

1.1 Senator ..... moves to amend the delete-everything amendment (SCS1681A-5)  
1.2 to S.F. No. 1681 as follows:

1.3 Page 62, after line 2, insert:

1.4 "Sec. 37. [245C.033] GUARDIANS AND CONSERVATORS; MALTREATMENT  
1.5 AND STATE LICENSING AGENCY CHECKS.

1.6 Subdivision 1. Maltreatment data. Requests for maltreatment data submitted pursuant  
1.7 to section 524.5-118 shall include information regarding whether the guardian or conservator  
1.8 has been a perpetrator of substantiated maltreatment of a vulnerable adult under section  
1.9 626.557 or a minor under chapter 260E. If the guardian or conservator has been the  
1.10 perpetrator of substantiated maltreatment of a vulnerable adult or a minor, the commissioner  
1.11 must include a copy of any available public portion of the investigation memorandum under  
1.12 section 626.557, subdivision 12b, or any available public portion of the investigation  
1.13 memorandum under section 260E.30.

1.14 Subd. 2. State licensing agency data. (a) Requests for state licensing agency data  
1.15 submitted pursuant to section 524.5-118 shall include information from a check of state  
1.16 licensing agency records.

1.17 (b) The commissioner shall provide the court with licensing agency data for licenses  
1.18 directly related to the responsibilities of a guardian or conservator if the guardian or  
1.19 conservator has a current or prior affiliation with the:

1.20 (1) Lawyers Responsibility Board;

1.21 (2) State Board of Accountancy;

1.22 (3) Board of Social Work;

1.23 (4) Board of Psychology;

1.24 (5) Board of Nursing;

1.25 (6) Board of Medical Practice;

1.26 (7) Department of Education;

1.27 (8) Department of Commerce;

1.28 (9) Board of Chiropractic Examiners;

1.29 (10) Board of Dentistry;

1.30 (11) Board of Marriage and Family Therapy;

2.1 (12) Department of Human Services;

2.2 (13) Peace Officer Standards and Training (POST) Board; and

2.3 (14) Professional Educator Licensing and Standards Board.

2.4 (c) The commissioner shall provide to the court the electronically available data  
 2.5 maintained in the agency's database, including whether the guardian or conservator is or  
 2.6 has been licensed by the agency and whether a disciplinary action or a sanction against the  
 2.7 individual's license, including a condition, suspension, revocation, or cancellation, is in the  
 2.8 licensing agency's database.

2.9 Subd. 3. **Procedure; maltreatment and state licensing agency data.** Requests for  
 2.10 maltreatment and state licensing agency data checks shall be submitted by the guardian or  
 2.11 conservator to the commissioner on the form or in the manner prescribed by the  
 2.12 commissioner. Upon receipt of a signed informed consent, and payment under 245C.10,  
 2.13 the commissioner shall complete the maltreatment and state licensing agency checks. Upon  
 2.14 completion of the checks, the commissioner shall provide the requested information to the  
 2.15 courts on the form or in the manner prescribed by the commissioner.

2.16 Subd. 4. **Classification of maltreatment and state licensing agency data; access to**  
 2.17 **information.** All data obtained by the commissioner for maltreatment and state licensing  
 2.18 agency checks completed under this section shall be classified as private data.

2.19 Sec. 38. Minnesota Statutes 2022, section 245C.05, subdivision 2c, is amended to read:

2.20 **Subd. 2c. Privacy notice to background study subject.** (a) Prior to initiating each  
 2.21 background study, the entity initiating the study must provide the commissioner's privacy  
 2.22 notice to the background study subject required under section 13.04, subdivision 2. The  
 2.23 notice must be available through the commissioner's electronic NETStudy and NETStudy  
 2.24 2.0 systems and shall include the information in paragraphs (b) and (c).

2.25 (b) The background study subject shall be informed that any previous background studies  
 2.26 that received a set-aside will be reviewed, and without further contact with the background  
 2.27 study subject, the commissioner may notify the agency that initiated the subsequent  
 2.28 background study;

2.29 ~~(1)~~ that the individual has a disqualification that has been set aside for the program or  
 2.30 agency that initiated the study;

2.31 ~~(2) the reason for the disqualification; and~~

3.1 ~~(3) that information about the decision to set aside the disqualification will be available~~  
3.2 ~~to the license holder upon request without the consent of the background study subject.~~

3.3 (c) The background study subject must also be informed that:

3.4 (1) the subject's fingerprints collected for purposes of completing the background study  
3.5 under this chapter must not be retained by the Department of Public Safety, Bureau of  
3.6 Criminal Apprehension, or by the commissioner. The Federal Bureau of Investigation will  
3.7 not retain background study subjects' fingerprints;

3.8 (2) effective upon implementation of NETStudy 2.0, the subject's photographic image  
3.9 will be retained by the commissioner, and if the subject has provided the subject's Social  
3.10 Security number for purposes of the background study, the photographic image will be  
3.11 available to prospective employers and agencies initiating background studies under this  
3.12 chapter to verify the identity of the subject of the background study;

