

1.1 Liebling from the Health and Human Services Finance Division to which was referred:

1.2 H. F. No. 1050, A bill for an act relating to human services; modifying provisions
1.3 governing child foster care and background studies; amending Minnesota Statutes 2018,
1.4 sections 245A.05; 245A.07, subdivision 1; 245A.16, by adding a subdivision; 245C.02, by
1.5 adding a subdivision; 245C.05, subdivisions 2c, 2d, 4, 5; 245C.08, subdivision 3; 245C.14,
1.6 subdivision 1; 245C.15, by adding a subdivision; 245C.24.

1.7 Reported the same back with the following amendments:

1.8 Page 1, delete section 1 and insert:

1.9 "Section 1. Minnesota Statutes 2019 Supplement, section 245A.05, is amended to read:

1.10 **245A.05 DENIAL OF APPLICATION.**

1.11 (a) The commissioner may deny a license if an applicant or controlling individual:

1.12 (1) fails to submit a substantially complete application after receiving notice from the
1.13 commissioner under section 245A.04, subdivision 1;

1.14 (2) fails to comply with applicable laws or rules;

1.15 (3) knowingly withholds relevant information from or gives false or misleading
1.16 information to the commissioner in connection with an application for a license or during
1.17 an investigation;

1.18 (4) has a disqualification that has not been set aside under section 245C.22 and no
1.19 variance has been granted;

1.20 (5) has an individual living in the household who received a background study under
1.21 section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that
1.22 has not been set aside under section 245C.22, and no variance has been granted;

1.23 (6) is associated with an individual who received a background study under section
1.24 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to

2.1 children or vulnerable adults, and who has a disqualification that has not been set aside
 2.2 under section 245C.22, and no variance has been granted;

2.3 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);

2.4 (8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision
 2.5 6;

2.6 (9) has a history of noncompliance as a license holder or controlling individual with
 2.7 applicable laws or rules, including but not limited to this chapter and chapters 119B and
 2.8 245C; ~~or~~

2.9 (10) is prohibited from holding a license according to section 245.095; or

2.10 (11) for family child foster care, has nondisqualifying background study information,
 2.11 as described in section 245C.05, subdivision 4, that reflects on the individual's ability to
 2.12 safely provide care to foster children.

2.13 (b) An applicant whose application has been denied by the commissioner must be given
 2.14 notice of the denial, which must state the reasons for the denial in plain language. Notice
 2.15 must be given by certified mail or personal service. The notice must state the reasons the
 2.16 application was denied and must inform the applicant of the right to a contested case hearing
 2.17 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may
 2.18 appeal the denial by notifying the commissioner in writing by certified mail or personal
 2.19 service. If mailed, the appeal must be postmarked and sent to the commissioner within 20
 2.20 calendar days after the applicant received the notice of denial. If an appeal request is made
 2.21 by personal service, it must be received by the commissioner within 20 calendar days after
 2.22 the applicant received the notice of denial. Section 245A.08 applies to hearings held to
 2.23 appeal the commissioner's denial of an application.

2.24 **EFFECTIVE DATE.** This section is effective July 1, 2021."

2.25 Page 2, delete section 2 and insert:

2.26 "Sec. 2. Minnesota Statutes 2019 Supplement, section 245A.07, subdivision 1, is amended
 2.27 to read:

2.28 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional
 2.29 under section 245A.06, the commissioner may suspend or revoke the license, impose a fine,
 2.30 or secure an injunction against the continuing operation of the program of a license holder
 2.31 who does not comply with applicable law or rule, or who has nondisqualifying background
 2.32 study information, as described in section 245C.05, subdivision 4, that reflects on the license

3.1 holder's ability to safely provide care to foster children. When applying sanctions authorized
 3.2 under this section, the commissioner shall consider the nature, chronicity, or severity of the
 3.3 violation of law or rule and the effect of the violation on the health, safety, or rights of
 3.4 persons served by the program.

3.5 (b) If a license holder appeals the suspension or revocation of a license and the license
 3.6 holder continues to operate the program pending a final order on the appeal, the commissioner
 3.7 shall issue the license holder a temporary provisional license. Unless otherwise specified
 3.8 by the commissioner, variances in effect on the date of the license sanction under appeal
 3.9 continue under the temporary provisional license. If a license holder fails to comply with
 3.10 applicable law or rule while operating under a temporary provisional license, the
 3.11 commissioner may impose additional sanctions under this section and section 245A.06, and
 3.12 may terminate any prior variance. If a temporary provisional license is set to expire, a new
 3.13 temporary provisional license shall be issued to the license holder upon payment of any fee
 3.14 required under section 245A.10. The temporary provisional license shall expire on the date
 3.15 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
 3.16 license shall be issued for the remainder of the current license period.

