

House Research Department
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Criminal 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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Contents

Introduction	1
About This Publication	1
Background Check Statutes: State and Federal Records	1
Other Background Checks: Public Records and Subject’s Consent	2
Juvenile Records	3
The Charts in This Report	3
Drafting Issues	4
Criminal Offenders Rehabilitation Act; Exemptions	4
Occupations and Activities Serving Children	6
Persons Offered Employment by a K-12 School, Including Teachers and Athletic and Academic Extracurricular Activity Coaches*	6
Persons Seeking to Work in a K-12 School as a Volunteer, Student Employee, or Independent Contractor	7
Persons Seeking Licensure by the Board of Teaching	8
School Bus or Head Start Driver License Issuance or Renewal; School Bus Driver Employment	9
Children’s Service Worker/Volunteer	11
Foreign Student Host Family	12
Proposed Adoptive Parents and Anyone over Age 13 Living in the Proposed Home	13
Court-Appointed Guardians Ad Litem	15
McGruff Safe House Providers	16
Personnel Employed in, and License Applicants, Owners, and Household Members of Facilities for Minors Licensed by the Department of Corrections	17
Health and Human Services	18
Alcohol and Drug Counselor License	18
Parents Seeking Return of a Child from Out-of-Home Placement, and Emergency Placement with Relatives, Including Household Members Over Age 13	19
Licensure of Adult and Child Family Foster Care Providers, Including Relatives, and In-home Child Care Providers	20
Licensed Health and Human Services Facilities and Nonlicensed Personal Care Provider Organizations	22
Social Workers	24
Certain Employees, Contractors, and Other Individuals Affiliated with Programs Licensed by the Department of Human Services	25
Public Safety Occupations and Activities	27
Peace Officer Licensure and Employment	27
Fire Protection Agencies	28
Purchase of Firearms from a Federally Licensed Firearms Dealer	29
Permit to Carry a Pistol in Public Places	30

Permit to Build or Operate Hazardous or Solid Waste Facility	31
Application to Equip Motor Vehicle with Police Band Radio	32
Private Detective and Protective Agency Employees.....	33
Other Occupations and Activities	34
Gubernatorial Appointees and Governor’s Residence Employees.....	34
Guardians and Conservators	35
Volunteer Instructor Applicants: Department of Natural Resources	37
Driver Training Instructor License	38
Motor Carrier of Passengers	39
Special Transportation Service Drivers for Elderly and Handicapped Passengers	41
Limousine and Personal Transportation Service Drivers	42
Certain Combative Sports Commission Licensees	43
Horse Racing: Track Ownership, Operation, or Employment.....	44
Lawful Gambling Activities: Bingo, Raffles, Paddlewheels, Tipboards, and Pull- tabs	45
Gambling Enforcement Director Duties Regarding Casinos and Gambling Device Manufacturers and Sellers.....	46
State Lottery Activities	47
Change of Name	48
Manufacture, Wholesale, and Retail Liquor Licenses	49
Apartment Managers and Caretakers.....	50
Currency Exchange Licenses.....	52
Acquiring Control of a Banking Institution	53
Residential Mortgage Originators.....	54
Accelerated Mortgage Payment Providers.....	55
Resident Insurance Producer and Resident Insurance Adjuster Licenses	56

Introduction

About This Publication

This report describes the Minnesota Statutes in effect following the 2009 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.

Conducting a Background Check

This report is not designed to provide assistance to individuals who wish to conduct a background check on someone else, or who are themselves the subject of an active background check. In Minnesota, background checks are typically initiated through the Bureau of Criminal Apprehension (BCA) and its databases. Questions on the procedures required to conduct a check or on the accuracy or completeness of a background check result should consult the BCA. As of the date of this publication, additional information can be found on the BCA's public criminal history website: <https://cch.state.mn.us/>.

Expungement

“Expungement” is a court-ordered measure that effectively seals certain types of criminal history so that it is not accessible to the public and does not appear in the results of a criminal background check. It is a complex area of law, discussion of which is beyond the scope of this report.

