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**Background Check Statutes**  
**An Overview**

This publication describes the Minnesota Statutes that require or authorize government agencies, employers, and other entities to check the criminal records of, and other background information on, current or prospective licensees, employees, volunteers, or other individuals.

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## Introduction

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### Background Statutes: State and Federal Records

This report describes the Minnesota Statutes in effect following the 2006 regular session that require or authorize government agencies and employers or other entities to check the criminal records of, and other background information on, certain current or prospective licensees, employees, volunteers, or other individuals. Some of these statutes were enacted many years ago; others are more recent. For this reason and because the statutes address a variety of occupations and activities, the statutes differ significantly in scope. This report is organized in chart form so as to highlight the similarities and differences among the statutes it covers. It is intended as a general comparison of these laws, not as a guide to either conducting a background check or qualifying for an occupation or activity.

The oldest of the existing background check statutes in Minnesota, dealing with employment as a private detective, was enacted in 1945. The greatest growth in background check statutes occurred between about 1980 and the late 1990s.

“Background check statute” is the term commonly used to describe a statute that requires or authorizes a review of specified issues in an individual’s past. Covered issues always include at least some kinds of criminal convictions. Background check statutes also may provide for examining criminal history other than convictions, juvenile records, child maltreatment or vulnerable adult reports, or employment history.

The term “criminal history” when used in background check statutes is frequently not defined. Unless the term is defined in a particular statute, the Bureau of Criminal Apprehension (BCA) practice is to disclose convictions and arrests occurring within the previous year that have not been resolved. Juvenile adjudication history is also released for background checks required by statute and performed on licensees, license applicants, employment applicants, children’s service volunteers, and applicants for firearms permits. [Minn. Stat. § 299C.095](#), subd. 1.

“Look-back period” is a term sometimes used to describe a statute that only looks back at, or imposes consequences for, convictions or other matters that occurred during a specified period before the background check that is being done. If a given statute has a limited look-back period in terms of what is checked or what matter have consequences for the ability to get a certain job, license, or permit, the look-back period shows on the table. If a table entry shows no time qualifiers, the background check would look into (and the employer or licensing authority could act upon) all data on the individual, regardless of how long ago an incident occurred.

A national criminal records check can be performed with the help of the FBI. The FBI interprets the federal law, Public Law 92-544, to impose the following requirements on state background

check statutes in order to obtain FBI help. The statute must do the following:

- ▶ require the background check subject to submit fingerprints
- ▶ expressly indicate that an FBI or national records check is intended
- ▶ clearly identify what employees/license applicants it covers
- ▶ not be against public policy
- ▶ not authorize a private entity to receive the subject's entire criminal history; an employer can only be given a list of convictions

In recent years, efforts have been made to incorporate these elements in existing background check statutes. To obtain FBI cooperation, new statutes must conform to these provisions.

The BCA is authorized to collect a fee for doing state criminal records searches, to be used for maintaining and improving the state criminal records system. [Minn. Stat. § 299C.10](#). The same statute requires collection of a \$7 fee for FBI fingerprint checks. State law prohibits an employer from making an employee pay these fees, unless a statute expressly says otherwise. [Minn. Stat. § 181.645](#).

### **Other Background Checks: Public Records and Subject's Consent**

An employer, landlord, or other entity can obtain criminal background information on any job applicant, potential tenant, or other individual in one of two ways, even when the individual in question is not subject to a background check statute. First, data identifying an individual convicted of a crime and the offense in question are public for 15 years following discharge of the sentence (i.e., completion of any incarceration and any probation period). This information is accessible to anyone. Second, upon obtaining an individual's written informed consent to release of private data, an employer or other entity may obtain from the BCA or any other source whatever criminal history data the individual consented to have released.

### **The Charts in This Report**

The background check statutes described in this report are divided into four categories:

- ▶ occupations and activities serving children
- ▶ health and human services occupations
- ▶ public safety occupations
- ▶ miscellaneous occupations and activities

The charts provide information on the type of occupation or activity covered by each statute; the law's statutory citation or, where applicable, a citation to the relevant administrative rule; and the year the background check provision was first put into effect.

**Each chart also contains information on the following, if they are addressed in a statute:**

- ▶ the scope of the background check, including if it specifically covers juvenile records, criminal history data short of conviction, or other matters
- ▶ whether the background check is mandatory or optional
- ▶ what, if any, stated effect the background check has on the subject's eligibility to perform the occupation or activity covered by the statute; and whether the background check is exempt from the Criminal Offenders Rehabilitation Law (see below)
- ▶ who must or may request and perform the background check and any provisions on who pays the fee
- ▶ the rights and duties of the subject of the background check
- ▶ whether and how the statute addresses liability and immunity issues arising from (1) performance or failure to perform the background check or (2) actions taken or not taken after the check is done
- ▶ whether and how the statute addresses data practices issues raised by the disclosure and use of information on the subject's criminal record

**If no statutory language is codified on a particular point, the table will read: "not specified."** Many statutes are silent on at least some of the above features.

The charts in this report are intended to be a general overview only; individuals should always read the actual statute to understand their rights and duties if they are about to conduct or be the subject of a background check.

## **Drafting Issues**

Because the statutes cover such a wide variety of occupations and activities, uniformity of scope and approach is not necessary. However, legislators enacting new background check laws or amending existing ones may want to use the charts in this report as a "check list" to help them decide, on a case-by-case basis, which features they want to include in a new or amended law.

Legislators also should keep in mind that omitting features from a law may have substantive implications:

- ▶ A statute that does not specify data classifications for the records obtained could create ambiguity as to whether, for example, private data provided to an employer or

other entity remains private in the recipient's possession.<sup>1</sup>

- ▶ A background check statute that is silent about the effect of its results on employment or licensure would, in practice, allow an employer or other nongovernment entity and some government entities the discretion to use or not use the background check results any way it wishes.

## **Criminal Offenders Rehabilitation Law; Exemptions**

Background check laws must be read together with the criminal offenders rehabilitation law in Minnesota Statutes, chapter 364. This law was first enacted in 1974. It limits the ability of state and local government employers and licensing agencies to refuse employment or certain kinds of licensure to persons on the basis of their criminal history. For covered employment and licensing decisions, the government agency may not rely on (1) a criminal record of arrest not followed by conviction, (2) expunged convictions, or (3) misdemeanor convictions where a jail sentence may not be imposed. [Minn. Stat. § 364.04](#).

Further, in a covered employment or licensing area, an individual may not be disqualified because of a prior criminal conviction unless the crime relates directly to the employment or type of license sought. The statute contains criteria for making this determination. [Minn. Stat. § 364.03](#), subd. 2. Even if a conviction directly relates to a job or license, the individual may show evidence of rehabilitation. [Minn. Stat. § 364.03](#), subd. 3.

If a hearing or licensing authority rejects an individual in a covered situation, the individual must receive notice of the reasons for the rejection, the statutory complaint and grievance procedure, the earliest date the individual may re-apply, and that evidence of rehabilitation will be considered on re-application. [Minn. Stat. § 364.05](#). Violation of [chapter 364](#) is a violation of an individual's civil rights. [Minn. Stat. § 364.10](#).