3.17 (c) If a license holder is under investigation and the license issued under this chapter is
 3.18 due to expire before completion of the investigation, the program shall be issued a new
 3.19 license upon completion of the reapplication requirements and payment of any applicable
 3.20 license fee. Upon completion of the investigation, a licensing sanction may be imposed
 3.21 against the new license under this section, section 245A.06, or 245A.08.

3.22 (d) Failure to reapply or closure of a license issued under this chapter by the license
 3.23 holder prior to the completion of any investigation shall not preclude the commissioner
 3.24 from issuing a licensing sanction under this section or section 245A.06 at the conclusion
 3.25 of the investigation.

3.26 **EFFECTIVE DATE.** This section is effective July 1, 2021."

3.27 Page 3, line 26, delete "crime" and insert "offense"

3.28 Page 3, line 27, delete "crimes" and insert "offenses"

3.29 Page 3, line 29, delete "conviction" and insert "the offense"

3.30 Page 3, line 30, delete "conviction" and insert "offense"

3.31 Page 3, line 31, delete "crime" and insert "offenses"

3.32 Page 4, after line 5, insert:

4.1 "(b) When licensing a relative to provide family child foster care, the commissioner
 4.2 shall also consider the importance of maintaining the child's relationship with relatives as
 4.3 an additional significant factor in determining whether an application will be denied."

4.4 Page 4, line 6, delete "(b)" and insert "(c)"

4.5 Page 4, line 9, delete "March 1, 2020" and insert "July 1, 2021"

4.6 Page 4, line 17, delete "March 1, 2020" and insert "July 1, 2021"

4.7 Page 5, line 6, reinstate the stricken language

4.8 Page 5, line 7, before the semicolon, insert "not retain background study subjects'
 4.9 fingerprints"

4.10 Page 6, line 5, reinstate the stricken language

4.11 Page 6, line 6, before the period, insert "of Investigation will not retain background study
 4.12 subjects' fingerprints"

4.13 Page 6, delete section 7 and insert:

4.14 "Sec. 7. Minnesota Statutes 2019 Supplement, section 245C.05, subdivision 4, is amended
 4.15 to read:

4.16 Subd. 4. **Electronic transmission.** (a) For background studies conducted by the
 4.17 Department of Human Services, the commissioner shall implement a secure system for the
 4.18 electronic transmission of:

4.19 (1) background study information to the commissioner;

4.20 (2) background study results to the license holder;

4.21 (3) background study results and relevant underlying investigative information to county
 4.22 and private agencies for background studies conducted by the commissioner for child foster
 4.23 care, including a summary of nondisqualifying results, except as prohibited by law; and

4.24 (4) background study results to county agencies for background studies conducted by
 4.25 the commissioner for adult foster care and family adult day services and, upon
 4.26 implementation of NETStudy 2.0, family child care and legal nonlicensed child care
 4.27 authorized under chapter 119B.

4.28 (b) Unless the commissioner has granted a hardship variance under paragraph (c), a
 4.29 license holder or an applicant must use the electronic transmission system known as
 4.30 NETStudy or NETStudy 2.0 to submit all requests for background studies to the
 4.31 commissioner as required by this chapter.

5.1 (c) A license holder or applicant whose program is located in an area in which high-speed
5.2 Internet is inaccessible may request the commissioner to grant a variance to the electronic
5.3 transmission requirement.

5.4 (d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under
5.5 this subdivision.

5.6 **EFFECTIVE DATE.** This section is effective July 1, 2021."

5.7 Page 7, delete section 8

5.8 Page 8, delete section 9 and insert:

5.9 "Sec. 8. Minnesota Statutes 2019 Supplement, section 245C.08, subdivision 3, is amended
5.10 to read:

5.11 Subd. 3. **Arrest and investigative information.** (a) For any background study completed
5.12 under this section, if the commissioner has reasonable cause to believe the information is
5.13 pertinent to the disqualification of an individual, the commissioner also may review arrest
5.14 and investigative information from:

5.15 (1) the Bureau of Criminal Apprehension;

5.16 (2) the commissioners of health and human services;

5.17 (3) a county attorney;

5.18 (4) a county sheriff;

5.19 (5) a county agency;

5.20 (6) a local chief of police;

5.21 (7) other states;

5.22 (8) the courts;

5.23 (9) the Federal Bureau of Investigation;

5.24 (10) the National Criminal Records Repository; and

5.25 (11) criminal records from other states.

5.26 (b) Except when specifically required by law, the commissioner is not required to conduct
5.27 more than one review of a subject's records from the Federal Bureau of Investigation if a
5.28 review of the subject's criminal history with the Federal Bureau of Investigation has already
5.29 been completed by the commissioner and there has been no break in the subject's affiliation
5.30 with the entity that initiated the background study.

