

# HOUSE RESEARCH

## Bill Summary

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### Overview

The Department of Human Services is responsible for conducting background studies on individuals who have direct contact with vulnerable individuals. This bill includes provisions allowing the commissioner to more fully automate and expand the electronic background study system. The bill allows the commissioner to collect fingerprints and a photograph of the background study subject. It also establishes data security and data privacy for information collected pursuant to a background study.

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- 1** **Authorized fingerprint collection vendor.** Amends § 245C.02, by adding subd. 4a. Defines this vendor as a qualified organization under contract with the commissioner to provide fingerprint collection services.
- 2** **NETStudy.** Amends § 245C.02, by adding subd. 13a. Defines this system as the commissioner's online system and used by entities for submitting background study requests.
- 3** **NETSudy 2.0.** Amends § 245C.02, by adding subd. 13b. Defines this system as the replacement of NETStudy and the department's internal background study system. This program will provide greater and more accurate methods to complete background studies.
- 4** **Roster.** Amends § 245C.02, by adding subd. 17a. Paragraph (a) defines "roster" as the electronic method used to identify what entities employ individuals who are required to have a background study. The roster includes the names of the individuals employed by the entity.

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Paragraph (b) defines “active roster” as the list of individuals employed by a specific entity who have been determined eligible to provide services.

Paragraph (c) defines “inactive roster” as the list of individuals who are eligible to provide services, but not currently on an active roster. Names of individuals remain on the list for 180 days, or longer upon request of the individual.

Paragraph (d) defines “master roster” as the combined active and inactive rosters.

- 5 Personal care provider organizations and community first services and supports workers.** Amends § 245C.03, subd. 2. Adds a cross reference to § 256B.85, community first services and supports.
- 6 Self-initiated background studies.** Amends § 245C.03, by adding subd. 8. Allows individuals who are not on an active roster to initiate a background study. An individual who makes this request and who is not disqualified from direct contact, must be placed on the inactive roster.
- 7 Licensed programs.** Amends § 245C.04, subd. 1. Clarifies that a background study must be initiated by an entity when an applicant for a position is not on the entity’s active roster.
- 8 Agency background studies; electronic criminal case information updates; rosters; and criteria for eliminating repeat background studies.** Amends § 245C.04, subd. 4a. Paragraph (a) allows the commissioner’s system to include information on individuals who are listed on the master roster. Current law allows the commissioner’s system to include information on individuals who are affiliated with an agency.

Paragraph (b) makes a technical change referring to NETStudy 2.0.

Paragraph (c) establishes the procedure for an entity to receive results of a requested background study. Requires the requesting entity to provide the background study subject with the required privacy notice and to pay the required fee. NETStudy 2.0 will immediately inform the entity whether the individual is immediately eligible to provide services and will allow the entity to view the information the individual provided for the background study, including a photograph of the individual.

Paragraph (d) provides that if the subject of the background study voluntarily provided his or her Social Security number for a prior background study, the system can verify that an individual is eligible to provide services based on the previous background study. A background study is not transferable if the individual did not provide his or her Social Security number for the initial background study.
- 9 Individual studied.** Amends § 245C.05, subd. 1. Adds that an individual must supply the home address, city, county, and state of residency for the past five years in order for a background study to be completed when NETStudy 2.0 is implemented.
- 10 Applicant, license holder, or other entity.** Amends § 245C.05, subd. 2. Provides that background study information is viewable only by entities that initiates a subsequent

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background study, pay the applicable fee, and provide the applicant with the required privacy notice.

- 11 Privacy notice to background study subject.** Amends § 245C.05, subd. 2c. Paragraph (a) clarifies that prior to initiating each background study, the initiating entity must provide the background study subject with the commissioner's privacy notice. Requires the commissioner to make the notice available on the NETStudy systems.

Paragraph (b) lists the information currently required in the privacy notice.

