

# HOUSE RESEARCH

## Bill Summary

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#### Article 1. Data Practices

##### Overview

This article makes two changes to chapter 13. The amendments allow the commissioner to disclose certain data to the subject of an investigation, and classify certain licensing data as public data.

- 1** **Investigative data.** Amends §13.46, subd. 3. Allows the commissioner to disclose to a recipient or service provider that an investigation into possible overpayments of public funds is being conducted if the disclosure will not compromise the investigation.
- 2** **Licensing data.** Amends §13.46, subd. 4. Adds that the general nature of a complaint or allegation leading to a temporary immediate license suspension and the existence of settlement negotiations is public data. Adds that the identity of the controlling individual is public data when that person is responsible for maltreatment, or when the controlling individual is disqualified under chapter 245C, that person's name and the reason for the disqualification are public data.

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### Article 2. Licensing

#### Overview

This article modifies certain training requirements and safety inspections for family child care providers. Amendments are made to sections related to licensing actions, hearing requirements, and programs providing services to individuals who have a developmental disability.

- 1       **Training required.** Amends §119B.125, subd. 1b. Requires legal nonlicensed child care providers to complete first aid and CPR training which includes CPR for infants and children.
- 2       **Controlling individual.** Amends §245A.02, subd. 5a. Clarifies that a site director who does not have an ownership interest in the program is not considered a “controlling individual.”
- 3       **Application for licensure.** Amends §245A.04, subd. 1. Requires applicants for licensure to provide the applicant’s taxpayer identification number and federal employer identification number, if the applicant has employees, and the business name or assumed name registered with the secretary of state.
- 4       **Commissioner’s right of access.** Amends §245A.04, subd. 5. Provides that the commissioner must be allowed to have access to personnel records of current and former staff and information related to staff work experience, training, or educational requirements when this information is relevant to inspections or investigations.
- 5       **Education programs; permitted ages, additional requirement.** Amends §245A.04, subd. 11. Makes a conforming change to be consistent with Department of Education requirements for education programs.
- 6       **Contents of correction orders and conditional licenses.** Amends §245A.06, subd. 1. Allows the commissioner to issue a conditional license when a disqualified individual who has been ordered to be immediately removed continues to be affiliated with the license holder.
- 7       **Temporary immediate suspension.** Amends §245A.07, subd. 2. Adds that a pattern of continued noncompliance by a license holder who is operating while appealing an order of license revocation is a basis for the temporary immediate suspension of the license.
- 8       **License suspension, revocation, or fine.** Amends §245A.07, subd. 3. Adds that revenue recapture rules apply to licensing contested case hearings.
- 9       **Time frame for conducting hearing.** Amends §245A.07, by adding subd. 7. Establishes time frames when a license holder has timely appealed a licensing sanction:
  - ▶ within 15 working days of receipt of request, the commissioner must request assignment of an administrative law judge (ALJ);

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- ▶ within 90 calendar days, the hearing must be conducted by the ALJ, unless an extension has been granted; and
  - ▶ extensions shall not be granted for a total of more than 90 days.
- 10 Consolidated contested case hearings.** Amends §245A.08, subd. 2a. Requires the request for reconsideration of a disqualification to be submitted timely before the disqualification can be included in the contested case hearing.
- 11 Granting subsequent license.** Amends §245A.08, subd. 5a. Provides that if an applicant or controlling individual who was denied a license becomes affiliated with a subsequent application within two years of the license denial, then the subsequent application must be denied. Adds that the addition of a new co-applicant on a subsequent application is not a substantial change in circumstances.
- 12 License holder documentation of cribs.** Amends §245A.146, subd. 3. Requires family child care license holders to perform monthly safety inspections of mesh-sided or fabric-sided play yards, pack and plays, or playpens used by or accessible to any child in care. Lists the issues that must be documented.
- 13 Crib safety standards and inspections.** Amends §245A.146, subd. 4. Requires license holders to perform safety inspections, at least monthly, of every portable or rigid crib used by or accessible to any child in care. Lists the issues that must be documented.
- 14 Cardiopulmonary resuscitation.** Amends §245A.50, subd. 4. Requires at least one caregiver to have CPR training that includes CPR techniques for infants and children.
- 15 Applicability of laws and rules to a family child care license holder's own children.** Creates §245A.55. Provides that statutes and rules governing the care of a child in a licensed family child care program also apply to children of the license holder, caregiver, or controlling individual who are age 10 and under and present in the home during hours of program operation.
- 16 License holder requirements.** Amends §245A.65, subd. 1. Establishes that license holders who serve vulnerable adults must have policies and procedures in place to complete an internal review within 30 days of a report of alleged or suspected maltreatment. Requires documentation of the review, and allows the commissioner immediate access to the review.
- 17 Internal review.** Amends §245A.66, subd. 1. Requires license holders, except for family child care and child foster care, to have policies and procedures in place to complete an internal review within 30 days of a report of alleged or suspected maltreatment. Requires documentation of the review, and allows the commissioner immediate access to the review.
- 18 Incident.** Amends §245B.02, subd. 10. Modifies the definition of "incident" to include events that require relocation of services for more than 24 hours, or circumstances involving law enforcement or the fire department related to the health, safety, or supervision of a consumer.

