

1.1 moves to amend H.F. No. 1114, the delete everything amendment
1.2 (A13-0104), as follows:

1.3 Page 4, line 1, after "(5)" insert "Except as provided in paragraph (l),"

1.4 Page 6, after line 13, insert:

1.5 "(l) For individuals whose disqualification under chapter 245C was based only on
1.6 juvenile court records, and for which it was determined there have been no offenses in the
1.7 previous five or more years, the disqualification, the reason for the disqualification, and any
1.8 information about a set-aside shall be private data on the individual, and disclosed to the
1.9 program or entity that initiated the background study only as provided under chapter 245C."

1.10 Page 42, after line 25, insert:

1.11 "Subd. 8. **Initiation of background study by an individual.** The commissioner
1.12 shall modify the online NETStudy system to allow an individual to initiate a background
1.13 study on himself or herself when the individual has only juvenile court records, and
1.14 no adult criminal history information on file with the courts or Bureau of Criminal
1.15 Apprehension, so that if disqualified, the individual may request a set-aside of the
1.16 disqualification under section 245C.22 before applying for employment with a program
1.17 or agency required to initiate a background study under this chapter. If the individual
1.18 receives a set-aside of the disqualification under section 245C.22, the provisions of section
1.19 245C.22 shall apply to future background studies initiated by a program or entity under
1.20 this chapter. The commissioner shall collect a fee from the individual initiating the
1.21 background study under this subdivision according to the fee requirements for human
1.22 services licensed programs under section 245C.10, subdivision 9."

1.23 Page 44, after line 35, insert:

1.24 "Sec. Minnesota Statutes 2012, section 245C.17, subdivision 2, is amended to read:

1.25 Subd. 2. **Disqualification notice sent to subject.** (a) If the information in the study
1.26 indicates the individual is disqualified from direct contact with, or from access to, persons

2.1 served by the program, the ~~commissioner shall disclose~~ commissioner's notice to the
2.2 individual studied shall include:

2.3 (1) the information causing disqualification;

2.4 (2) instructions on how to request a reconsideration of the disqualification;

2.5 (3) an explanation of any restrictions on the commissioner's discretion to set aside
2.6 the disqualification under section 245C.24, when applicable to the individual;

2.7 (4) except as provided under paragraph (d), the commissioner's notice to the
2.8 individual will include a statement that, if the individual's disqualification is set aside
2.9 under section 245C.22, the applicant, license holder, or other entity that initiated the
2.10 background study will be provided with the reason for the individual's disqualification
2.11 and an explanation that the factors under section 245C.22, subdivision 4, which were the
2.12 basis of the decision to set aside the disqualification shall be made available to the license
2.13 holder upon request without the consent of the subject of the background study;

2.14 (5) except as provided under paragraph (d), the commissioner's notice to the
2.15 individual will include a statement indicating that if the individual's disqualification is set
2.16 aside or the facility is granted a variance under section 245C.30, the individual's identity
2.17 and the reason for the individual's disqualification will become public data under section
2.18 245C.22, subdivision 7, when applicable to the individual;

2.19 (6) except as provided under paragraph (d), the commissioner's notice to the
2.20 individual will include a statement that when a subsequent background study is initiated
2.21 on the individual following a set-aside of the individual's disqualification, and the
2.22 commissioner makes a determination under section 245C.22, subdivision 5, paragraph
2.23 (b), that the previous set-aside applies to the subsequent background study, the applicant,
2.24 license holder, or other entity that initiated the background study will be informed in the
2.25 notice under section 245C.22, subdivision 5, paragraph (c):

2.26 (i) of the reason for the individual's disqualification;

2.27 (ii) that the individual's disqualification is set aside for that program or agency; and

2.28 (iii) that information about the factors under section 245C.22, subdivision 4, that
2.29 were the basis of the decision to set aside the disqualification are available to the license
2.30 holder upon request without the consent of the background study subject; and

2.31 (7) the commissioner's determination of the individual's immediate risk of harm
2.32 under section 245C.16.