As an item under "Effect of Background Check," the charts in this report indicate occupational licenses and occupations that are expressly exempt from the criminal offenders rehabilitation law under [Minnesota Statutes, section 364.09](#), or another statute. Some decisions may be made without giving the individual any of the protections of the act. In other cases, a license or job may be denied only in the case of specified offenses, or offenses committed within a certain time period. For accurate information on a particular position or license, it is important to consult the statutes on a particular occupation or activity. The charts are designed to be brief.

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<sup>1</sup> The general rule in the case of data transferred between government entities would be that data retained its original classification after transfer (in this example, private). That result would not follow if: (1) private criminal history data were transferred to a nongovernment employer or volunteer agency, and (2) the statute does not require the recipient to keep the information private.



## Occupations and Activities Serving Children

<b>Persons Offered Employment by a K-12 School</b>	
<a href="#">Minn. Stat. § 123B.03</a> (First enacted 1995)	
<b>Scope of Background Check</b>	<p>Criminal history check from the Bureau of Criminal Apprehension (BCA); for nonstate residents, also a check of records in state of residence or FBI records</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	<p>Mandatory, however, hiring authority (1) may elect not to request the check if the applicant received the initial teaching license within past 12 months, or (2) may use the results of a check conducted by another school hiring authority if it was conducted within the past 12 months, the results are accessible, the subject executes a written consent form, and hiring authority has no reason to believe individual committed a disqualifying act since then</p>
<b>Effect of Background Check</b>	<p>Conditional employment pending completion of background check may be terminated based on results of check</p> <p>Exempt from the Criminal Offenders Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Hiring authority requests check from the BCA</p> <p>If applicant is from another state, hiring authority also must request similar check from that state or, if no equivalent state agency exists there, from the FBI</p> <p>Applicant must provide a money order or check payable to the BCA or hiring authority, at the hiring authority's choice, to cover the actual cost of the background check; hiring authority may also accept other negotiable instruments as payment</p>
<b>Rights and Duties of Subject</b>	<p>Right to notice of the effect indicated above</p> <p>Applicant must provide executed criminal history consent form</p>
<b>Liability and Immunity/Data Practices</b>	<p>Hiring authority is not prohibited from hiring applicant with a criminal record pending completion of a background check</p> <p>Hiring authority is not liable for failing to hire or terminating based on results of check</p>

<b>Persons Seeking to Work in a K-12 School as a Volunteer, Student Employee, or Independent Contractor</b>	
<a href="#">Minn. Stat. § 123B.03</a> (First enacted 1997)	
<b>Scope of Background Check</b>	Criminal history check No limit on look-back period
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	School hiring authority requests background check BCA performs check Applicant must provide a money order or check payable to the BCA or hiring authority, at the hiring authority's choice, to cover the actual cost of background check; hiring authority may also accept other negotiable instruments as payment
<b>Rights and Duties of Subject</b>	Applicant must provide executed criminal history consent form Applicant may not enter school grounds without complying with background check requirements, when requested to do so
<b>Liability and Immunity/Data Practices</b>	Hiring authority is not prohibited from hiring applicant with a criminal record Hiring authority is not liable for failing to hire or terminating an individual based on results of check

<b>Persons Seeking Licensure by the Board of Teaching</b>	
<a href="#">Minn. Stat. § 122A.18</a> , subd. 8 (First enacted 1995); <a href="#">Minn. Rules 3512.1600</a> and <a href="#">8710.0900</a>	
<b>Scope of Background Check</b>	State and federal criminal history check No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory for all initial license applicants
<b>Effect of Background Check</b>	Board has discretion to license or refuse to license an applicant who has a criminal record (implicit in statute) Statute is silent as to what crimes may be the basis for refusing to issue or revoke a license Conditional employment pending completion of background check may be terminated, based on results of check Exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	Board of Teaching requests background check BCA must perform state and federal check License applicant must provide a money order or cashier's check, payable to the BCA, for the cost of conducting the background check
<b>Rights and Duties of Subject</b>	Right to notice that a license may be revoked depending on the results of the background check Right to a contested case hearing Application must include an executed criminal history consent and fingerprints
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>School Bus or Head Start Driver License Issuance or Renewal; School Bus Driver Employment</b>	
<a href="#">Minn. Stat. §§ 171.321; 171.3215</a> (First enacted 1989)	
<b>Scope of Background Check</b>	<p>Check of state criminal history and driver’s license records for disqualifying offenses and certain moving traffic violations</p> <p>“Disqualifying offense” includes felonies, all drug offenses, DWI offenses while driving a school or Head Start bus, and certain nonfelony sex offenses</p> <p>For a Head Start bus driver, specified “crimes against a minor” will result in cancellation of the passenger endorsement on the individual’s driver license</p> <p>If applicant has resided in Minnesota for less than five years, background check must include a check of the national criminal records system</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	Mandatory when license issued or renewed; optional at any time while licensed
<b>Effect of Background Check</b>	<p>No school bus driver’s license issued or renewed if: (1) applicant has any prior record of disqualifying offense; (2) DWI or any implied consent violation or gross misdemeanor within the preceding five years; or (3) four or more moving violations within the preceding three years</p> <p>An applicant with DWI violations within the prior ten years must have completed treatment to get a license</p> <p>An applicant with disqualifying offenses is permanently barred from obtaining a school bus endorsement</p> <p>An applicant with four moving violations within three years may reapply when one year passes after the last conviction</p> <p>This license is exempt from the Criminal Offenders Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Department of Public Safety (DPS) requests check; applicant provides fingerprints</p> <p>Any public or private source acceptable to DPS may perform the check</p> <p>School districts and contractors that employ nonresident school bus drivers must conduct background check of employee’s driving record and criminal history in both Minnesota and employee’s state of residence</p>

<b>Rights and Duties of Subject</b>	<p>Applicant may receive a temporary school bus endorsement, effective for no more than 180 days, if applicant presents: (1) an affidavit that the applicant has not been convicted of a disqualifying offense, and (2) a criminal history check from each state of residence for the preceding five years</p> <p>Commissioner of Public Safety must notify a licensee by mail if school bus endorsement is canceled</p> <p>Failure to comply with commissioner's records check is reasonable cause for denial or cancellation of school bus endorsement</p>
<b>Liability and Immunity/Data Practices</b>	<p>Commissioner may not release records check results to any person except the applicant or the applicant's designee in writing</p>