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- 19 Consumer rights.** Amends §245B.04.
- Subd. 1. License holder's responsibility for consumers' rights.** Strikes the requirement for license holders to provide a copy of the consumer's rights annually.
- Subd. 2. Service-related rights.** Makes a technical change.
- Subd. 3. Protection-related rights.** Makes modifications to the consumer's protection-related rights.
- 20 Environment.** Amends §245B.05, subd. 1. Makes modifications to license holder requirements to ensure consumers live in a safe environment.
- 21 Reporting incidents.** Amends §245B.05, subd. 7. Corrects a cross reference.
- 22 Staff orientation.** Amends §245B.07, subd. 5. Makes technical changes.
- 23 Availability of current written policies and procedures.** Amends §245B.07, subd. 9. Makes technical changes.
- 24 Consumer funds.** Amends §245B.07, subd. 10. Strikes the provision prohibiting a license holder or staff member from accepting power of attorney from a person receiving services. Strikes the provision that states a license holder or staff member may not accept appointment as a guardian or conservator of a person receiving services.
- 25 Repealer.** Repeals §§245B.02, subd. 8a (definition of "emergency") and 245B.07, subd. 7a (requirement that license holders ensure subcontractors provide services according to the provisions of this chapter).

### **Article 3. Financial Fraud and Abuse Investigation**

- 1 Vehicles exempt from tax, fees, or plate display.** Amends §168.012, subd. 1. Allows the DHS offices of Special Investigations and Inspector General and the executive staff of the Minnesota sex offender program to drive unmarked vehicles when performing official duties.
- 2 Data sharing with the Department of Human Services; multiple identification cards.** Amends §256.01, subd. 18d. Adds a requirement for the commissioner of public safety to provide DHS with all photographs or electronically produced images of applicants and holders of a driver's license or state identification card whose license or card has been canceled due to providing incorrect information or who obtained their license or card fraudulently.
- 3 Use of data.** Amends §268.19, subd. 1. Allows unemployment insurance information to be released to DHS and the Office of Inspector General, including county fraud investigators, for purposes of fraud investigations.
- 4 Publicly owned and leased vehicles identified.** Amends §471.346. Allows unmarked

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vehicles for DHS investigations including county fraud prevention investigations.

### **Article 4. Chemical and Mental Health**

#### **Overview**

This article allows the commissioner to establish higher rates for certain chemical dependency treatment programs.

- 5**      **Rate requirements.** Amends §254B.05, subd. 5. Updates cross references. Allows the commissioner to establish higher rates for chemical dependency treatment programs that provide on-site child care during hours of treatment activity or that arrange for off-site child care at a licensed child care center or family child care home.

### **Article 5. Background Studies**

#### **Overview**

Amendments in this article allow the commissioner to consider granting a variance to certain individuals who will work in a program dealing primarily with adults, and allow the commissioner to consider granting a variance or set aside for individuals who committed certain offenses as a juvenile. This article also includes requirements for requests for reconsideration and disqualification determinations.

- 1**      **When background study must occur.** Amends §245C.04. Clarifies that background study requests must be submitted through the NETStudy electronic system. Allows an individual to be absent from work for 120 days before a new background study is required. Current law requires a new background study after the individual has been absent from work for 90 days.
- Requires a new background study to be completed when an individual affiliated with a program has a legal name change.
- 2**      **Applicant, license holder, other entities, or agencies.** Amends §245C.05, subd. 6. Provides that law enforcement agencies must provide arrest and investigative data to DHS.
- 3**      Background studies conducted by the Department of Human Services. Amends §245C.08, subd. 1. Provides that if there is reasonable cause to believe the identity of a background study subject is uncertain, the commissioner can require the subject to provide fingerprints for a fingerprint-based background check.
- 4**      **Determining immediate risk of harm.** Amends §245C.16, subd. 1. Clarifies that this section does not apply to PCA background studies.
- 5**      **Background studies initiated by program.** Amends §245C.20, subd. 1. Requires a program to document the date the background study was initiated and the date the subject of

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the study first had direct contact with persons served by the program.

- 6 Time frame; response to disqualification reconsideration requests.** Amends §245C.22, subd. 1. Emphasizes that the request for reconsideration must be complete and must contain all required information.
- 7 Commissioner's notice of disqualification that is not set aside.** Amends §245C.23, subd. 2. Allows a disqualified individual to continue to work under continuous direct supervision pending the outcome of a hearing on the disqualification decision if the license holder was not previously ordered to remove the individual from direct client contact. Requires a license holder to immediately remove an individual whose disqualification has not been set aside and who does not have a right to a hearing.
- 8 Permanent bar to set aside a disqualification.** Amends §245C.24, subd. 2. Requires the commissioner to consider granting a variance for an individual with a permanent bar and who received a set aside prior to July 1, 2005, when the individual will work in a program dealing primarily with adults. Current law allows a variance for individuals who work in chemical dependency or corrections.  
  
Requires the commissioner to consider granting a set aside or variance for an individual who is 21 or older and committed an offense that would be a permanent bar while the individual was under age 18. Provides that this does not apply to an individual who was convicted following certification as an adult.
- 9 License holder.** Amends §245C.21, subd. 1. Requires timely submission of request for reconsideration of a maltreatment determination or disqualification in order for the reconsideration to be considered in the hearing regarding a licensing sanction.
- 10 Employees of public employer.** Amends §245C.28, subd. 3. Provides that revenue recapture act rules apply to licensing contested case hearings. Prohibits an individual from requesting a contested case hearing if one has previously been held regarding the individual's disqualification on the same basis.
- 11 Conclusive disqualification determination.** Amends §245C.29, subd. 2. Provides that a disqualification is conclusive if an individual does not challenge the correctness of the determination. Provides that if a disqualification is conclusive, the individual has the right to request reconsideration on the risk of harm unless the commissioner is barred from setting aside the disqualification.
- 12 Standard of evidence for maltreatment and disqualification hearings.** Amends §256.045, subd. 3b. Provides that if a disqualification is based solely on a conviction or is conclusive under §245C.29, the individual does not have a right to a hearing under this section.