

SENATE

STATE OF MINNESOTA

NINETY-FOURTH SESSION

S.F. No. 2776

(SENATE AUTHORS: WESTLIN)

DATE	D-PG	OFFICIAL STATUS
03/20/2025		Introduction and first reading Referred to Health and Human Services

1.1A bill for an act

1.2relating to human services; Department of Human Services policy bill sections on

1.3background studies, Department of Corrections reconsiderations, kickback crimes,

1.4and appeals division worker protections; providing for criminal penalties; amending

1.5Minnesota Statutes 2024, sections 142E.51, subdivisions 5, 6; 245C.05, by adding

1.6a subdivision; 245C.08, subdivision 3; 245C.22, subdivision 5; 256.98, subdivision

1.71; 256B.12; 480.40, subdivision 1; proposing coding for new law in Minnesota

1.8Statutes, chapter 609.

1.9BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10Section 1. Minnesota Statutes 2024, section 142E.51, subdivision 5, is amended to read:

1.11Subd. 5. **Administrative disqualification of child care providers caring for children**

1.12**receiving child care assistance.** (a) The department shall pursue an administrative

1.13disqualification, if the child care provider is accused of committing an intentional program

1.14violation, in lieu of a criminal action when it has not been pursued. Intentional program

1.15violations include intentionally making false or misleading statements; receiving or providing

1.16a kickback, as defined in subdivision 6, paragraph (b); intentionally misrepresenting,

1.17concealing, or withholding facts; and repeatedly and intentionally violating program

1.18regulations under this chapter. Intent may be proven by demonstrating a pattern of conduct

1.19that violates program rules under this chapter.

1.20(b) To initiate an administrative disqualification, the commissioner must send written

1.21notice using a signature-verified confirmed delivery method to the provider against whom

1.22the action is being taken. Unless otherwise specified under this chapter or Minnesota Rules,

1.23chapter 3400, the commissioner must send the written notice at least 15 calendar days before

1.24the adverse action's effective date. The notice shall state (1) the factual basis for the agency's

1.25determination, (2) the action the agency intends to take, (3) the dollar amount of the monetary

2.1 recovery or recoupment, if known, and (4) the provider's right to appeal the agency's proposed
2.2 action.

2.3 (c) The provider may appeal an administrative disqualification by submitting a written
2.4 request to the state agency. A provider's request must be received by the state agency no
2.5 later than 30 days after the date the commissioner mails the notice.

2.6 (d) The provider's appeal request must contain the following:

2.7 (1) each disputed item, the reason for the dispute, and, if applicable, an estimate of the
2.8 dollar amount involved for each disputed item;

2.9 (2) the computation the provider believes to be correct, if applicable;

2.10 (3) the statute or rule relied on for each disputed item; and

2.11 (4) the name, address, and telephone number of the person at the provider's place of
2.12 business with whom contact may be made regarding the appeal.

2.13 (e) On appeal, the issuing agency bears the burden of proof to demonstrate by a
2.14 preponderance of the evidence that the provider committed an intentional program violation.

2.15 (f) The hearing is subject to the requirements of section 142A.20. The human services
2.16 judge may combine a fair hearing and administrative disqualification hearing into a single
2.17 hearing if the factual issues arise out of the same or related circumstances and the provider
2.18 receives prior notice that the hearings will be combined.

2.19 (g) A provider found to have committed an intentional program violation and is
2.20 administratively disqualified must be disqualified, for a period of three years for the first
2.21 offense and permanently for any subsequent offense, from receiving any payments from
2.22 any child care program under this chapter.

2.23 (h) Unless a timely and proper appeal made under this section is received by the
2.24 department, the administrative determination of the department is final and binding.