Requesting an expungement is a lengthy process and is not an option for all types of convictions. An individual who wishes to request an expungement should speak with an attorney. Self-help information on expungements can also be found on the Minnesota Judicial Branch's website: <http://www.mncourts.gov/selfhelp/?page=328>.

Background Check Statutes: State and Federal Records

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 (such as arrest records), 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 BCA practice is to disclose all convictions and any arrests occurring within the previous year that have not been resolved. Juvenile records are treated separately; see note below.

“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 matters 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 specific 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.

Juvenile Records

Some Minnesota laws require or permit access to a juvenile's prior offense history as a prerequisite to the juvenile's employment in certain occupations or for other noncriminal justice system purposes. Under these circumstances, the BCA is authorized to release juvenile offense records relating to these qualifying crimes. [Minn. Stat. § 299C.095](#), subd. 1(b).

Except as provided by statute, the BCA will not release a juvenile adjudication history record and will not release information that reveals the existence of the record. Consent for release of BCA information by an individual who is the subject of juvenile adjudication history is not effective. [Minn. Stat. § 299C.095](#), subd 1(b).

The statutes do not expressly address whether an individual may or may not consent to release of law enforcement or court records on juvenile history for a background check.

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 and the law's statutory citation or, where applicable, a citation to the relevant administrative rule.

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 Act (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 or speak with an attorney to understand their rights and duties if they are about to conduct or be the subject of a background check.

Drafting Issues

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.¹
- ▶ 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 results of the background check in making an employment or licensing decision.

Criminal Offenders Rehabilitation Act; Exemptions

Background check laws must be read together with the Criminal Offenders Rehabilitation Act 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.

¹ 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.

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](#). The criminal history of an applicant for employment may not be considered until after the applicant has been selected for an interview by the employer. [Minn. Stat. § 364.021](#).

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 reapply, and that evidence of rehabilitation will be considered on reapplication. [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 for 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 provide only a brief overview.

Occupations and Activities Serving Children

Persons Offered Employment by a K-12 School, Including Teachers and Athletic and Academic Extracurricular Activity Coaches*	
Minn. Stat. § 123B.03	
Scope of Background Check	<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>
Mandatory or Optional	<p>Mandatory, however, hiring authority (1) may decide not to request the check if the applicant received the initial teaching license within the 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 the check was completed</p>
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee	<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>
Rights and Duties of Subject	<p>Right to notice of the effect indicated above</p> <p>Applicant must provide executed criminal history consent form</p>
Liability and Immunity/Data Practices	<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>

* College students offered employment in a K-12 school through a state work-study program grant are exempt from the background check requirement. [Minn. Stat. § 136A.233](#), subd. 4.

Persons Seeking to Work in a K-12 School as a Volunteer, Student Employee, or Independent Contractor	
Minn. Stat. § 123B.03	
Scope of Background Check	Criminal history check No limit on look-back period
Mandatory or Optional	Optional
Effect of Background Check	Exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	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, or may choose to pay the costs of the check using the authority's own funds
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	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

Persons Seeking Licensure by the Board of Teaching	
Minn. Stat. § 122A.18 , subd. 8; Minn. Rules 3512.1600 and 8710.0900	
Scope of Background Check	State and federal criminal history check No limit on look-back period
Mandatory or Optional	Mandatory for all initial license applicants
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

School Bus or Head Start Driver License Issuance or Renewal; School Bus Driver Employment	
Minn. Stat. §§ 171.321; 171.3215	
Scope of Background Check	<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’s 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>
Mandatory or Optional	<p>Mandatory when license issued or renewed; optional at any time while licensed</p>
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee	<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>

Rights and Duties of Subject	<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>
Liability and Immunity/Data Practices	<p>Commissioner may not release records check results to any person except the applicant or the applicant's designee in writing</p>