<b>Children’s Service Worker/Volunteer</b>	
<p>(Includes owners, employees, and volunteers who care for, treat, educate, train, or provide recreation for children and who are not subject to another statutory background check as a condition of occupational licensure or employment) <a href="#">Minn. Stat. §§ 299C.61; 299C.62; 299C.64</a> (First enacted 1992)</p>	
<b>Scope of Background Check</b>	<p>Conviction of child abuse crimes, murder, manslaughter, felony assault, any assault against a minor, kidnap, arson, criminal sexual conduct, and prostitution crimes or a juvenile delinquency adjudication for an act that would be one of the above offenses if committed by an adult</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Government entities are not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	<p>Public, private, nonprofit, or for-profit employer may request BCA to do a check. BCA may contact FBI; applicant provides fingerprints</p> <p>BCA gives employer a copy of the applicant’s criminal record or a statement that the individual has no record</p> <p>The service provider pays the fee</p>
<b>Rights and Duties of Subject</b>	<p>Employer must give individual an opportunity to disclose any convictions and must notify individual that a BCA check will be done and that individual has specified rights</p> <p>Rights include: (1) access to a copy of the background check report and any record that forms the basis of the report; (2) ability to challenge accuracy of the data under the Data Practices Act procedures; (3) notice whether applicant is being denied the position because of BCA report; and (4) not being required to pay directly or indirectly for the background check</p>
<b>Liability and Immunity/Data Practices</b>	<p>Evidence that nonprofit employer did not request a background check is not admissible in litigation against the entity</p> <p>BCA is immune from liability for good faith reliance on FBI records in doing a background check</p> <p>Background checks may only be requested by, and provided to, authorized representatives of a children’s service provider who have a need to know the information and may only be used for a background check authorized by this law</p>

<b>Foreign Student Host Family</b>	
<a href="#">Minn. Stat. §§ 5A.04; 299C.62</a> (First enacted 1993)	
<b>Scope of Background Check</b>	Any felony No limit on look-back period
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	Student placement organization requests and pays the fee Applicant provides fingerprints
<b>Rights and Duties of Subject</b>	Organization must give family members an opportunity to disclose any convictions and must notify the family that a BCA check will be done and that they have specified rights  Rights include: (1) a copy of the background check report and any record that forms its basis; (2) ability to challenge accuracy of data under the Data Practices Act procedures; (3) notice whether the applicant is being denied the position because of the BCA report; and (4) not being required to pay directly or indirectly for the background check
<b>Liability and Immunity/Data Practices</b>	Evidence that an organization did not request a background check is not admissible in litigation against the entity  BCA is immune from liability for good faith reliance on FBI records in doing a background check

<b>Proposed Adoptive Parents and Anyone over Age 13 Living in the Proposed Home</b>	
<a href="#">Minn. Stat. § 259.41</a> (First enacted 1995)	
<b>Scope of Background Check</b>	<p>Any criminal conviction</p> <p>Substantiated child maltreatment reports</p> <p>Substantiated vulnerable adult reports</p> <p>Domestic violence data</p> <p>Juvenile court records check for anyone age 13 to 24 living in the home</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p>A home study must include an evaluation of the effect of a conviction or substantiated maltreatment report on the ability to care for a child</p> <p>If a parent submits a false affidavit (see below), the court must find the adoption is not in the child's best interests</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Child-placing agency gathers information from proposed parents, BCA, and other relevant state and local agencies</p> <p>Proposed parent pays for check and, if necessary, provides fingerprints<sup>2</sup></p> <p>Proposed parents may also give a sworn affidavit whether any household member has been convicted of a crime or is the subject of (1) a substantiated child or vulnerable adult abuse report within the past ten years, or (2) an open investigation on abuse</p>
<b>Rights and Duties of Subject</b>	<p>Adoption agency must give subject written notice that a check will be done</p> <p>Subject must authorize access to any private date needed to complete the study, disclose all names used in the past, and provide all addresses at which he/she and anyone in the household over the age of 13, has lived in the previous five years</p> <p>If the adoption agency has reasonable cause<sup>3</sup> to believe that further</p>

<sup>2</sup> Effective October 1, 2006, federal law requires that fingerprint-based checks of national crime information databases must be conducted before a prospective foster or adoptive parent may be approved for child placement, regardless of whether foster care maintenance or adoption assistance payments are to be made on behalf of the child. 42 U.S.C. 671(a)(20), as amended by Pub.L. 109-248.

<sup>3</sup> "Reasonable cause" exists where BCA information indicates the prospective parent or household member over age 13 is a multistate offender, multistate offender status is undermined, the agency has received a report of a criminal history outside of Minnesota, or the individual in question has resided in a state other than Minnesota in the prior five years. [Minn. Stat. § 259.41](#), subd. 3.



	information may exist on the prospective parent or other household member over the age of 13 that may relate to the health, safety, or welfare of the child, that individual must provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. The adoption agency may obtain criminal history data by submitting the fingerprints to the BCA.
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Court-Appointed Guardians Ad Litem</b>	
<a href="#">Minn. Stat. §§ 518.165</a> subd. 4-6 (First enacted 2005)	
<b>Scope of Background Check</b>	Criminal history Substantiated maltreatment of minors and vulnerable adults
<b>Mandatory or Optional</b>	Mandatory, if a check has not been completed within the last three years If it is determined to be in the best interest of the child, the court may appoint the guardian ad litem before the background check is completed
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	The court submits a request for a background check to the Department of Human Services Fee paid by the Minnesota Supreme Court
<b>Rights and Duties of Subject</b>	Subject has the right to be informed of the study, the results, and to challenge the accuracy and completeness of the results to the agency responsible for data creation, with some exceptions
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>McGruff Safe House Providers</b>	
<a href="#">Minn. Stat. § 299A.28</a> (First enacted 1987)	
<b>Scope of Background Check</b>	Not specified No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	DPS or appropriate law enforcement agency
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Personnel Employed In, and License Applicants, Owners, and Household Members of Facilities for Minors Licensed by the Department of Corrections</b>	
<a href="#">Minn. Stat. § 241.021</a> , subd. 6 (First enacted 1985)	
<b>Scope of Background Check</b>	Criminal conviction data available from local, state, and national repositories
<b>Mandatory or Optional</b>	Mandatory for all employees
<b>Effect of Background Check</b>	Individuals are disqualified on the same grounds (and for the same time periods) that apply to human services licensing The Criminal Offenders Rehabilitation Act does not apply to individuals convicted of child physical or sexual abuse or criminal sexual conduct
<b>Who Requests and/or Performs Check; Fee</b>	Department of Corrections (DOC) must contract with the Department of Human Services (DHS) The facility pays the fee Same procedure DHS uses under <a href="#">Minnesota Statutes, chapter 245A</a>
<b>Rights and Duties of Subject</b>	A disqualified individual must be notified by DHS and informed of the right to request reconsideration by request to DOC
<b>Liability and Immunity/Data Practices</b>	Not specified

## Health and Human Services Laws

<b>Alcohol and Drug Counselor License</b>	
<a href="#">Minn. Stat. § 148C.09</a> (First enacted 1995); <a href="#">Minn. Rules 4747.0060</a>	
<b>Scope of Background Check</b>	Conviction, admission of guilt, or no contest plea, or finding of guilt where an adjudication is withheld or not entered, in this state or any other jurisdiction of the United States, of (1) an offense that would be a felony or gross misdemeanor in Minnesota and is reasonably related to alcohol or drug counseling services; or (2) a crime against another person as defined in <a href="#">Minnesota Statutes, section 148B.68</a> , subdivision 1  Reports of substantiated maltreatment of minors and vulnerable adults  No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory for license applicants
<b>Effect of Background Check</b>	Conviction of a specified crime is grounds for license denial, suspension, revocation, or restriction  Not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	Minnesota Department of Health (MDH) requests or may contract with DHS to get BCA criminal history data
<b>Rights and Duties of Subject</b>	An individual may have a contested case hearing for unfavorable license action  License applicant must sign a release authorizing the Commissioner of Health to check with BCA, FBI, Office of Mental Health Practice, DHS, and other agencies specified in rules
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Out-of-Home Child Placement, Parents Seeking Return of a Child from Placement, and Placement with Relatives, Including Household Members Over Age 13</b>	
<a href="#">Minn. Stat. §§ 260C.209; 260C.212</a> (First enacted 2005)	
<b>Scope of Background Check</b>	Criminal history Substantiated maltreatment of minors and vulnerable adults
<b>Mandatory or Optional</b>	Mandatory if the social services agency has reasonable cause to believe the individual has a criminal history or history of maltreatment of a child or vulnerable adult
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	Appropriate social services agency conducts check
<b>Rights and Duties of Subject</b>	Individual must provide information sufficient to ensure accurate assessment If the agency has reasonable cause to believe the individual is a multistate offender, the individual must provide a set of fingerprints
<b>Liability and Immunity/Data Practices</b>	Not specified