3.13 (3) the authorized fingerprint collection vendor or vendors shall, for purposes of verifying  
3.14 the identity of the background study subject, be able to view the identifying information  
3.15 entered into NETStudy 2.0 by the entity that initiated the background study, but shall not  
3.16 retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The  
3.17 authorized fingerprint collection vendor or vendors shall retain no more than the subject's  
3.18 name and the date and time the subject's fingerprints were recorded and sent, only as  
3.19 necessary for auditing and billing activities;

3.20 (4) the commissioner shall provide the subject notice, as required in section 245C.17,  
3.21 subdivision 1, paragraph (a), when an entity initiates a background study on the individual;

3.22 (5) the subject may request in writing a report listing the entities that initiated a  
3.23 background study on the individual as provided in section 245C.17, subdivision 1, paragraph  
3.24 (b);

3.25 (6) the subject may request in writing that information used to complete the individual's  
3.26 background study in NETStudy 2.0 be destroyed if the requirements of section 245C.051,  
3.27 paragraph (a), are met; and

3.28 (7) notwithstanding clause (6), the commissioner shall destroy:

3.29 (i) the subject's photograph after a period of two years when the requirements of section  
3.30 245C.051, paragraph (c), are met; and

3.31 (ii) any data collected on a subject under this chapter after a period of two years following  
3.32 the individual's death as provided in section 245C.051, paragraph (d)."

4.1 Page 64, after line 18, insert:

4.2 "Sec. 41. Minnesota Statutes 2022, section 245C.17, subdivision 2, is amended to read:

4.3 Subd. 2. **Disqualification notice sent to subject.** (a) If the information in the study  
4.4 indicates the individual is disqualified from direct contact with, or from access to, persons  
4.5 served by the program, the commissioner shall disclose to the individual studied:

4.6 (1) the information causing disqualification;

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

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

4.10 ~~(4) a statement that, if the individual's disqualification is set aside under section 245C.22,~~  
4.11 ~~the applicant, license holder, or other entity that initiated the background study will be~~  
4.12 ~~provided with the reason for the individual's disqualification and an explanation that the~~  
4.13 ~~factors under section 245C.22, subdivision 4, which were the basis of the decision to set~~  
4.14 ~~aside the disqualification shall be made available to the license holder upon request without~~  
4.15 ~~the consent of the subject of the background study;~~

4.16 ~~(5) a statement indicating that if the individual's disqualification is set aside or the facility~~  
4.17 ~~is granted a variance under section 245C.30, the individual's identity and the reason for the~~  
4.18 ~~individual's disqualification will become public data under section 245C.22, subdivision 7,~~  
4.19 ~~when applicable to the individual;~~

4.20 ~~(6)~~ a statement that when a subsequent background study is initiated on the individual  
4.21 following a set-aside of the individual's disqualification, and the commissioner makes a  
4.22 determination under section 245C.22, subdivision 5, paragraph (b), that the previous set-aside  
4.23 applies to the subsequent background study, the applicant, license holder, or other entity  
4.24 that initiated the background study will be informed in the notice under section 245C.22,  
4.25 subdivision 5, paragraph (c);

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

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

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

4.31 ~~(7)~~ (5) the commissioner's determination of the individual's immediate risk of harm  
4.32 under section 245C.16.

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

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

5.10 Sec. 42. Minnesota Statutes 2022, section 245C.17, subdivision 3, is amended to read:

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

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

5.16 (2) the commissioner's determination of the individual's risk of harm under section  
5.17 245C.16.

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

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

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

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

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

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

6.5 ~~(iii)~~ (ii) ensure that the disqualified individual requests reconsideration within 30 days  
 6.6 of receipt of the notice of disqualification.

6.7 (d) If the commissioner determines under section 245C.16 that an individual studied  
 6.8 does not pose a risk of harm that requires continuous, direct supervision, the commissioner  
 6.9 shall order the applicant, license holder, or other entities as provided in this chapter to:

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

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

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

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

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

6.22 (1) the basis for the disqualification is failure to cooperate with the background study  
 6.23 ~~or substantiated maltreatment under section 626.557 or chapter 260E;~~

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

6.25 (3) the individual studied authorizes the release of the information."

6.26 Page 66, after line 7, insert:

6.27 "Sec. 44. Minnesota Statutes 2022, section 245C.30, subdivision 2, is amended to read:

6.28 Subd. 2. **Disclosure of reason for disqualification.** (a) The commissioner may not grant  
 6.29 a variance for a disqualified individual unless the applicant, license-exempt child care center  
 6.30 certification holder, or license holder requests the variance and the disqualified individual

7.1 provides written consent for the commissioner to disclose to the applicant, license-exempt  
7.2 child care center certification holder, or license holder the reason for the disqualification.

7.3 (b) This subdivision does not apply to programs licensed to provide family child care  
7.4 for children, foster care for children in the provider's own home, or foster care or day care  
7.5 services for adults in the provider's own home. ~~When the commissioner grants a variance  
7.6 for a disqualified individual in connection with a license to provide the services specified  
7.7 in this paragraph, the disqualified individual's consent is not required to disclose the reason  
7.8 for the disqualification to the license holder in the variance issued under subdivision 1,  
7.9 provided that the commissioner may not disclose the reason for the disqualification if the  
7.10 disqualification is based on a felony-level conviction for a drug-related offense within the  
7.11 past five years."~~

7.12 Renumber the sections in sequence and correct the internal references

7.13 Amend the title accordingly