Children’s Service Worker/Volunteer	
(Includes owners, employees, independent contractors, 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) Minn. Stat. §§ 299C.61; 299C.62; 299C.64	
Scope of Background Check	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 No limit on look-back period
Mandatory or Optional	Optional
Effect of Background Check	Government entities are not exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	Public, private, nonprofit, or for-profit employer may request BCA to do a check. BCA may contact FBI; applicant provides fingerprints BCA gives employer a copy of the applicant’s criminal record or a statement that the individual has no record The service provider pays the fee
Rights and Duties of Subject	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 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
Liability and Immunity/Data Practices	Evidence that nonprofit employer 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 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

Foreign Student Host Family	
Minn. Stat. §§ 5A.04; 299C.62	
Scope of Background Check	Any felony No limit on look-back period
Mandatory or Optional	Optional
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	Student placement organization requests and pays the fee Applicant provides fingerprints
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	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

Proposed Adoptive Parents and Anyone over Age 13 Living in the Proposed Home	
Minn. Stat. §§ 245C.33; 245C.34; 259.41	
Scope of Background Check	<p>Substantiated maltreatment of vulnerable adults reports</p> <p>Records relating to maltreatment of minors</p> <p>Certain juvenile records, depending on the individual studied; reasonable cause may be required</p> <p>Information held by the BCA</p> <p>Information from the child abuse and neglect registry for any state in which the individual being studied has resided in the past five years</p> <p>Information from national crime information databases, if the individual being studied is age 18 or older</p> <p>Arrest and investigative information, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of the individual</p>
Mandatory or Optional	Mandatory
Effect of Background Check	<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>A home study and background check used to consider placement of a child on whose behalf Title IV-E adoption assistance payments are to be made must be rejected if a felony conviction exists at <i>any</i> time for:</p> <ul style="list-style-type: none"> • Child abuse or neglect; spousal abuse; a crime against children, including child pornography; or a crime of violence <p>A home study and background check used to consider placement of a child on whose behalf Title IV-E adoption assistance payments are to be made must be rejected if a felony conviction exists within the <i>last five years</i> for:</p> <ul style="list-style-type: none"> • Physical assault or battery; or a drug-related offense
Who Requests and/or Performs Check; Fee	<p>Child-placing agency gathers information from proposed parents; the agency forwards the information to the Commissioner of Human Services, who performs the check</p> <p>Private agency that proposes placement is assessed the fee</p> <p>Proposed parent provides fingerprints, if necessary²</p>

² 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,

Rights and Duties of Subject	<p>Adoption agency must give subject written notice that a check will be done</p> <p>Subject must authorize access to any private data 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>A proposed adoptive parent who is the stepparent of the child is required to undergo a background check, but children of that stepparent are not required to undergo a study if they are a sibling by birth or adoption to the person being adopted</p> <p>An agency may update an adoption study and report at any time</p> <p>The Commissioner of Human Services is permitted to contract with tribal organizations to conduct background checks on individuals under tribal jurisdiction related to adoptions</p>
Liability and Immunity/Data Practices	Not specified

Court-Appointed Guardians Ad Litem	
Minn. Stat. § 518.165 , subds. 4-6	
Scope of Background Check	Criminal history Substantiated maltreatment of minors and vulnerable adults
Mandatory or Optional	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
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	The court submits a request for a background check to the Department of Human Services (DHS) Fee paid by the Minnesota Supreme Court
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

McGruff Safe House Providers	
Minn. Stat. § 299A.28	
Scope of Background Check	Not specified No limit on look-back period
Mandatory or Optional	Mandatory
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	DPS or appropriate law enforcement agency
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Not specified

Personnel Employed in, and License Applicants, Owners, and Household Members of Facilities for Minors Licensed by the Department of Corrections	
Minn. Stat. § 241.021 , subd. 6	
Scope of Background Check	Criminal conviction data available from local, state, and national repositories
Mandatory or Optional	Mandatory for all employees
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	Department of Corrections (DOC) must contract with DHS The facility pays the fee Same procedure DHS uses under Minnesota Statutes, chapter 245A
Rights and Duties of Subject	A disqualified individual must be notified by DHS and informed of the right to request reconsideration by request to DOC
Liability and Immunity/Data Practices	Not specified