## Licensure of Adult and Child Family Foster Care Providers and In-home Child Care Providers

(Includes license applicants; anyone in the household who is age 13 or older; current or prospective employees and unsupervised volunteers who have direct contact with individuals served by specified licensed residential and nonresidential facilities; and managerial officials. In addition, where the commissioner of human services has reasonable cause, a check may be conducted on an individual age ten to 12; and any other individual who may have unsupervised access to those served by the facility). [Minn. Stat. ch. 245C](#) (Predecessor enacted 1981); [Minn. Stat. § 268.047](#) (subd. 2(2))

<p><b>Scope of Background Check</b></p>	<p>Criminal conviction data</p> <p>Arrest and investigative data if deemed pertinent</p> <p>Substantiated maltreatment of vulnerable adults and minors</p> <p>Juvenile court records of delinquency proceedings within five years preceding license application or individual's 18<sup>th</sup> birthday, whichever period is longer</p> <p>All juvenile court records may be reviewed for some individuals ages 13 to 17, if reasonable cause exists</p>
<p><b>Mandatory or Optional</b></p>	<p>Mandatory for all new applicants, current and prospective employees, and volunteers, at initial application and at re-licensure<sup>4</sup></p>
<p><b>Effect of Background Check</b></p>	<p>A conviction, admission, or determination of guilt based on a preponderance of the evidence can disqualify applicants, employees, and other household members</p> <p>Factors are listed for determining whether the disqualified individual poses risk of harm and cannot be employed or licensed. A disqualified individual may not be eligible for reconsideration if the individual: (1) was convicted of: (a) particular offenses within specified periods of time; or (b) particular other offenses, regardless of how long ago; or (2) within the seven years preceding the study, the individual committed specified kinds of maltreatment of a minor or vulnerable adult.</p> <p>Exempt from the Criminal Offenders Rehabilitation Act</p>

<sup>4</sup> An individual applying for re-licensure is not required to undergo a background check if the initial background check was completed by the commissioner of human services for an adult foster care license holder that is also either: 1) registered under [chapter 144D](#); or 2) licensed to provide home and community-based services to people with disabilities at the foster care location and the individual applying for re-licensure does not reside in the foster care residence, and the initial background study was conducted at the time of initial licensure or affiliation with the license holder, the individual has been continuously affiliated with the license holder since the previous study, and the prior background check was conducted on or after October 1, 1995.

<b>Who Requests and/or Performs Check; Fee</b>	<p>DHS performs checks for some adult foster care; otherwise, the check is performed by (1) the county where the license applicant resides, or (2) a tribal licensing agency when it performs licensing activities</p> <p>The subject of the background check is not required to pay the check fee</p> <p>County agency checks with district courts in the communities where the subject has lived for the past five years, with the BCA, with the local police and sheriff, county attorneys, and juvenile court. Records of maltreatment determinations are requested from county social service agencies</p> <p>An FBI check can be requested if necessary; applicant must provide fingerprints</p>
<b>Rights and Duties of Subject</b>	<p>The commissioner notifies individual and employing facility or license holder if individual is disqualified</p> <p>Individual may request reconsideration of disqualification by DHS on grounds that information is incorrect or individual does not pose a risk of harm to anyone who would be served</p> <p>Subject must provide specified identifying information and fingerprints may be required under certain circumstances</p>
<b>Liability and Immunity/Data Practices</b>	<p>A license holder is not liable for terminating a person who is required to have a background study, if terminating was in good faith reliance on a notice of disqualification provided by DHS</p> <p>Employer does not incur liability for unemployment compensation if a claimant's discharge from employment was required by a law mandating a background check</p> <p>All information on individuals obtained by DHS or a county is "private" data</p>



<b>Licensed Health and Human Services Facilities and Nonlicensed Personal Care Provider Organizations</b>	
(Includes hospitals, nursing homes, hospices, and other facilities licensed by the Commissioner of Health; home care providers; supplemental nursing services agencies; and residential treatment facilities and programs licensed by DHS) <a href="#">Minn. Stat. §§ 144A.46; 144.057; 245C.03; 245C.10; 245C.15; 256B.0651-.0655</a> (First enacted 1995)	
<b>Scope of Background Check</b>	State criminal conviction data and federal data in some cases  Substantiated maltreatment of vulnerable adults and of minors in licensed programs  Arrest and investigative information if reason to believe pertinent  Juvenile data for individuals residing in a home that provides child or adult day care or foster care
<b>Mandatory or Optional</b>	Mandatory for initial licensure and renewal; re-checks not required for certain employees continuously employed in a licensed facility
<b>Effect of Background Check</b>	Conviction of specified offenses or substantiated maltreatment can disqualify employees from patient or resident contact or from unsupervised contact for time periods specified in law, but not from all employment in a facility  Owners and managerial officials of nonlicensed personal care provider organizations may be barred from enrollment if they are disqualified  Statutory factors determine whether an individual can be employed to perform a given activity  Statute provides grounds for reconsideration of disqualification  Licensing decisions are exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	MDH contracts with DHS for health department-licensed programs  DHS handles programs it licenses and nonlicensed personal care provider organizations  Facility submits form to DHS and pays fee, no more than \$20  DHS checks with BCA and checks DHS maltreatment records; DHS checks with FBI when indicated on BCA record  Applicant provides fingerprints, if necessary

<b>Rights and Duties of Subject</b>	<p>DHS notifies applicant and, in some instances, employing facility if individual is disqualified</p> <p>DHS may notify the employer of the grounds if it is failure to cooperate with the background study</p> <p>Individual may request reconsideration on grounds that the records are incorrect or the individual does not pose a risk of harm</p> <p>Subject must provide specified identifying information and DHS may require fingerprints under certain circumstances</p>
<b>Liability and Immunity/Data Practices</b>	<p>There is no civil liability for good faith termination of persons required to have a background study if the employer relies on a notice of disqualification provided by DHS</p> <p>Records are to be retained as private data by DHS</p>

