. In-service.** Provides that the license holder ensure an annual in-service training plan is developed and carried out. Sets out the requirements for the training plan, the requirements for training, and the number of hours of training. (Minn. Stat. § 245A.14, subd. 9; Minn. Rules, part 9503.0035, subp. 4.)

**Subd. 8. Cultural dynamics and disabilities training for child care providers.** Provides that to fulfill training requirements, center staff must complete training in the cultural dynamics of early childhood development and child care. Lists expected outcomes of the training. Adds that for programs caring for children with special needs, staff must receive any additional training required by the child's individual child care program plan. (Minn. Stat. § 245A.14, subd. 7.)

**22 Family child care training requirements.** Adds § 245A.50. This section consolidates training requirements for family child care providers currently found in Minnesota Rules, part 9502.0385, and in Minnesota Statutes, chapter 245A. Some new language is included.

**Subd. 1. Initial training.** Requires license holders, caregivers, and substitutes to comply with the training requirements in this section. Requires helpers who assist with care regularly to complete six hours of training within one year of employment.

**Subd. 2. Child growth and development training.** Defines "child growth and development training," the number of training hours required, and exemptions from the training requirement. (Minn. Stat. § 245A.14, subd. 9a.)

**Subd. 3. First aid.** Requires at least one staff person who has received first aid training to be present when children are in the family child care home. Training may be less than eight hours in length. A substitute caregiver who provides less than 30 hours of care during a 12-month period is exempt from this requirement. (Minn. Rules, part 9502.0385, subp.2.)

**Subd. 4. Cardiopulmonary resuscitation.** Requires at least one staff person who has received training in CPR and the treatment of obstructed airways to be present when children are in the family child care home. Requires training to be repeated at least once every three years and to be documented in the staff person's records. A substitute caregiver who provides less than 30 hours of care during a 12-month period is exempt from this requirement. (Minn. Rules, part 9502.0385, subp.2.)

**Subd. 5. Sudden infant death syndrome and shaken baby syndrome training.** Requires all staff persons who care for infants to complete at least one hour of training at least once every five years on reducing the risk of sudden infant death syndrome and shaken baby syndrome. (Minn. Stat. §§ 245A.144 and 245A.1445.)

**Subd. 6. Child passenger restraint systems; training requirement.** Requires compliance with the seat belt and child passenger restraint system law. Provides that family and group family child care providers serving a child or children under nine years old document staff training on proper use and installation of child restraint

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systems in motor vehicles. This training must be at least one hour, completed at orientation, and repeated at least every five years. Exempts providers that only transport school-age children in school buses. (Minn. Stat. § 245A.18.)

**Subd. 7. Training requirements for family and group family child care.** Provides that the license holder and each primary caregiver complete eight hours of training per year. Defines "primary caregiver" as an adult who provides services more than 30 days in any 12-month period. Lists training subjects. (Minn. Rules, part 9502.0385.)

**Subd. 8. Other required training requirements.** Provides that training must include cultural dynamics of early childhood development and child care, and disabilities training. Lists outcomes of the training. If a swimming pool is located at the home, to be eligible to allow a child to use the pool the provider must meet the training requirement in section 245A.14, subdivision 11, paragraph (a), clause (4). (Minn. Stat. § 245A.14, subd.7.)

- 23 License holder requirements.** Amends § 245A.65, subd. 1. Requires license holders who provide care for vulnerable adults to take corrective action to protect the health and safety of the vulnerable adults when a report of maltreatment has been made. The license holder is to evaluate whether the reported event is similar to past events. If the license holder has multiple licenses, the license holder must review whether similar problems have occurred in other licensed settings. If so, the corrective action must be implemented across all licensed settings.
- 24 Determination of vulnerable adult status.** Amends § 245A.65, by adding subd. 1a. Requires license holders that provide services to adults who are excluded from the definition of vulnerable adult under section 626.5572, subdivision 21, clause (2), to make a determination whether the adult meets the definition of vulnerable adult under section 626.5572, subdivision 21, clause (4). If so, all requirements relative to vulnerable adults must be met by the license holder.
- 25 Requirements; maltreatment of minors.** Adds § 245A.66. Sets out the following procedures for license holders serving children, except those providing family child care and child foster care in the license holders residence:
- Establish policies and procedures to complete an internal review and take corrective action when a provider has reason to know a report of maltreatment has been made;
  - Identify a primary and secondary person to complete the internal review. The secondary person is to be involved when the primary person is alleged to be involved in the reported maltreatment; and
  - Document and make reviews accessible to the commissioner upon the commissioner's request.
- 26 Conviction.** Amends § 245C.02, by adding subd. 9a. Provides the definition of conviction, which means a plea of guilty or a verdict of guilty by a jury or a finding of guilty by the court.
- 27 Additional information from individual studied.** Amends § 245C.05, subd. 3. Clarifies

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that the commissioner has the authority to request additional information from the subject of a background study and that failure to provide the information may result in the individual's disqualification.

