

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1164

(SENATE AUTHORS: CHAMPION)

DATE
02/02/2023

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Introduction and first reading
Referred to Health and Human Services

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to human services; modifying health and human services background
 1.3 study consideration of juvenile court records; modifying disqualification periods;
 1.4 allowing a set aside for a disqualification based on conduct or convictions in an
 1.5 individual's juvenile record; amending Minnesota Statutes 2022, sections 245C.08,
 1.6 subdivision 4; 245C.15, subdivision 2, by adding a subdivision; 245C.24,
 1.7 subdivision 2.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 245C.08, subdivision 4, is amended to read:

1.10 Subd. 4. **Juvenile court records.** (a) For a background study conducted by the
 1.11 Department of Human Services, the commissioner shall review records from the juvenile
 1.12 courts for an individual studied under section 245C.03, subdivision 1, paragraph (a), when
 1.13 the commissioner has reasonable cause.

1.14 (b) For a background study conducted by a county agency for family child care before
 1.15 the implementation of NETStudy 2.0, the commissioner shall review records from the
 1.16 juvenile courts for individuals listed in section 245C.03, subdivision 1, who are ages 13
 1.17 through 23 living in the household where the licensed services will be provided. The
 1.18 commissioner shall also review records from juvenile courts for any other individual listed
 1.19 under section 245C.03, subdivision 1, when the commissioner has reasonable cause.

1.20 (c) The juvenile courts shall help with the study by giving the commissioner existing
 1.21 juvenile court records relating to delinquency proceedings held on individuals described in
 1.22 section 245C.03, subdivision 1, paragraph (a), when requested pursuant to this subdivision.

1.23 (d) For purposes of this chapter, a finding that a delinquency petition is proven in juvenile
 1.24 court for an individual certified as an adult shall be considered a conviction in state district

2.1 court. A finding of a proven delinquency petition in juvenile court for an individual who
2.2 was not certified as an adult shall disqualify the individual from direct contact services
2.3 under this chapter for five years, beginning from:

2.4 (1) the date of conviction or finding of proven delinquency if the individual was not
2.5 committed to the custody of the commissioner of corrections; or

2.6 (2) the date of the discharge of the sentence imposed if the individual was committed
2.7 to the custody of the commissioner of corrections.

2.8 (e) Juvenile courts shall provide orders of involuntary and voluntary termination of
2.9 parental rights under section 260C.301 to the commissioner upon request for purposes of
2.10 conducting a background study under this chapter.

2.11 Sec. 2. Minnesota Statutes 2022, section 245C.15, subdivision 2, is amended to read:

2.12 Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14
2.13 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any,
2.14 for the offense; and (2) the individual has committed a felony-level violation of any of the
2.15 following offenses: sections 152.021, subdivision 1 or 2b, (aggravated controlled substance
2.16 crime in the first degree; sale crimes); 152.022, subdivision 1 (controlled substance crime
2.17 in the second degree; sale crimes); 152.023, subdivision 1 (controlled substance crime in
2.18 the third degree; sale crimes); 152.024, subdivision 1 (controlled substance crime in the
2.19 fourth degree; sale crimes); 256.98 (wrongfully obtaining assistance); 268.182 (fraud);
2.20 393.07, subdivision 10, paragraph (c) (federal SNAP fraud); 609.165 (felon ineligible to
2.21 possess firearm); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury);
2.22 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses
2.23 under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a
2.24 gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of
2.25 a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple
2.26 robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the
2.27 first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267
2.28 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the
2.29 second degree); 609.268 (injury or death of an unborn child in the commission of a crime);
2.30 609.27 (coercion); 609.275 (attempt to coerce); 609.466 (medical assistance fraud); 609.495
2.31 (aiding an offender); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree
2.32 tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525
2.33 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen
2.34 property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree);

3.1 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary
3.2 tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631
3.3 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense);
3.4 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687
3.5 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit);
3.6 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a
3.7 minor; repeat offenses under 617.241 (obscene materials and performances; distribution
3.8 and exhibition prohibited; penalty); or 624.713 (certain persons not to possess firearms);
3.9 ~~chapter 152 (drugs; controlled substance); or Minnesota Statutes 2012, section 609.21; or~~
3.10 ~~a felony-level conviction involving alcohol or drug use.~~

3.11 (b) An individual is disqualified under section 245C.14 if less than 15 years has passed
3.12 since the individual's aiding and abetting, attempt, or conspiracy to commit any of the
3.13 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

3.14 (c) An individual is disqualified under section 245C.14 if less than 15 years has passed
3.15 since the termination of the individual's parental rights under section 260C.301, subdivision
3.16 1, paragraph (b), or subdivision 3.

3.17 (d) An individual is disqualified under section 245C.14 if less than 15 years has passed
3.18 since the discharge of the sentence imposed for an offense in any other state or country, the
3.19 elements of which are substantially similar to the elements of the offenses listed in paragraph
3.20 (a).

3.21 (e) If the individual studied commits one of the offenses listed in paragraph (a), but the
3.22 sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is
3.23 disqualified but the disqualification look-back period for the offense is the period applicable
3.24 to the gross misdemeanor or misdemeanor disposition.