<b>Social Workers</b>	
Minn. Stat. §§ 148D.055, subd. 8; 148D.245; 148D.250; 148D.255; 148D.260; 148D.270 (First enacted 2005; predecessor enacted 1997)	
<b>Scope of Background Check</b>	<p>Criminal history</p> <p>If the Board of Social Work has probable cause and a belief that a health-related condition exists relevant to a violation, the board may order a mental, physical, or chemical dependency evaluation</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	If a background check indicates past criminal behavior, the board may take disciplinary action (for example, deny the license application) or may enter into a voluntary agreement for corrective action with the license applicant
<b>Who Requests and/or Performs Check; Fee</b>	<p>Board of Social Work conducts the background check</p> <p>The board has the power to issue subpoenas and compel attendance of witnesses and all necessary papers, books, records, documents, and other evidentiary material</p> <p>License applicant pays fee specified by BCA</p>
<b>Rights and Duties of Subject</b>	<p>License applicant must authorize the board to complete the check</p> <p>Applicant has a duty to cooperate fully with the investigation, including responding fully and promptly to questions, and providing copies of client and other records as reasonably requested by the board</p>
<b>Liability and Immunity/Data Practices</b>	<p>Data collected is treated as investigative data and classified as “confidential”</p> <p>Client records obtained are protected as “private” data unless the client authorizes the records to be made public</p>

<b>Mental Health Rehabilitative Workers</b>	
<a href="#">Minn. Stat. § 256B.0623</a> subd.7 (First enacted 2001)	
<b>Scope of Background Check</b>	Criminal history
<b>Mandatory or Optional</b>	Mandatory for all direct service staff
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	Not specified
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified

## Public Safety Occupations and Activities

<b>Peace Officer Licensure and Employment</b>	
<a href="#">Minn. Stat. §§ 13.41; 626.84; 626.87</a> (First enacted 1987); <a href="#">Minn. Rules 6700.0700</a>	
<b>Scope of Background Check</b>	<p><b>Licensure:</b> Thorough background check to disclose the existence of any criminal record or conduct that would adversely affect performance of peace officer duties</p> <p><b>Employment:</b> (1) Whether applicant meets standards of the Peace Officer Standards and Training (POST) Board and standards for access to computerized criminal records systems; and (2) prior employment information, including occupational licensing data</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p>Any felony conviction in this or any other jurisdiction disqualifies applicant from peace officer licensure</p> <p>Law enforcement agency may set higher standards for employment purposes</p> <p>Exempt from the Criminal Offenders Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee<sup>5</sup></b>	<p>Law enforcement agency seeking to employ applicant requests check</p> <p>Check of federal and state criminal records systems; fingerprints forwarded to FBI and BCA</p> <p>Check with current and prior employers for employment information; court order authorized to compel disclosure of this information</p>
<b>Rights and Duties of Subject</b>	<p>Employment information sealed or otherwise subject to nondisclosure by court order may not be disclosed; however, prior employer must tell requesting law enforcement agency of the existence of the court order</p>
<b>Liability and Immunity/Data Practices</b>	<p>Employers and former employers are not civilly liable if they disclose employment information, absent fraud or malice</p> <p>POST Board is authorized to provide private data on applicants to law enforcement agencies conducting background checks</p> <p>Law enforcement agencies must share background check data with POST Board and other requesting law enforcement agencies</p>

<sup>5</sup> Under [section 181.645](#), the employee cannot be required to pay the fee because this statute does not require the employee to pay.

<b>Fire Protection Agencies</b>	
<a href="#">Minn. Stat. §§ 299F.035; 604A.31</a> , subd. 4 (First enacted 1989)	
<b>Scope of Background Check</b>	State and federal criminal history and employment history No limit on look-back period
<b>Mandatory or Optional</b>	Not specified
<b>Effect of Background Check</b>	Criminal history data may be used to assess job applicants only if directly related to the position sought Exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	Fire protection agency requests BCA to do a search and pays BCA a fee Applicant must provide fingerprints
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Former employers not liable for information they provide

<b>Permit to Purchase Certain Firearms</b>	
<a href="#">Minn. Stat. §§ 624.713; 624.7132</a> (First enacted 1977)	
<b>Scope of Background Check</b>	Criminal history and warrant records in local, state, and national repositories, civil commitment information collected by DHS, and other state and local records systems
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p><b>Permanent bar:</b> Conviction or extended juvenile jurisdiction adjudication for a crime of violence, civil commitment unless proof the person no longer has the disability that caused commitment, illegal alien, or dishonorable military discharge</p> <p><b>Three years:</b> Specified gross misdemeanors or domestic assault in another state</p> <p><b>Two years:</b> Period of time without substance abuse after controlled substance or marijuana abuse treatment</p> <p><b>As required by court:</b> Conviction for domestic assault with firearm</p> <p><b>Duration:</b> Adult or juvenile in pretrial diversion program for a crime of violence or anyone in chemical dependency treatment</p> <p>Exempt from Criminal Offenders Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Chief of police where applicant resides or, if none, sheriff where applicant resides</p> <p>No firearm transfer for five business days, pending completion of background check</p> <p>If denied, applicant must be notified as soon as possible; if no notice of disqualification within five days, firearm may be transferred</p>
<b>Rights and Duties of Subject</b>	<p>Right to appeal a denial in district court</p> <p>Applicant must be given notice of grounds for denial and notice of right to appeal denial in district court</p> <p>Applicant may not be charged a fee for cost of background check</p>

<b>Liability and Immunity/Data Practices</b>	<p>Criminal penalties apply to applicant who becomes a firearm transferee in violation of law or knowingly makes a false statement in order to become a transferee</p> <p>Applicant must consent to release to chief of police or sheriff of commitment records maintained by DHS</p> <p>If application is granted, applicant may request that no record of transfer be maintained by chief of police or sheriff; chief or sheriff must comply with this request</p>
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<b>Permit to Carry a Pistol</b>	
<a href="#">Minn. Stat. § 624.714</a> , subds. 2, 4, 6, 19 (First enacted 2003; predecessor 1975)	
<b>Scope of Background Check</b>	State and federal criminal records and warrant information, civil commitment, and other relevant local, state, and federal records systems
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	The criteria for denying a permit to purchase apply (see page 27) as well as the other statutory limits on weapons possession listed in <a href="#">section 624.714</a> , subdivision 2
<b>Who Requests and/or Performs Check; Fee</b>	The sheriff performs the check and must issue or deny the permit within 30 days The applicant pays a fee
<b>Rights and Duties of Subject</b>	Subject submits the application form provided in statute
<b>Liability and Immunity/Data Practices</b>	Law enforcement and certified instructors are not liable for a permit holder's acts with a firearm, unless the person had actual knowledge that the applicant was prohibited from possessing a firearm