Health and Human Services

Alcohol and Drug Counselor License	
Minn. Stat. § 148C.09 ; Minn. Rules 4747.0060	
Scope of Background Check	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 Minnesota Statutes, section 148B.68, subdivision 1 Reports of substantiated maltreatment of minors and vulnerable adults No limit on look-back period
Mandatory or Optional	Mandatory for license applicants
Effect of Background Check	Conviction of a specified crime is grounds for license denial, suspension, revocation, or restriction Not exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	Minnesota Department of Health (MDH) requests or may contract with DHS to get BCA criminal history data
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Parents Seeking Return of a Child from Out-of-Home Placement, and Emergency Placement with Relatives, Including Household Members Over Age 13	
Minn. Stat. §§ 260C.209; 260C.212; 245A.035	
Scope of Background Check	Criminal history Local law enforcement data about the household Substantiated maltreatment of minors and vulnerable adults
Mandatory or Optional	Permissive 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, or if the relative being considered for placement needs to be licensed for foster care or a background check is otherwise required by law
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	Appropriate social services agency
Rights and Duties of Subject	Individual must provide information sufficient to ensure accurate assessment, including fingerprints in some cases (if fingerprints are not provided upon request in cases involving emergency relative placement, the child must be removed from the home)
Liability and Immunity/Data Practices	Not specified

Licensure of Adult and Child Family Foster Care Providers, Including Relatives, 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; Minn. Stat. § 268.047, subd. 2(2)*

<p>Scope of Background Check</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 18th 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>Mandatory or Optional</p>	<p>Mandatory for all new applicants, current and prospective employees, and volunteers, at initial application and at relicensure³</p>
<p>Effect of Background Check</p>	<p>A conviction, admission, Alford plea, 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, or if a mandated report failed to report substantiated maltreatment of a minor or vulnerable adult.</p> <p>Exempt from the Criminal Offenders Rehabilitation Act</p>

³ An individual applying for relicensure 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 relicensure 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 study was conducted on or after October 1, 1995.

Who Requests and/or Performs Check; Fee	<p>DHS performs checks for some child and 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>Adult foster care license holders are required to pay a background check study fee. Child foster care and in-home daycare providers are not required to pay a 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>
Rights and Duties of Subject	<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>
Liability and Immunity/Data Practices	<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>

Licensed Health and Human Services Facilities and Nonlicensed Personal Care Provider Organizations

(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) [Minn. Stat. §§ 144A.46; 144.057; 245C.03; 245C.10; 245C.15; 256B.0651-0656](#)

<p>Scope of Background Check</p>	<p>State criminal conviction data and federal data in some cases</p> <p>Substantiated maltreatment of vulnerable adults and of minors in licensed programs</p> <p>Arrest and investigative information if reason to believe pertinent</p> <p>Juvenile data for individuals residing in a home that provides child or adult day care or foster care</p>
<p>Mandatory or Optional</p>	<p>Mandatory for initial licensure and renewal; rechecks not required for certain employees continuously employed in a licensed facility</p>
<p>Effect of Background Check</p>	<p>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</p> <p>Owners and managerial officials of nonlicensed personal care provider organizations may be barred from enrollment if they are disqualified</p> <p>Statutory factors determine whether an individual can be employed to perform a given activity</p> <p>Statute provides grounds for reconsideration of disqualification</p> <p>Licensing decisions are exempt from the Criminal Offenders Rehabilitation Act</p>
<p>Who Requests and/or Performs Check; Fee</p>	<p>MDH contracts with DHS for health department-licensed programs</p> <p>DHS handles programs it licenses and nonlicensed personal care provider organizations</p> <p>Facility submits form to DHS and pays fee, no more than \$20</p> <p>DHS checks with BCA and checks DHS maltreatment records; DHS checks with FBI when indicated on BCA record</p> <p>Applicant provides fingerprints, if necessary</p>

Rights and Duties of Subject	<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>
Liability and Immunity/Data Practices	<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>