3.25 (f) When a disqualification is based on a judicial determination other than a conviction,
3.26 the disqualification period begins from the date of the court order. When a disqualification
3.27 is based on an admission, the disqualification period begins from the date of an admission
3.28 in court. When a disqualification is based on an Alford Plea, the disqualification period
3.29 begins from the date the Alford Plea is entered in court. When a disqualification is based
3.30 on a preponderance of evidence of a disqualifying act, the disqualification date begins from
3.31 the date of the dismissal, the date of discharge of the sentence imposed for a conviction for
3.32 a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

3.33 **EFFECTIVE DATE.** This section is effective for background studies requested on or
3.34 after August 1, 2024.

4.1 Sec. 3. Minnesota Statutes 2022, section 245C.15, is amended by adding a subdivision to
4.2 read:

4.3 Subd. 4b. **Five-year disqualification.** (a) An individual is disqualified under section
4.4 245C.14 if: (1) less than five years have passed since the discharge of the sentence imposed,
4.5 if any, for the offense; and (2) the individual has committed a felony, gross misdemeanor,
4.6 or misdemeanor-level violation of any of the following offenses: 152.021, subdivision 2 or
4.7 2a (controlled substance possession crime in the first degree; methamphetamine manufacture
4.8 crime); 152.022, subdivision 2 (controlled substance possession crime in the second degree);
4.9 152.023, subdivision 2 (controlled substance possession crime in the third degree); 152.024,
4.10 subdivision 2 (controlled substance possession crime in the fourth degree); 152.025
4.11 (controlled substance crime in the fifth degree); 152.0261 (importing controlled substances
4.12 across state borders); 152.0262 (possession of substances with intent to manufacture
4.13 methamphetamine); 152.027, subdivision 6, paragraph (c) (sale of synthetic cannabinoids);
4.14 152.096 (conspiracy to commit controlled substance crime); 152.097 (simulated controlled
4.15 substances); or 152.137 (methamphetamine-related crimes involving children and vulnerable
4.16 adults).

4.17 (b) An individual is disqualified under section 245C.14 if less than five years have passed
4.18 since the individual's aiding and abetting, attempt, or conspiracy to commit any of the
4.19 offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

4.20 (c) An individual is disqualified under section 245C.14 if less than five years have passed
4.21 since the discharge of the sentence imposed for an offense in any other state or country, the
4.22 elements of which are substantially similar to the elements of any of the offenses listed in
4.23 paragraph (a).

4.24 (d) When a disqualification is based on a judicial determination other than a conviction,
4.25 the disqualification period begins from the date of the court order. When a disqualification
4.26 is based on an admission, the disqualification period begins from the date of an admission
4.27 in court. When a disqualification is based on an Alford Plea, the disqualification period
4.28 begins from the date the Alford Plea is entered in court. When a disqualification is based
4.29 on a preponderance of evidence of a disqualifying act, the disqualification date begins from
4.30 the date of the dismissal, the date of discharge of the sentence imposed for a conviction for
4.31 a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

4.32 **EFFECTIVE DATE.** This section is effective for background studies requested on or
4.33 after August 1, 2024.

5.1 Sec. 4. Minnesota Statutes 2022, section 245C.24, subdivision 2, is amended to read:

5.2 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
5.3 paragraphs (b) to ~~(f)~~ (g), the commissioner may not set aside the disqualification of any
5.4 individual disqualified pursuant to this chapter, regardless of how much time has passed,
5.5 if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision
5.6 1.

5.7 (b) For an individual in the substance use disorder or corrections field who was
5.8 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose
5.9 disqualification was set aside prior to July 1, 2005, the commissioner must consider granting
5.10 a variance pursuant to section 245C.30 for the license holder for a program dealing primarily
5.11 with adults. A request for reconsideration evaluated under this paragraph must include a
5.12 letter of recommendation from the license holder that was subject to the prior set-aside
5.13 decision addressing the individual's quality of care to children or vulnerable adults and the
5.14 circumstances of the individual's departure from that service.

5.15 (c) If an individual who requires a background study for nonemergency medical
5.16 transportation services under section 245C.03, subdivision 12, was disqualified for a crime
5.17 or conduct listed under section 245C.15, subdivision 1, and if more than 40 years have
5.18 passed since the discharge of the sentence imposed, the commissioner may consider granting
5.19 a set-aside pursuant to section 245C.22. A request for reconsideration evaluated under this
5.20 paragraph must include a letter of recommendation from the employer. This paragraph does
5.21 not apply to a person disqualified based on a violation of sections 243.166; 609.185 to
5.22 609.205; 609.25; 609.342 to 609.3453; 609.352; 617.23, subdivision 2, clause (1), or 3,
5.23 clause (1); 617.246; or 617.247.

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

5.32 (e) For an individual 18 years of age or older affiliated with a licensed family foster
5.33 setting, the commissioner must not set aside or grant a variance for the disqualification of
5.34 any individual disqualified pursuant to this chapter, regardless of how much time has passed,

6.1 if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision
6.2 4a, paragraphs (a) and (b).

6.3 (f) In connection with a family foster setting license, the commissioner may grant a
6.4 variance to the disqualification for an individual who is under 18 years of age at the time
6.5 the background study is submitted.

6.6 (g) The commissioner may set aside or grant a variance for any disqualification that is
6.7 based on conduct or a conviction in an individual's juvenile record.