<b>Permit to Build or Operate Hazardous or Solid Waste Facility</b>	
<a href="#">Minn. Stat. § 115.076</a> (First enacted 1991)	
<b>Scope of Background Check</b>	State or federal criminal convictions within the past five years that bear on the likelihood of operating the facility according to law
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Pollution Control Agency (PCA) may refuse to issue permit if investigation discloses state or federal conviction bearing on the likelihood that applicant will operate the facility in compliance with pollution laws
<b>Who Requests and/or Performs Check; Fee</b>	PCA performs the check; the applicant pays the cost
<b>Rights and Duties of Subject</b>	Before refusing to issue permit, PCA must give applicant relevant information and an opportunity to submit additional information on the circumstances surrounding the conviction and the applicant's rehabilitation  Applicant has the right to an administrative hearing upon denial of permit  Applicant must pay reasonable costs of the investigation
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Application to Equip Motor Vehicle with Police Band Radio</b>	
<a href="#">Minn. Stat. § 299C.37</a> (First enacted 1987)	
<b>Scope of Background Check</b>	Conviction in this state or elsewhere of a “crime of violence,” as defined in <a href="#">Minnesota Statutes, section 624.712</a> , within the ten-year period following sentence discharge
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Criminal record disqualifies applicant from obtaining permission to equip motor vehicle with police band radio Using a radio without a permit is a misdemeanor; repeat offense is a gross misdemeanor
<b>Who Requests and/or Performs Check; Fee</b>	Unclear Applicant applies to BCA for permit Unclear whether BCA performs background check or applicant must disclose criminal record on application
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified

## Other Occupations and Activities

<b>Gubernatorial Appointees and Governor's Residence Employees</b>	
<a href="#">Minn. Stat. § 4.055</a> (First enacted 2006)	
<b>Scope of Background Check</b>	Criminal history Predatory offender registration Warrants Driver's license records
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	Governor's office performs check and, if requested, pays fee to superintendent
<b>Rights and Duties of Subject</b>	Individuals must provide written authorization to conduct the background check  If national criminal history is to be checked, individual must provide fingerprints
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Guardians and Conservators</b>	
<a href="#">Minn. Stat. § 524.5-118</a> (First enacted 2001)	
<b>Scope of Background Check</b>	<p>Must be done (1) before a guardian or conservator is appointed, unless the court lets the subject serve pending the study or unless the subject has been checked within the past five years; and (2) once every five years after appointment, if the subject continues serving</p> <p>BCA criminal history data and records showing whether the subject has a finding of substantiated maltreatment of a vulnerable adult or minor must be checked</p> <p>If the subject has not resided in Minnesota the previous five years or BCA information indicates a multistate offender or undetermined multistate status, the national criminal records repository must be searched</p> <p>No limit on look-back period</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	<p>The court appointing the guardian or conservator asks BCA to do check</p> <p>A professional guardian or conservator must pay the fee. If the proposed ward or conservatee has an estate, the fee comes from the estate. If the proposed ward or conservatee is indigent, the court pays. For guardianship of the person, if the proposed ward is not indigent, the court may require the fee to be paid by either the guardian or conservator or the court.</p> <p>The court gives the proposed guardian or conservator a notice of rights and a consent form; it then asks DHS to complete a background check and includes the subject's consent to release the results to the court; fingerprints must be included for a national records check</p> <p>Results must be returned to the court within 15 working days, except a national criminal records search result will be forwarded within three days after DHS receives it</p>

<b>Rights and Duties of Subject</b>	<p>The subject has the right (1) to be informed that the court will request a check to determine whether the subject's appointment or continued service is in the ward or conservatee's best interests; (2) to receive a copy of the results from the court; and (3) to challenge the accuracy and completeness of information, except as precluded by the human services licensing appeal law</p> <p>The subject must sign a consent to have the background study done and has a right to see the results and challenge the accuracy and completeness of information except as precluded by the human services licensing appeal law</p>
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Volunteer Instructor Applicants: Department of Natural Resources</b>	
<a href="#">Minn. Stat. § 84.027</a> (First enacted 2005)	
<b>Scope of Background Check</b>	Criminal history
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Not specified
<b>Who Requests and/or Performs Check; Fee</b>	DNR Commissioner conducts the background check
<b>Rights and Duties of Subject</b>	Individual must consent, in writing, to the background check Individual has the right to be notified of the check and its results, as well as to obtain any record that forms the basis for the check and report The individual may also challenge the accuracy and completeness of the report
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Driver Training Instructor License</b>	
<a href="#">Minn. Stat. §§ 171.35; 171.3215</a> , subd. 3 (First enacted 1991); <a href="#">Minn. Rules 7411.0620</a>	
<b>Scope of Background Check</b>	State and federal criminal records Driver record
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	A person convicted of a felony or gross misdemeanor may not be an instructor unless the Commissioner of Public Safety determines the crime does not relate to the position, or the person shows evidence of rehabilitation and fitness to perform the duties  A person may not teach students under age 18 if convicted of a crime that would be a disqualifier for a school bus driver (see table on page 8)  Exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	DPS performs the check The applicant must pay a fee
<b>Rights and Duties of Subject</b>	The applicant must agree to the check and submit fingerprints
<b>Liability and Immunity/Data Practices</b>	Not specified



<b>Motor Carrier of Passengers</b> <sup>6</sup>	
<a href="#">Minn. Stat. §§ 221.011</a> , subds. 2a and 15; <a href="#">221.178</a> ; <a href="#">268.047</a> , subd. 2, cl. 2 (First enacted 1999)	
<b>Scope of Background Check</b>	<p>Any felony violation of the following criminal laws: murder, manslaughter, assault, kidnapping, criminal sexual conduct, arson, stalking and harassment, robbery, false imprisonment, theft, burglary, criminal vehicular homicide and injury, and terroristic threats; nonfelony violations of harassment and stalking; attempts to commit any of these; convictions in another state of a similar crime</p> <p>If driver has resided in Minnesota for less than ten years or if motor carrier requests a broader check, BCA also must check FBI computer system or check with other state(s) in which the driver resided during that time</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p>Certain convictions permanently disqualify an individual from being employed as a driver</p> <p>Other convictions disqualify the individual from being a driver for a ten-year period following sentence discharge</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>The motor carrier requests check upon hiring and then every three years          BCA performs check</p> <p>May use equivalent background checks conducted by DHS, local law enforcement, or a private entity</p> <p>Request for out-of-state search must include fingerprints</p> <p>Cost of check recovered via fee is charged to motor carrier</p> <p>BCA form must include signed consent of driver; BCA must respond within ten days on the state part of the check</p>
<b>Rights and Duties of Subject</b>	<p>Right to be informed by motor carrier that background check will be performed; right to copy of background check results and records forming the basis of report; right to challenge accuracy or completeness of records under Data Practices Act; and right to be informed when background check result causes termination of employment</p>
<b>Liability and Immunity/Data Practices</b>	<p>Motor carriers who terminate driver's employment based on background check results are not liable for any employment law claims or unemployment insurance</p>

<sup>6</sup> This does not cover school bus drivers (page 8) or limousine drivers (page 40). This statute uses the apartment manager background check law for its scope and procedures.

	<p>If acting in good faith, BCA has immunity from civil and criminal liability arising out of accuracy or completeness of records received from FBI</p> <p>Motor carriers who fail to comply with the law are guilty of petty misdemeanor</p> <p>The carrier must keep the background check record and give it to the Commissioner of Transportation on request</p>
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<b>Special Transportation Service Drivers for Elderly and Handicapped Passengers</b>	
<a href="#">Minn. Stat. §§ 174.30; 268.047</a> , subd. 2, cl. 2 (First enacted 1984); <a href="#">Minn. Rules 8840.5900</a> , subps. 11 and 12	
<b>Scope of Background Check</b>	State driving records and criminal records
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	An individual may not be a driver if the check shows: (1) within the past three years, specified driver license actions, a conviction for driving without a license, or convictions for specified offenses related to driving under the influence; or (2) within the past 15 years, a conviction for any crime specified in the rule  Exempt from Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee<sup>7</sup></b>	The employer must request the check  The check may be performed by local law enforcement or a private business if the entity uses BCA records
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	The employer is not liable for unemployment insurance for termination required by law

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<sup>7</sup> Under [section 181.645](#), the employee cannot be required to pay the fee because this statute does not require the employee to pay.