2.25 Sec. 2. Minnesota Statutes 2024, section 142E.51, subdivision 6, is amended to read:

2.26 Subd. 6. **Prohibited hiring ~~practice~~ practices.** (a) It is prohibited to hire a child care
2.27 center employee when, as a condition of employment, the employee is required to have one
2.28 or more children who are eligible for or receive child care assistance, if:

2.29 (1) the individual hiring the employee is, or is acting at the direction of or in cooperation
2.30 with, a child care center provider, center owner, director, manager, license holder, or other
2.31 controlling individual; and

(2) the individual hiring the employee knows or has reason to know the purpose in hiring the employee is to obtain child care assistance program funds.

(b) Program applicants, participants, and providers are prohibited from receiving or providing a kickback or payment in exchange for obtaining or attempting to obtain child care assistance benefits for their own financial gain. This paragraph does not apply to:

(1) marketing or promotional offerings that directly benefit an applicant or recipient's child or dependent for whom the child care provider is providing child care services; or

(2) child care provider discounts, scholarships, or other financial assistance allowed under section 142E.17, subdivision 7.

(c) An attempt to buy or sell access to a family's child care subsidy benefits to an unauthorized person by an applicant, a participant, or a provider is a kickback, an intentional program violation under subdivision 5, and wrongfully obtaining assistance under section 256.98.

Sec. 3. Minnesota Statutes 2024, section 245C.05, is amended by adding a subdivision to read:

Subd. 9. **Electronic signature.** For documentation requiring a signature under this chapter, use of an electronic signature as defined under section 325L.02, paragraph (h), is allowed.

Sec. 4. Minnesota Statutes 2024, section 245C.08, subdivision 3, is amended to read:

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

(1) the Bureau of Criminal Apprehension;

(2) the commissioners of children, youth, and families; health; and human services;

(3) a ~~county attorney~~ prosecutor;

~~(4) a county sheriff;~~

~~(5)~~ (4) a county agency;

~~(6)~~ (5) a local chief of police law enforcement agency;

~~(7)~~ (6) other states;

- 4.1 ~~(8)~~ (7) the courts;
- 4.2 ~~(9)~~ (8) the Federal Bureau of Investigation;
- 4.3 ~~(10)~~ (9) the National Criminal Records Repository; and
- 4.4 ~~(11)~~ (10) criminal records from other states.

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

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

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

4.19 Sec. 5. Minnesota Statutes 2024, section 245C.22, subdivision 5, is amended to read:

4.20 Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification under
4.21 this section, the disqualified individual remains disqualified, but may hold a license and
4.22 have direct contact with or access to persons receiving services. Except as provided in
4.23 paragraph (b), the commissioner's set-aside of a disqualification is limited solely to the
4.24 licensed program, applicant, or agency specified in the set aside notice under section 245C.23.
4.25 For personal care provider organizations, financial management services organizations,
4.26 community first services and supports organizations, unlicensed home and community-based
4.27 organizations, and consumer-directed community supports organizations, the commissioner's
4.28 set-aside may further be limited to a specific individual who is receiving services. For new
4.29 background studies required under section 245C.04, subdivision 1, paragraph (h), if an
4.30 individual's disqualification was previously set aside for the license holder's program and
4.31 the new background study results in no new information that indicates the individual may
4.32 pose a risk of harm to persons receiving services from the license holder, the previous
4.33 set-aside shall remain in effect.

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

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

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

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

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

(c) Notwithstanding paragraph (b), clause (2), for an individual who is employed in the substance use disorder field, if the commissioner has previously set aside an individual's disqualification for one or more programs or agencies in the substance use disorder treatment field, and the individual is the subject of a subsequent background study for a different program or agency in the substance use disorder treatment field, the commissioner shall set aside the disqualification for the program or agency in the substance use disorder treatment field that initiated the subsequent background study when the criteria under paragraph (b), clauses (1), (3), and (4), are met and the individual is not disqualified for an offense specified in section 245C.15, subdivision 1. A notice of a set-aside under paragraph (d) shall be issued within 15 working days.