Paragraph (c) adds additional information that must be included in the privacy notice:

- ▶ fingerprints collected under this chapter must not be retained by the commissioner, DPS, or BCA, but will be retained by the FBI;
- ▶ upon implementation of NETStudy 2.0, the subject's photograph will be retained by the commissioner, and if the subject has provided his or her Social Security number for purposes of the background study, the photograph will be available to prospective employers to verify the identity of the subject; and
- ▶ the commissioner's authorized fingerprint collection vendor shall, for purposes of verifying the identity of the background study subject, be able to view the identifying information in the NETStudy 2.0 system.

- 12 Electronic transmission.** Amends § 245C.05, subd. 4. Adds a reference to NETStudy 2.0.

- 13 Fingerprints and photograph.** Amends § 245C.05, subd. 5. Specifies that existing paragraphs (a) and (b), which provide the commissioner with authority to collect fingerprints only under certain circumstances, are applicable before implementation of NETStudy 2.0.

Adds paragraph (c) establishing the fingerprint and photograph collection procedure after implementation of NETStudy 2.0. After implementation, each background study subject must supply a set of classifiable fingerprints and a photograph to the commissioner's authorized fingerprint collection vendor. Requires the photograph and fingerprints to be recorded at the same time. Instructs the vendor to transmit the photograph and fingerprints to the commissioner through the secure data system. Permits the vendor to retain only the name, date, and time the subject's fingerprints were recorded and sent, only as necessary for auditing and billing.

- 14 Destruction of background study subject information.** Creates § 245C.051. Paragraph (a) allows a background study subject to make a written request to the commissioner that the commissioner destroy the information used to complete a background study if the individual has not been affiliated with any entity for the previous two year and has no disqualifying characteristics.

Paragraph (b) requires the commissioner to destroy the information upon verification that the information provided by the subject is correct. Allows the commissioner to keep a record of the subject's name and the date the records were destroyed.

Paragraph (c) allows the commissioner to destroy the photograph of an individual who has

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not been on the master roster for two years.

Paragraph (d) provides that data on an individual collected under this chapter and maintained by the commissioner that has not been destroyed under paragraphs (b) or (c) must be destroyed when two years have elapsed since the death or presumed death of the individual. Provides a definition of “presumed to be dead” for purposes of this subdivision.

- 15 Study subject affiliated with multiple facilities.** Amends § 245C.07. Adds paragraph (f) which provides that an entity’s active roster must be the system used to document when a background study subject is affiliated with multiple facilities.
- 16 Timing.** Amends § 245C.13, subd. 1. Strikes the requirement for the commissioner to complete a background study and provide notice within 15 working days.
- 17 Time frame for notice of study results and auditing system access.** Amends § 245C.17, subd. 1. Paragraph (a) requires the commissioner to notify the background study subject and the prospective employer within three days of the results of the background study, or that more time is needed to complete the study, when the study request is submitted through NETStudy or NETStudy 2.0.

Paragraph (b) requires the license holder or other entity to sign an acknowledgement of responsibilities form before being provided access to the NETStudy 2.0 system. Provides that all queries of the system are electronically recorded and subject to audit by the commissioner.

Obsolete language is also stricken throughout this section.

- 18 Background studies identified on active rosters.** Amends § 245C.20, by adding subd. 3. Provides that the background study requirements of this section are met for entities that have implemented active rosters with all individuals affiliated with the entity recorded.
- 19 NETStudy 2.0 system.** Amends § 245C.32, by adding subd. 1a. Paragraph (a) requires the commissioner to design, develop, and implement NETStudy 2.0 no later than September 1, 2015.

Paragraph (b) establishes the data security standards and policies that must be incorporated into the system. Requires the system to meet all standards for encryption of data at the database level as well as encryption of data that travels electronically.

Paragraph (c) requires the data system to incorporate a system of data security so that the commissioner can control access by the commissioner’s employees to the minimum amount of private data necessary to perform their duties under this chapter.

Paragraph (d) requires the commissioner to oversee regular quality and compliance audits of the fingerprint collection vendors.

- 20 Civil remedies.** Amends § 245C.32, by adding subd. 1b. Provides that entities authorized to initiate background studies and the commissioner’s authorized fingerprint collection vendors are subject to all responsibilities and civil remedies applicable to a responsible authority or

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government entity as specified in section 13.08.