- 28 Study subject affiliated with multiple facilities.** Amends § 245C.07. Clarifies that not only license holders, but also applicants or other entities, that own multiple programs or services are subject to this section. Substitutes "programs or services" for "facilities." Adds that this section applies to programs licensed by the Department of Health or the Department of Corrections.
- 29 Background study; commissioner reviews.** Amends § 245C.08, including the headnote. Clarifies the elements of a county or private agency background study. Adds arrest and investigative data from the National Criminal Records Repository and criminal records from other states to the list of information the commissioner can review. Instructs the juvenile court to provide the commissioner with orders of involuntary and voluntary terminations of parental rights.
- 30 Disqualification; licensing action.** Amends § 245C.09, subd. 1. Provides that failure to provide additional information to the commissioner is reasonable grounds for disqualification, denial of license, or immediate suspension or revocation of a license or registration.
- 31 Background study.** Amends § 245C.11, by adding subd. 4. Permits a county agency to accept a background study completed by the commissioner for educational programs that train individuals by providing direct contact services in licensed programs.
- 32 Direct contact pending completion of background study.** Amends § 245C.13, subd. 2. Corrects cross-references.
- 33 Disqualification from direct contact.** Amends § 245C.14, subd. 1. Adds that an Alford plea to any of the enumerated crimes will result in a disqualification.
- 34 Permanent disqualification.** Amends § 245C.15, subd. 1. Adds commission of domestic assault by strangulation, failure to register as a predatory offender, and gross misdemeanor and felony indecent exposure offenses to the list of offenses that are permanent disqualifications. Clarifies that felony assault in the first or second degree is a permanent disqualification. Further clarifies that if the individual commits a felony-level only offense, but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified, but the look-back period is the period applicable to misdemeanor or gross misdemeanor offenses.
- 35 15-year disqualification.** Amends § 245C.15, subd. 2. Adds the following to the list of offenses that are 15-year disqualifications: crimes for the benefit of a gang, possession of burglary tools, and certain persons not to possess firearms. Clarifies disqualification periods based on the level of the offense.
- 36 Ten-year disqualification.** Amends § 245C.15, subd. 3. Adds the following to the list of offenses that are 10-year disqualifications: criminal vehicular homicide and injury, possession of burglary tools, fraud in obtaining credit, gross misdemeanor and misdemeanor assault in the first or second degree, and financial transaction card fraud. Clarifies disqualification periods based on the level of the offense.
- 37 Seven-year disqualification.** Amends § 245C.15, subd. 4. Adds criminal vehicular homicide and injury to the list of seven-year disqualifications. Adds that an individual is disqualified if less than seven years have passed since the individual was disqualified from receiving public benefits due to a finding of guilt by a court or administrative body of wrongfully obtaining assistance.