(d) When a disqualification is set aside under paragraph (b), the notice of background study results issued under section 245C.17, in addition to the requirements under section 245C.17, shall state that the disqualification is set aside for the program or agency that initiated the subsequent background study. The notice must inform the individual that the individual may request reconsideration of the disqualification under section 245C.21 on the basis that the information used to disqualify the individual is incorrect.

Sec. 6. Minnesota Statutes 2024, section 256.98, subdivision 1, is amended to read:

Subdivision 1. **Wrongfully obtaining assistance.** (a) A person who commits any of the following acts or omissions with intent to defeat the purposes of sections 145.891 to 145.897,

the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program formerly codified in sections 256.72 to 256.871, chapter 142G, 256B, 256D, 256I, 256K, or 256L, child care assistance programs, and emergency assistance programs under section 256D.06, is guilty of theft and shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5):

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care assistance or food benefits produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94, and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that to which the person is entitled;

(2) knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency; or

(3) obtains or attempts to obtain, alone or in collusion with others, the receipt of payments to which the individual is not entitled as a provider of subsidized child care, ~~or by furnishing or concurring in~~ receiving or providing any prohibited payment, as defined in section 609.542, subdivision 2, including a kickback, or by submitting or aiding or abetting the submission of a willfully false claim for child care assistance.

(b) The continued receipt of assistance to which the person is not entitled or greater than that to which the person is entitled as a result of any of the acts, failure to act, or concealment described in this subdivision shall be deemed to be continuing offenses from the date that the first act or failure to act occurred.

Sec. 7. Minnesota Statutes 2024, section 256B.12, is amended to read:

256B.12 LEGAL REPRESENTATION.

The attorney general or the appropriate county attorney appearing at the direction of the attorney general shall be the attorney for the state agency, and the county attorney of the appropriate county shall be the attorney for the local agency in all matters pertaining hereto. To prosecute under this chapter or sections 609.466 and, 609.52, subdivision 2, and 609.542 or to recover payments wrongfully made under this chapter, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general may institute a criminal or civil action.

7.1 Sec. 8. Minnesota Statutes 2024, section 480.40, subdivision 1, is amended to read:

7.2 Subdivision 1. **Definitions.** (a) For purposes of this section and section 480.45, the
7.3 following terms have the meanings given.

7.4 (b) "Judicial official" means:

7.5 (1) every Minnesota district court judge, senior judge, retired judge, and every judge of
7.6 the Minnesota Court of Appeals and every active, senior, recalled, or retired federal judge
7.7 who resides in Minnesota;

7.8 (2) a justice of the Minnesota Supreme Court;

7.9 (3) employees of the Minnesota judicial branch;

7.10 (4) judicial referees and magistrate judges; and

7.11 (5) current and retired judges and current employees of the Office of Administrative
7.12 Hearings, Department of Human Services Appeals Division, Workers' Compensation Court
7.13 of Appeals, and Tax Court.

7.14 (c) "Personal information" does not include publicly available information. Personal
7.15 information means:

7.16 (1) a residential address of a judicial official;

7.17 (2) a residential address of the spouse, domestic partner, or children of a judicial official;

7.18 (3) a nonjudicial branch issued telephone number or email address of a judicial official;

7.19 (4) the name of any child of a judicial official; and

7.20 (5) the name of any child care facility or school that is attended by a child of a judicial
7.21 official if combined with an assertion that the named facility or school is attended by the
7.22 child of a judicial official.

7.23 (d) "Publicly available information" means information that is lawfully made available
7.24 through federal, state, or local government records or information that a business has a
7.25 reasonable basis to believe is lawfully made available to the general public through widely
7.26 distributed media, by a judicial official, or by a person to whom the judicial official has
7.27 disclosed the information, unless the judicial official has restricted the information to a
7.28 specific audience.

7.29 (e) "Law enforcement support organizations" do not include charitable organizations.

7.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.1 Sec. 9. **[609.542] HUMAN SERVICES PROGRAMS CRIMES.**

8.2 Subdivision 1. **Definition.** For purposes of this section, "federal health care program"
8.3 has the meaning given in United States Code, title 42, section 1320a-7b(f).