<b>Limousine and Personal Transportation Service Drivers</b>	
<a href="#">Minn. Stat. § 221.84</a> (First enacted 1992); <a href="#">Minn. Rules, parts 8880.0800 to 8880.1000</a>	
<b>Scope of Background Check</b>	Criminal history records of BCA Driving records of DPS
<b>Mandatory or Optional</b>	Mandatory for initial permit and annual review
<b>Effect of Background Check</b>	Permit may not be issued if: (1) applicant’s criminal record at any time includes any of the following offenses: repeat DWI or any crime against persons specified in rule; or (2) applicant’s driving record for previous three years includes DWI, loss of driving privileges, or driving without insurance Not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee<sup>8</sup></b>	Operator of limousine or personal transportation service who seeks to employ drivers must conduct review and keep records of reviews Limousine or personal transportation service operator must examine DPS driving records and BCA criminal history records
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified

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<sup>8</sup> Under [section 181.645](#), the employee cannot be required to pay the fee because this statute does not require the employee to pay.

<b>Horse Racing: Track Ownership, Operation, or Employment</b>	
<a href="#">Minn. Stat., ch. 240; § 299L.02</a> (First enacted 1983)	
<b>Scope of Background Check</b>	Comprehensive criminal and financial background investigation No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Any of the following offenses disqualifies applicant from licensure as a racetrack owner or employee: any state or federal felony conviction or pending felony charge, connection with any illegal business, conviction of any level of fraud or misrepresentation in connection with racing or breeding, or any conviction for a serious gambling offense as defined by rule  Not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	Horse Racing Commission performs criminal background check or may request the Director of Gambling Enforcement to perform check  Applicant may be charged a fee to cover the cost of a background check  Fingerprints may be required of applicants for licenses to be employed in horse racing venues
<b>Rights and Duties of Subject</b>	An applicant for a license to own or be employed at a horse racetrack must disclose any convictions related to horse racing or breeding, any felony conviction in state or federal court, and any pending felony charge
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Lawful Gambling Activities: Bingo, Raffles, Paddlewheels, Tipboards, and Pull-tabs</b>	
<a href="#">Minn. Stat. §§ 299L.02; 349.151</a> , subds. 4 and 8; <a href="#">349.155</a> , subds. 2 and 4; <a href="#">349.16</a> , subd. 8 (First enacted 1994)	
<b>Scope of Background Check</b>	Criminal history data on licensees and applicants
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p>Mandatory disqualification for any conviction for a felony, any gambling offense, or for being the subject of specified regulatory actions by a gambling agency in any state</p> <p>For organizations, mandatory disqualification if any controlling person was ever convicted of a gambling offense or was convicted of any other felony or gross misdemeanor involving theft or fraud</p> <p>Not exempt from the Criminal Offenders Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Gambling Control Board or, upon request, the Director of Gambling Enforcement</p> <p>The applicant may be charged a fee to cover the cost of a background check and must submit fingerprints</p>
<b>Rights and Duties of Subject</b>	Contested case hearing is available for adverse licensing action
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Gambling Enforcement Director Duties Regarding Casinos and Gambling Device Manufacturers and Sellers</b>	
<i>Minn. Stat. §§ 299L.02; 299L.07, subd. 5 (First enacted 1989)</i>	
<b>Scope of Background Check</b>	Criminal records check of persons involved in (1) casinos operated by Indian tribes and (2) the manufacture and sale of gambling devices
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Compacts govern casino employees Device manufacturers and sellers are disqualified for any felony conviction, any offense concerning gambling, assault, weapons offenses, terroristic threats, being connected with an illegal business, specified tax law violations, and gambling license denial or revocation in another jurisdiction
<b>Who Requests and/or Performs Check; Fee</b>	Director of Gambling Enforcement performs check at request of Horse Racing Commission, Gambling Control Board, or State Lottery Director Director conducts all background investigations of employees of casinos operated by Indian tribes Director has access to all criminal history data compiled by BCA on persons on whom director conducts background check Director may require that fingerprints be taken and may forward them to FBI for national criminal records check Fee may be charged to cover the cost of the background check
<b>Rights and Duties of Subject</b>	Contested case hearing is available for adverse licensing action
<b>Liability and Immunity/Data Practices</b>	Data received from another jurisdiction or agency retains its original data classification in director's hands; however, if Minnesota law is more restrictive as to access, then Minnesota law applies

<b>State Lottery Activities</b>	
<a href="#">Minn. Stat. §§ 299L.02; 349A.02</a> , subd. 6; <a href="#">349A.06</a> , subd. 2; <a href="#">349A.07</a> , subd. 3 (First enacted 1989)	
<b>Scope of Background Check</b>	Criminal and financial responsibility investigation of all prospective state lottery employees who are finalists, applicants for lottery retailer contracts, and bidders on lottery vendor contracts
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p><b>Employees:</b> Disqualified if any record of gambling law conviction or any conviction within past five years for a felony or any crime involving fraud or misrepresentation</p> <p><b>Retailers:</b> Same except only applies to convictions within past five years</p> <p><b>Vendors:</b> Disqualified for any felony within past ten years; any gross misdemeanor, gambling-related misdemeanor, or crime involving fraud or misrepresentation within past five years</p> <p><b>State employment:</b> Not exempt from the Criminal Offender Rehabilitation Act</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>State Lottery Director or, upon request, the Director of Gambling Enforcement</p> <p>Director may charge fee to cover cost of investigation; applicant must submit fingerprints</p> <p>Director may hire provisionally or enter into preliminary contract pending completion of background check</p>
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified



<b>Change of Name</b>	
(Does NOT include requests as part of marriage license applications or marriage dissolution) <a href="#">Minn. Stat. §§ 259.11(b); 259.13</a> (First enacted 1992)	
<b>Scope of Background Check</b>	Criminal history
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	If criminal history exists, court and individual both must report the name change to BCA within ten days of the change  If a felony conviction exists, name change must be reported to the prosecuting authority; if the felony is in another state or a federal jurisdiction, the appropriate attorney general must also be served notice  Failure of an individual to report their name change to the BCA, if required, is a gross misdemeanor
<b>Who Requests and/or Performs Check; Fee</b>	Court conducts check  Fee and fingerprints, if necessary, submitted by the court to the BCA
<b>Rights and Duties of Subject</b>	An individual must be granted a name change if failing to do so would infringe on that person's constitutional rights
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Manufacture, Wholesale, and Retail Liquor Licenses</b>	
<a href="#">Minn. Stat. §§ 340A.301; 340A.402; 340A.412</a> (First enacted 1985)	
<b>Scope of Background Check</b>	Background and financial investigation required by DPS and any additional information required by the governing body with jurisdiction over the license requires
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Someone with a felony conviction or willful violation of a state or federal liquor law in the past five years cannot get a license Not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	DPS investigates manufacturers and wholesalers City or county having jurisdiction over a retail license investigates; local government may contract with DPS to investigate at the behest of either the local government or the commissioner \$500 investigation fee charged to applicant, up to a maximum of \$10,000 (for out-of-state investigation)
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Apartment Managers and Caretakers</b>	
<a href="#">Minn. Stat. §§ 268.047</a> , subd. 2, cl. 2; <a href="#">299C.66 to 299C.71</a> (First enacted 1995)	
<b>Scope of Background Check</b>	<p>Any felony violation of the following criminal laws: murder, manslaughter, assault, kidnapping, criminal sexual conduct, arson, stalking and harassment, robbery, false imprisonment, theft, burglary, criminal vehicular homicide and injury, and terroristic threats; nonfelony violations of harassment and stalking; attempts to commit any of these; convictions in another state of a similar crime</p> <p>If applicant has resided in Minnesota for less than ten years or if owner requests a broader check, BCA also must check FBI computer system or check with other state(s) in which the applicant resided during that time</p>
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	<p>Certain convictions disqualify a manager from being employed as a manager permanently</p> <p>Other convictions disqualify the manager for a ten-year period following sentence discharge</p> <p>A manager employed on or before July 1, 1995, who could not otherwise satisfy this law, may continue to be employed if owner informs tenants of manager's record and gives them the option to move out</p>
<b>Who Requests and/or Performs Check; Fee</b>	<p>Property owner requests check</p> <p>BCA performs check</p> <p>May use equivalent background checks conducted by DHS, local law enforcement, or a private entity</p> <p>Request for out-of-state search must include fingerprints</p> <p>Cost of check recovered via fee is charged to owner</p> <p>BCA form must include signed consent of manager; BCA must respond within ten days on the state part of the check</p>
<b>Rights and Duties of Subject</b>	<p>Right to be informed by owner that background check will be performed; right to copy of background check results and records forming the basis of report; right to challenge accuracy or completeness of records under Data Practices Act; and right to be informed when background check result causes termination of employment</p>

<b>Liability and Immunity/Data Practices</b>	<p>Owners who terminate manager's employment based on background check results are not liable for any employment law claims or for unemployment insurance</p> <p>If acting in good faith, BCA has immunity from civil and criminal liability arising out of accuracy or completeness of records received from FBI</p> <p>Owners who fail to comply with the law are guilty of petty misdemeanor</p>
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<b>Currency Exchange Licenses</b>	
<a href="#">Minn. Stat. § 53A.03</a> (First enacted 1989)	
<b>Scope of Background Check</b>	Any criminal conviction No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory for new and renewing license
<b>Effect of Background Check</b>	Not exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee</b>	Commissioner of Commerce requests background check Applicant pays a fee BCA conducts background check of Minnesota criminal records and is authorized to exchange fingerprints with FBI for purposes of a national criminal records check
<b>Rights and Duties of Subject</b>	If a license is denied, the commissioner must give the reason; the applicant may request a contested case hearing Applicant must state on the application whether the applicant has ever been convicted of any crime
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Acquiring Control of Bank</b>	
<a href="#">Minn. Stat. § 46.08</a> (First enacted 1990)	
<b>Scope of Background Check</b>	State and federal criminal records
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Acquisition may be disapproved by the Commerce Department due to the proposed acquirer's record; disapproval is based on the criteria contained in federal banking laws and regulations
<b>Who Requests and/or Performs Check; Fee</b>	Commerce may request BCA check of Minnesota criminal records BCA may also exchange fingerprints with the FBI for purposes of a national criminal records check
<b>Rights and Duties of Subject</b>	Disapproval of acquisition gives proposed acquirer the right to request an administrative hearing on the proposed acquisition Acquirer must file notice of proposed acquisition with Commerce and must state, in notice, whether the person is the subject of any criminal indictment or conviction in any state or federal court
<b>Liability and Immunity/Data Practices</b>	Not specified

<b>Residential Mortgage Originators</b>	
<a href="#">Minn. Stat. § 58.125</a> (First enacted 2005)	
<b>Scope of Background Check</b>	Criminal offenses involving dishonesty, breach of trust, or money laundering, or agreement to enter a pretrial diversion or similar program in connection with a prosecution for one of these offenses
<b>Mandatory or Optional</b>	Not specified
<b>Effect of Background Check</b>	Persons convicted of the specified offenses may not serve as residential mortgage originators, or be employed in that capacity by a person licensed as a mortgage originator
<b>Who Requests and/or Performs Check; Fee</b>	A formally structured background check is not specified in the statute. However, an individual may apply for “prior consent” in the event a relevant conviction exists, and the offense is not de minimis. The Commissioner of Commerce weighs a number of factors in determining whether to grant prior consent
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	A grant of prior consent by the Commissioner of Commerce does not create an affirmative duty for an employer to employ the individual in any capacity

<b>Accelerated Mortgage Payment Providers</b>	
<a href="#">Minn. Stat. § 332.301</a> (First enacted 1994)	
<b>Scope of Background Check</b>	Third-party background check No limit on look-back period
<b>Mandatory or Optional</b>	Optional
<b>Effect of Background Check</b>	Background check is a condition of accepting a smaller surety bond
<b>Who Requests and/or Performs Check; Fee</b>	Commissioner of Commerce requests the check The accelerated mortgage payment provider pays the fee
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	Not specified



<b>Private Detective and Protective Agency Employees</b>	
<a href="#">Minn. Stat. §§ 268.047</a> , subd. 2, cl. 2; <a href="#">326.336</a> (First enacted 1945)	
<b>Scope of Background Check</b>	Conviction in this state or elsewhere of any felony or of any other offense listed in <a href="#">Minnesota Statutes, section 326.3381</a> , other than nonfelony-level assault; listed offenses include criminal sexual conduct, theft, robbery, burglary, unlawful entry, extortion, defamation, buying or receiving stolen property, unlawful possession or use of a weapon or burglary tools, drug offenses, and escape  No limit on look-back period
<b>Mandatory or Optional</b>	Mandatory
<b>Effect of Background Check</b>	Applicant may not be hired or must be dismissed if background check indicates disqualifying conviction  Exempt from the Criminal Offenders Rehabilitation Act
<b>Who Requests and/or Performs Check; Fee<sup>9</sup></b>	Employer requests check BCA performs check BCA must request FBI to perform check of national records Employer must submit full set of applicant's fingerprints and applicant's written consent to BCA Applicant may be conditionally employed pending completion of check but may not perform detective or agent duties during conditional employment
<b>Rights and Duties of Subject</b>	Not specified
<b>Liability and Immunity/Data Practices</b>	An employer is not liable for unemployment insurance in the event of mandatory discharge. <a href="#">Minn. Stat. § 268.047</a> , subd. 2, cl. 2

*For more information about these procedures, visit the civil law area of our web site, [www.house.mn/hrd/issinfo/civil.htm](http://www.house.mn/hrd/issinfo/civil.htm).*

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<sup>9</sup> Under section 181.645, the employee cannot be required to pay the fee because this statute does not require the employee to pay.