2.33 (b) If the commissioner determines under section 245C.16 that an individual poses
2.34 an imminent risk of harm to persons served by the program where the individual will have
2.35 direct contact with, or access to, people receiving services, the commissioner's notice must
2.36 include an explanation of the basis of this determination.

3.1 (c) If the commissioner determines under section 245C.16 that an individual studied
 3.2 does not pose a risk of harm that requires immediate removal, the individual shall be
 3.3 informed of the conditions under which the agency that initiated the background study
 3.4 may allow the individual to have direct contact with, or access to, people receiving
 3.5 services, as provided under subdivision 3.

3.6 (d) For a disqualification based only on juvenile court records, and for which there
 3.7 have been no offenses in the previous five or more years, and unless the commissioner
 3.8 determines that the individual must be immediately removed or provided continuous
 3.9 supervision under subdivision 3, the notice of disqualification sent to the individual
 3.10 shall explain that:

3.11 (1) the notice to the program or agency that initiated the background study stated
 3.12 only that more time is needed to complete the background study;

3.13 (2) if the disqualified individual submits a timely request for reconsideration and the
 3.14 result is a rescission of the disqualification or a set-aside of the disqualification, the fact that
 3.15 the individual was disqualified will not be made public or provided to the employer; and

3.16 (3) if the disqualification is rescinded or set aside, the commissioner shall send
 3.17 the program or agency the same notification received by the program or agency for a
 3.18 background study in which the individual studied has not been disqualified.

3.19 Sec. Minnesota Statutes 2012, section 245C.17, subdivision 3, is amended to read:

3.20 Subd. 3. **Disqualification notification to the applicant, license holder, or other**
 3.21 **entity.** (a) The commissioner shall notify an applicant, license holder, or other entity as
 3.22 provided in this chapter who is not the subject of the study:

3.23 (1) that the commissioner has found information that disqualifies the individual
 3.24 studied from being in a position allowing direct contact with, or access to, people served
 3.25 by the program; and

3.26 (2) the commissioner's determination of the individual's risk of harm under section
 3.27 245C.16.

3.28 (b) If the commissioner determines under section 245C.16 that an individual studied
 3.29 poses an imminent risk of harm to persons served by the program where the individual
 3.30 studied will have direct contact with, or access to, people served by the program, the
 3.31 commissioner shall order the license holder to immediately remove the individual studied
 3.32 from any position allowing direct contact with, or access to, people served by the program.

3.33 (c) If the commissioner determines under section 245C.16 that an individual studied
 3.34 poses a risk of harm that requires continuous, direct supervision, the commissioner shall
 3.35 order the applicant, license holder, or other entities as provided in this chapter to:

4.1 (1) immediately remove the individual studied from any position allowing direct
4.2 contact with, or access to, people receiving services; ~~or~~

4.3 (2) before allowing the disqualified individual to be in a position allowing direct
4.4 contact with, or access to, people receiving services, the applicant, license holder, or other
4.5 entity, as provided in this chapter, must:

4.6 (i) obtain from the disqualified individual a copy of the individual's notice of
4.7 disqualification from the commissioner that explains the reason for disqualification;

4.8 (ii) ensure that the individual studied is under continuous, direct supervision when
4.9 in a position allowing direct contact with, or access to, people receiving services during
4.10 the period in which the individual may request a reconsideration of the disqualification
4.11 under section 245C.21; and

4.12 (iii) ensure that the disqualified individual requests reconsideration within 30 days of
4.13 receipt of the notice of disqualification; or

4.14 (3) for a disqualification based only on juvenile court records, and there have been
4.15 no offenses in the previous five or more years, the notice under this paragraph shall not
4.16 require the program or entity to obtain from the individual a copy of the individual's notice
4.17 of disqualification under clause (2), item (i).

4.18 (d) Except as provided under paragraph (f), if the commissioner determines under
4.19 section 245C.16 that an individual studied does not pose a risk of harm that requires
4.20 continuous, direct supervision, the commissioner shall order the applicant, license holder,
4.21 or other entities as provided in this chapter to:

4.22 (1) immediately remove the individual studied from any position allowing direct
4.23 contact with, or access to, people receiving services; or

4.24 (2) before allowing the disqualified individual to be in any position allowing direct
4.25 contact with, or access to, people receiving services, the applicant, license holder, or
4.26 other entity as provided in this chapter must:

4.27 (i) obtain from the disqualified individual a copy of the individual's notice of
4.28 disqualification from the commissioner that explains the reason for disqualification; and

4.29 (ii) ensure that the disqualified individual requests reconsideration within 15 days
4.30 of receipt of the notice of disqualification.