8.4 Subd. 2. **Prohibited payments made relating to human services programs.** A person
8.5 is guilty of a crime and may be sentenced as provided in subdivision 5 if the person
8.6 intentionally offers or pays any remuneration, including any kickback, bribe, or rebate,
8.7 directly or indirectly, overtly or covertly, in cash or in kind, to another person:

8.8 (1) to induce that person to apply for, receive, or induce another person to apply for or
8.9 receive an item or service for which payment may be made in whole or in part under a
8.10 federal health care program, state behavioral health program under section 254B.04, or
8.11 family program under chapter 142E; or

8.12 (2) in return for purchasing, leasing, ordering, or arranging for or inducing the purchasing,
8.13 leasing, or ordering of any good, facility, service, or item for which payment may be made
8.14 in whole or in part, or which is administered in whole or in part under a federal health care
8.15 program, state behavioral health program under section 254B.04, or family program under
8.16 chapter 142E.

8.17 Subd. 3. **Receipt of prohibited payments relating to human services programs.** A
8.18 person is guilty of a crime and may be sentenced as provided in subdivision 5 if the person
8.19 intentionally solicits or receives any remuneration, including any kickback, bribe, or rebate,
8.20 directly or indirectly, overtly or covertly, in cash or in kind:

8.21 (1) in return for applying for or receiving a human services benefit, service, or grant for
8.22 which payment may be made in whole or in part under a federal health care program, state
8.23 behavioral health program under section 254B.04, or family program under chapter 142E;
8.24 or

8.25 (2) in return for purchasing, leasing, ordering, or arranging for or inducing the purchasing,
8.26 leasing, or ordering of any good, facility, service, or item for which payment may be made
8.27 in whole or in part under a federal health care program, state behavioral health program
8.28 under section 254B.04, or family program under chapter 142E.

8.29 Subd. 4. **Exemptions.** (a) This section does not apply to remuneration exempted under
8.30 the Anti-Kickback Statute, United States Code, title 42, section 1320a-7b(b)(3), or payment
8.31 made under a federal health care program which is exempt from liability by United States
8.32 Code, title 42, section 1001.952.

8.33 (b) This section does not apply to:

9.1 (1) any amount paid by an employer to a bona fide employee for providing covered
9.2 items or services under chapter 142E while acting in the course and scope of employment;
9.3 or

9.4 (2) child care provider discounts, scholarships, or other financial assistance to families
9.5 allowed under section 142E.17, subdivision 7.

9.6 Subd. 5. **Sentence.** (a) A person convicted under subdivision 2 or 3 may be sentenced
9.7 pursuant to section 609.52, subdivision 3.

9.8 (b) For purposes of sentencing a violation of subdivision 2, "value" means the fair market
9.9 value of the good, facility, service, or item that was obtained as a direct or indirect result
9.10 of the prohibited payment.

9.11 (c) For purposes of sentencing a violation of subdivision 3, "value" means the amount
9.12 of the prohibited payment solicited or received.

9.13 (d) As a matter of law, a claim for any good, facility, service, or item rendered or claimed
9.14 to have been rendered in violation of this section is noncompensable and unenforceable at
9.15 the time the claim is made.

9.16 Subd. 6. **Aggregation.** In a prosecution under this section, the value of the money,
9.17 property, or benefit received or solicited by the defendant within a six-month period may
9.18 be aggregated and the defendant charged accordingly in applying the provisions of
9.19 subdivision 5.

9.20 Subd. 7. **False claims.** In addition to the penalties provided for in this section, a claim,
9.21 as defined in section 15C.01, subdivision 2, that includes items or services resulting from
9.22 a violation of this section constitutes a false or fraudulent claim for purposes of section
9.23 15C.02.

9.24 **EFFECTIVE DATE.** This section is effective August 1, 2025, and applies to crimes
9.25 committed on or after that date.