6.1 (c) If the commissioner conducts a national criminal history record check when required
 6.2 by law and uses the information from the national criminal history record check to make a
 6.3 disqualification determination, the data obtained is private data and cannot be shared with
 6.4 ~~county agencies, private agencies, or~~ prospective employers of the background study subject.

6.5 (d) If the commissioner conducts a national criminal history record check when required
 6.6 by law and uses the information from the national criminal history record check to make a
 6.7 disqualification determination, the license holder or entity that submitted the study is not
 6.8 required to obtain a copy of the background study subject's disqualification letter under
 6.9 section 245C.17, subdivision 3.

6.10 **EFFECTIVE DATE.** This section is effective July 1, 2020."

6.11 Page 10, line 3, delete "March 1, 2020" and insert "July 1, 2021"

6.12 Page 11, line 25, before "609.2113" insert "243.166 (violation of predatory offender
 6.13 registration requirements);"

6.14 Page 11, line 28, after the semicolon, insert "609.322 (solicitation, inducement, and
 6.15 promotion of prostitution; sex trafficking); 609.561 (arson in the first degree); 609.562
 6.16 (arson in the second degree); 609.563 (arson in the third degree);"

6.17 Page 11, line 29, before "or" insert "609.749, subdivision 3, 4, or 5 (felony-level
 6.18 harassment or stalking);"

6.19 Page 11, line 31, delete everything after "since"

6.20 Page 11, line 32, delete everything before "a" and after "for" insert "an act not against
 6.21 or involving a minor that constitutes"

6.22 Page 12, line 17, delete "an act that resulted in"

6.23 Page 12, line 20, delete "March 1, 2020" and insert "July 1, 2021"

6.24 Page 12, delete section 12 and insert:

6.25 "Sec. 11. Minnesota Statutes 2019 Supplement, section 245C.24, subdivision 1, is amended
 6.26 to read:

6.27 Subdivision 1. **Minimum disqualification periods.** The disqualification periods under
 6.28 subdivisions 3 to ~~5~~ 6 are the minimum applicable disqualification periods. The commissioner
 6.29 may determine that an individual should continue to be disqualified from licensure because
 6.30 the individual continues to pose a risk of harm to persons served by that individual, even
 6.31 after the minimum disqualification period has passed.

7.1 **EFFECTIVE DATE.** This section is effective July 1, 2021.

7.2 Sec. 12. Minnesota Statutes 2019 Supplement, section 245C.24, subdivision 2, is amended
7.3 to read:

7.4 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
7.5 paragraphs (b) to ~~(e)~~ (f), the commissioner may not set aside the disqualification of any
7.6 individual disqualified pursuant to this chapter, regardless of how much time has passed,
7.7 if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision
7.8 1.

7.9 (b) For an individual in the chemical dependency or corrections field who was disqualified
7.10 for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification
7.11 was set aside prior to July 1, 2005, the commissioner must consider granting a variance
7.12 pursuant to section 245C.30 for the license holder for a program dealing primarily with
7.13 adults. A request for reconsideration evaluated under this paragraph must include a letter
7.14 of recommendation from the license holder that was subject to the prior set-aside decision
7.15 addressing the individual's quality of care to children or vulnerable adults and the
7.16 circumstances of the individual's departure from that service.

7.17 (c) If an individual who requires a background study for nonemergency medical
7.18 transportation services under section 245C.03, subdivision 12, was disqualified for a crime
7.19 or conduct listed under section 245C.15, subdivision 1, and if more than 40 years have
7.20 passed since the discharge of the sentence imposed, the commissioner may consider granting
7.21 a set-aside pursuant to section 245C.22. A request for reconsideration evaluated under this
7.22 paragraph must include a letter of recommendation from the employer. This paragraph does
7.23 not apply to a person disqualified based on a violation of sections 243.166; 609.185 to
7.24 609.205; 609.25; 609.342 to 609.3453; 609.352; 617.23, subdivision 2, clause (1), or 3,
7.25 clause (1); 617.246; or 617.247.

7.26 (d) When a licensed foster care provider adopts an individual who had received foster
7.27 care services from the provider for over six months, and the adopted individual is required
7.28 to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause
7.29 (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30
7.30 to permit the adopted individual with a permanent disqualification to remain affiliated with
7.31 the license holder under the conditions of the variance when the variance is recommended
7.32 by the county of responsibility for each of the remaining individuals in placement in the
7.33 home and the licensing agency for the home.