4.31 (e) The commissioner shall not notify the applicant, license holder, or other entity
4.32 as provided in this chapter of the information contained in the subject's background
4.33 study unless:

4.34 (1) the basis for the disqualification is failure to cooperate with the background study
4.35 or substantiated maltreatment under section 626.556 or 626.557;

4.36 (2) the Data Practices Act under chapter 13 provides for release of the information; or

5.1 (3) the individual studied authorizes the release of the information.

5.2 (f) When an individual's disqualification is based only on juvenile court records, and
 5.3 there have been no offenses in the previous five or more years, and the commissioner does
 5.4 not determine that the individual must be immediately removed according to paragraph (b)
 5.5 or continuously supervised according to paragraph (c), the notice to the program or entity
 5.6 shall not identify that the individual is disqualified, but state only that the commissioner
 5.7 needs more time to complete the background study."

5.8 Page 45, after line 30, insert:

5.9 "Sec. Minnesota Statutes 2012, section 245C.22, subdivision 5, is amended to read:

5.10 Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification
 5.11 under this section, the disqualified individual remains disqualified, but may hold a license
 5.12 and have direct contact with or access to persons receiving services. Except as provided in
 5.13 paragraph (b) or (c), the commissioner's set-aside of a disqualification is limited solely to
 5.14 the licensed program, applicant, or agency specified in the set aside notice under section
 5.15 245C.23. For personal care provider organizations, the commissioner's set-aside may
 5.16 further be limited to a specific individual who is receiving services. For new background
 5.17 studies required under section 245C.04, subdivision 1, paragraph (i), if an individual's
 5.18 disqualification was previously set aside for the license holder's program and the new
 5.19 background study results in no new information that indicates the individual may pose a
 5.20 risk of harm to persons receiving services from the license holder, the previous set-aside
 5.21 shall remain in effect.

5.22 (b) If the commissioner has previously set aside an individual's disqualification
 5.23 for one or more programs or agencies, and the individual is the subject of a subsequent
 5.24 background study for a different program or agency, the commissioner shall determine
 5.25 whether the disqualification is set aside for the program or agency that initiated the
 5.26 subsequent background study. A notice of a set-aside under paragraph (c) shall be issued
 5.27 within 15 working days if all of the following criteria are met:

5.28 (1) the subsequent background study was initiated in connection with a program
 5.29 licensed or regulated under the same provisions of law and rule for at least one program
 5.30 for which the individual's disqualification was previously set aside by the commissioner;

5.31 ~~(2) the individual is not disqualified for an offense specified in section 245C.15,~~
 5.32 ~~subdivision 1 or 2;~~

5.33 ~~(3)~~ the commissioner has received no new information to indicate that the individual
 5.34 may pose a risk of harm to any person served by the program; and

5.35 ~~(4)~~ (3) the previous set-aside was not limited to a specific person receiving services.

6.1 (c) Except as provided in paragraph (d), when a disqualification is set aside under
6.2 paragraph (b), the notice of background study results issued under section 245C.17, in
6.3 addition to the requirements under section 245C.17, shall state that the disqualification is
6.4 set aside for the program or agency that initiated the subsequent background study. The
6.5 notice must inform the individual that the individual may request reconsideration of the
6.6 disqualification under section 245C.21 on the basis that the information used to disqualify
6.7 the individual is incorrect.

6.8 (d) When a disqualification is set aside under paragraph (b) for a disqualification
6.9 based only on juvenile court records, the notice of background study results issued to
6.10 the program or agency by the commissioner under section 245C.17 shall be the same
6.11 notification received by the program or agency for a background study in which the
6.12 individual studied has no disqualifying characteristic."

6.13 Renumber the sections in sequence and correct the internal references

6.14 Amend the title accordingly