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- 38 Determining immediate risk of harm.** Amends § 245C.16, subd. 1. Adds that the commissioner may order the immediate removal of an individual who has a disqualification that cannot be set aside because it is a permanent bar.
- 39 Disqualification notice sent to subject.** Amends § 245C.17, subd. 2. Clarifies that disqualification from contact includes direct contact and access to people served by programs.
- 40 Disqualification notification.** Amends § 245C.17, subd. 3. Clarifies that disqualification from contact includes direct contact and access to people served by programs.
- 41 Time frame for requesting reconsideration.** Amends § 245C.21, subd. 2. Provides that for programs directly licensed by the commissioner, when there is a licensing sanction based on a determination of maltreatment and the denial of the license or licensing sanction is issued at the same time as the maltreatment determination or disqualification, a request for reconsideration will be conducted as a contested case hearing. Eliminates the administrative reconsideration process.
- 42 Disqualified individuals; information for reconsideration.** Amends § 245C.21, subd. 3, including the headnote. Allows the commissioner to request additional information from a disqualified individual who is requesting reconsideration. Provides that if the individual does not provide the information, the commissioner can deny the request for reconsideration.
- 43 Risk of harm; set aside.** Amends § 245C.22, subd. 4. Adds vulnerability of persons served by a program as a factor the commissioner is to consider when determining whether an individual poses a risk of harm to program participants.
- 44 Scope of set aside.** Amends § 245C.22, subd. 5. Permits the commissioner, in the case of personal care provider organizations, to limit the scope of the set aside to the specific individual receiving services.
- 45 Ten-year bar to set aside disqualification.** Amends § 245C.24, subd. 3. Adds crimes committed for benefit of a gang, repeat indecent exposure offenses, and certain persons not to possess firearms to the list of 10-year disqualifications.
- 46 Fair hearing when disqualification is not set aside.** Amends § 245C.27, subd. 1. Clarifies when the disqualification reconsideration decision is the final agency decision for purposes of appeal.
- 47 License holder.** Amends § 245C.28, subd. 1. Provides clarification of procedures and cases for consolidated case hearings.
- 48 Notification of set-aside or variance.** Amends § 245C.301. Adds that notification to parents that an individual employed by a child care provider is the subject of a set aside or variance is not required when the period of disqualification has been exceeded. Provides an immediate effective date.
- 49 County certification; licensed providers; related individual; developmentally disabled.** Amends § 256B.0919 by adding subd. 4. Permits a county to certify an adult foster care provider to provide foster care services to a related individual under specified circumstances. Requires annual review to ensure compliance and permits the provider to be reimbursed for room and board costs through the group residential housing program.
- 50 Medicaid reimbursement; licensed provider; related individuals.** Amends § 256B.092, by adding subd. 4d. Instructs the commissioner to seek a federal amendment to the home and community-based services waiver for individuals with disabilities. This amendment would allow Medicaid reimbursement for an individual providing supported living services to a related individual under specified circumstances.



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- 51 Disclosure to commissioner of human services.** Amends § 270B.14. Allows the commissioner of revenue to release information to the commissioner of human services to verify income for the purpose of calculating parental fees for certain assistance programs for children with developmental disabilities.
- 52 Definitions.** Amends § 626.556, subd. 2. Adds the definition of "accidental" to the definition of physical abuse. Provides that "accidental" means a sudden, not reasonably foreseeable, and unexpected event that is not likely to occur and could not be avoided by the exercise of due care. In the case of a facility, the facility and the employee providing services must have been in compliance with the relevant laws and rules.
- 53 Determinations.** Amends § 626.556, subd. 10e. Clarifies that both the facility and the individual can be the responsible party for maltreatment of a child.
- 54 Administrative reconsideration.** Amends § 626.556, subd. 10i, including the headnote. Provides that for programs licensed directly by the commissioner of human services, if a licensing sanction or denial of a license, and determination of maltreatment or disqualification are issued at the same time, a request for reconsideration will be handled at a contested case hearing.
- 55 Lead agency; notifications, dispositions, and determinations.** Amends § 626.557, subd. 9c. Clarifies that both the facility and the individual can be the responsible party for maltreatment of a vulnerable adult.
- 56 Administrative reconsideration.** Amends § 626.557, subd. 9d. Provides that for programs licensed directly by the commissioner of human services, if a licensing sanction, or denial of a license, and a determination of maltreatment or disqualification are issued at the same time, the matter will be reconsidered at a contested case hearing.
- 57 Neglect.** Amends § 626.5572, subd. 17. Clarifies that consensual sexual contact with a vulnerable adult is not considered neglect under specified circumstances.
- 58 Background study review.** Paragraph (a) instructs the collateral consequences committee to review background study provisions, as well as set aside and variance policies. Charges the committee with making recommendations for change consistent with good public policy and public safety.

Paragraph (b) instructs the committee to make its report to the legislature by February 1, 2008.

- 59 Repealer.** Paragraph (a). Repeals Minnesota Statutes 2006, sections 245A.023 (in-service training); 245A.14, subdivision 7 (cultural dynamics and disabilities training), subdivision 9 (in-service training; child care centers), subdivision 9a (early childhood development training), subdivision 12 (first aid training), and subdivision 13 (CPR training); 245C.06 (individual previously studied).

Paragraph (b). Repeals Minnesota Rules, parts 9502.0385 (day care training) and 9503.0035 (orientation, first aid, and in-service training).