8.1 (e) For an individual 18 years of age or older affiliated with a licensed family child foster
 8.2 care program, the commissioner must not set aside the disqualification of any individual
 8.3 disqualified pursuant to this chapter, regardless of how much time has passed, if the individual
 8.4 was disqualified for a crime or conduct listed in section 245C.15, subdivision 6, paragraph
 8.5 (a).

8.6 (f) In connection with a license for family child foster care, the commissioner may grant
 8.7 a variance to the disqualification for an individual who is under 18 years of age at the time
 8.8 the background study is submitted.

8.9 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.10 Sec. 13. Minnesota Statutes 2019 Supplement, section 245C.24, subdivision 3, is amended
 8.11 to read:

8.12 Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set
 8.13 aside the disqualification of an individual in connection with a license to provide family
 8.14 child care for children, ~~foster care for children in the provider's home,~~ or foster care or day
 8.15 care services for adults in the provider's home if: (1) less than ten years has passed since
 8.16 the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based
 8.17 on a preponderance of evidence determination under section 245C.14, subdivision 1,
 8.18 paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph
 8.19 (a), clause (1), and less than ten years has passed since the individual committed the act or
 8.20 admitted to committing the act, whichever is later; and (3) the individual has committed a
 8.21 violation of any of the following offenses: sections 609.165 (felon ineligible to possess
 8.22 firearm); criminal vehicular homicide or criminal vehicular operation causing death under
 8.23 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.215 (aiding
 8.24 suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault
 8.25 in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713
 8.26 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple
 8.27 robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot);
 8.28 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a
 8.29 witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous
 8.30 weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns);
 8.31 609.749, subdivision 2 (gross misdemeanor harassment); 152.021 or 152.022 (controlled
 8.32 substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or
 8.33 subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024,
 8.34 subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree);

9.1 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable
 9.2 adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or
 9.3 patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a
 9.4 vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure
 9.5 to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in
 9.6 the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first,
 9.7 second, or third degree); 609.268 (injury or death of an unborn child in the commission of
 9.8 a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or
 9.9 displaying harmful material to minors); a felony-level conviction involving alcohol or drug
 9.10 use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a
 9.11 gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross
 9.12 misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision
 9.13 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess
 9.14 firearms); or Minnesota Statutes 2012, section 609.21.

9.15 (b) The commissioner may not set aside the disqualification of an individual if less than
 9.16 ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to
 9.17 commit any of the offenses listed in paragraph (a) as each of these offenses is defined in
 9.18 Minnesota Statutes.

9.19 (c) The commissioner may not set aside the disqualification of an individual if less than
 9.20 ten years have passed since the discharge of the sentence imposed for an offense in any
 9.21 other state or country, the elements of which are substantially similar to the elements of any
 9.22 of the offenses listed in paragraph (a).

9.23 **EFFECTIVE DATE.** This section is effective July 1, 2021.

9.24 Sec. 14. Minnesota Statutes 2018, section 245C.24, subdivision 4, is amended to read:

9.25 Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set
 9.26 aside the disqualification of an individual in connection with a license to provide family
 9.27 child care for children, ~~foster care for children in the provider's home,~~ or foster care or day
 9.28 care services for adults in the provider's home if within seven years preceding the study:

9.29 (1) the individual committed an act that constitutes maltreatment of a child under section
 9.30 626.556, subdivision 10e, and the maltreatment resulted in substantial bodily harm as defined
 9.31 in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by
 9.32 competent psychological or psychiatric evidence; or

10.1 (2) the individual was determined under section 626.557 to be the perpetrator of a
 10.2 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial
 10.3 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional
 10.4 harm as supported by competent psychological or psychiatric evidence.

10.5 **EFFECTIVE DATE.** This section is effective July 1, 2021.

10.6 Sec. 15. Minnesota Statutes 2018, section 245C.24, is amended by adding a subdivision
 10.7 to read:

10.8 **Subd. 6. Five year bar to set aside disqualification; family child foster care.** (a) The
 10.9 commissioner shall not set aside the disqualification of an individual 18 years of age or
 10.10 older in connection with a license for foster care for children in the provider's home if within
 10.11 five years preceding the study the individual is convicted of a felony in section 245C.15,
 10.12 subdivision 6, paragraph (c).

10.13 **(b) In connection with a license for family child foster care, the commissioner may set**
 10.14 **aside or grant a variance to the disqualification for an individual who is under 18 years of**
 10.15 **age at the time the background study is submitted.**

10.16 **EFFECTIVE DATE.** This section is effective July 1, 2021."

10.17 Renumber the sections in sequence and correct the internal references

10.18 Correct the title numbers accordingly

10.19 With the recommendation that when so amended the bill be returned to the Committee
 10.20 on Ways and Means.

10.21 This Division action taken May 6, 2020

10.22, Chair