

1.1 moves to amend H.F. No. 1461 as follows:

1.2 Page 25, line 22, after "court" insert "after the individual's initial background study
1.3 has been initiated under this chapter"

1.4 Page 25, after line 29, insert:

1.5 "(d) Any criminal history information that is subject to an expungement order issued
1.6 prior to the commissioner's first background study on an individual shall not be used
1.7 by the commissioner under this chapter."

1.8 Page 26, line 10, after "court" insert "after the individual's initial background study
1.9 has been initiated under this chapter"

1.10 Page 26, after line 13, insert:

1.11 "(d) Any criminal history information that is subject to an expungement order issued
1.12 prior to the commissioner's first background study on an individual shall not be used
1.13 by the commissioner under this chapter."

1.14 Page 33, after line 28, insert:

1.15 "Sec. Minnesota Statutes 2010, section 245C.24, subdivision 2, is amended to read:

1.16 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided
1.17 in ~~paragraph (b)~~ this section, the commissioner may not set aside the disqualification of
1.18 any individual disqualified pursuant to this chapter, regardless of how much time has
1.19 passed, if the individual was disqualified for a crime or conduct listed in section 245C.15,
1.20 subdivision 1.

1.21 (b) For an individual in the chemical dependency or corrections field who was
1.22 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose
1.23 disqualification was set aside prior to July 1, 2005, the commissioner must consider
1.24 granting a variance pursuant to section 245C.30 for the license holder for a program
1.25 dealing primarily with adults. A request for reconsideration evaluated under this paragraph
1.26 must include a letter of recommendation from the license holder that was subject to the

2.1 prior set-aside decision addressing the individual's quality of care to children or vulnerable
2.2 adults and the circumstances of the individual's departure from that service.

2.3 (c) When a licensed foster care provider adopts an individual who had received
2.4 foster care services from the provider for over six months, and the adopted individual is
2.5 required to receive a background study under section 245C.03, subdivision 1, paragraph
2.6 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under
2.7 section 245C.30 to permit the adopted individual with a permanent disqualification
2.8 to remain affiliated with the license holder under the conditions of the variance when
2.9 the variance is recommended by the county of responsibility for each of the remaining
2.10 individuals in placement in the home and the licensing agency for the home.

2.11 (d) If an individual has received an order for expungement, either under section
2.12 609A or under the court's inherent authority, that relates to a crime or conduct listed
2.13 in section 245C.15, subdivision 1, and the order to seal the records does not apply
2.14 to the commissioner because the conditions of section 245C.08 were not met, the
2.15 commissioner shall consider granting a set-aside under section 245C.22 or a variance
2.16 under section 245C.30. In addition to the factors under section 245C.22, subdivision 4, the
2.17 commissioner shall consider the weight of the court's order in the decision. "

2.18 Page 38, after line 11, insert:

2.19 "Sec. Minnesota Statutes 2010, section 609A.03, subdivision 7, is amended to read:

2.20 Subd. 7. **Limitations of order.** (a) Upon issuance of an expungement order related
2.21 to a charge supported by probable cause, the DNA samples and DNA records held by
2.22 the Bureau of Criminal Apprehension and collected under authority other than section
2.23 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

2.24 (b) Notwithstanding the issuance of an expungement order:

2.25 (1) an expunged record may be opened for purposes of a criminal investigation,
2.26 prosecution, or sentencing, upon an ex parte court order;

2.27 (2) an expunged record of a conviction may be opened for purposes of evaluating a
2.28 prospective employee in a criminal justice agency without a court order; and

2.29 (3) an expunged record of a conviction may be ~~opened for purposes of a background~~
2.30 ~~study under section 245C.08 unless the court order for expungement is directed~~
2.31 ~~specifically to the commissioner of human services~~ used by the commissioner of human
2.32 services for purposes of background studies under chapter 245C only as provided under
2.33 section 245C.08.

2.34 Upon request by law enforcement, prosecution, or corrections authorities, an agency
2.35 or jurisdiction subject to an expungement order shall inform the requester of the existence
2.36 of a sealed record and of the right to obtain access to it as provided by this paragraph. For

- 3.1 purposes of this section, a "criminal justice agency" means courts or a government agency
- 3.2 that performs the administration of criminal justice under statutory authority."