Social Workers	
Minn. Stat. §§ 148D.055 , subd. 8; 148D.245 ; 148D.250 ; 148D.255 ; 148D.260 ; 148D.270	
Scope of Background Check	Criminal history 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
Mandatory or Optional	Mandatory
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	BCA conducts the background check at the request of the Board of Social Work The board has the power to issue subpoenas and compel attendance of witnesses and all necessary papers, books, records, documents, and other evidentiary material License applicant pays fee specified by BCA
Rights and Duties of Subject	License applicant must authorize the board to complete the check 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
Liability and Immunity/Data Practices	Data collected is treated as investigative data and classified as “confidential” Client records obtained are protected as “private” data unless the client authorizes the records to be made public

Certain Employees, Contractors, and Other Individuals Affiliated with Programs Licensed by the Department of Human Services	
Minn. Stat. ch. 245C	
Scope of Background Check	<p>Criminal history</p> <p>Maltreatment of minors or vulnerable adults reports</p> <p>Arrest and investigative information, if reasonable cause exists</p> <p>Juvenile court records, in some cases</p>
Mandatory or Optional	<p>Mandatory; in some cases reasonable cause to conduct the check is required</p>
Effect of Background Check	<p>Certain types of criminal convictions disqualify an individual from direct contact or access to persons being served. The disqualification may be for seven, ten, or 15 years, or the individual may be permanently disqualified. The length of the disqualification depends on the severity of the offense.</p> <p>An individual who has been disqualified due to a background check result may request that the commissioner reconsider the disqualification. A disqualification may be set aside if the individual submits sufficient information to demonstrate that the individual does not pose a risk of harm to any person served by the applicant, license holder, or other entity. Depending on the types of offenses in the individual's background, the commissioner may be prohibited from setting aside a disqualification.</p> <p>In some cases, an individual whose request for reconsideration of a disqualification is denied may request a fair hearing on the issue</p>
Who Requests and/or Performs Check; Fee	<p>Individual applicants, license holders, or other individuals subject to the background check are not required to pay the fee for the check; the appropriate agency or organization submitting the background check request pays the fee</p> <p>Checks are conducted by the Commissioner of Human Services, or by the appropriate county agency or tribal organization</p> <p>Background checks conducted by the commissioner must be completed within 15 working days</p>
Rights and Duties of Subject	<p>Failure to cooperate with a background check study is reasonable cause to disqualify that individual or suspend or revoke a license or registration</p> <p>An individual may not be issued a license, live in a household where a licensed program will be provided, or provide direct contact services to persons served by a licensed program until proper notification is received from the commissioner. Access to persons receiving services is also prohibited in certain cases unless the subject is under continuous, direct supervision</p>

Liability and Immunity/Data Practices	Data on individuals whose disqualifications were set aside may be public or private data, depending on the circumstances
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Public Safety Occupations and Activities

Peace Officer Licensure and Employment	
Minn. Stat. §§ 13.41; 626.84; 626.87; Minn. Rules 6700.0700	
Scope of Background Check	<p>Licensure: Thorough background check to disclose the existence of any criminal record or conduct that would adversely affect performance of peace officer duties</p> <p>Employment: (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> <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>
Mandatory or Optional	Mandatory
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee⁴	Law enforcement agency seeking to employ applicant requests check
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	<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>

⁴ Under [section 181.645](#), the employee cannot be required to pay the fee because the statute does not require the employee to pay.

Fire Protection Agencies	
Minn. Stat. §§ 299F.035; 604A.31 , subd. 4	
Scope of Background Check	State and federal criminal history and employment history No limit on look-back period
Mandatory or Optional	Mandatory criminal history check; employment history check is optional
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	Fire protection agency requests BCA to do a search and pays BCA a fee Applicant must provide fingerprints
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Former employers not liable for information they provide If applicant's previous employment information is subject to a confidentiality agreement with a former employer, or the information is sealed or otherwise subject to nondisclosure pursuant to court order, the employer must disclose the existence of the agreement or order

Purchase of Firearms from a Federally Licensed Firearms Dealer	
Minn. Stat. §§ 624.7131; 624.7132	
Scope of Background Check	Criminal history and warrant records in local, state, and national criminal record repositories, including the National Instant Criminal Background Check System; civil commitment records collected by the DHS; other state and local records systems, if possible
Mandatory or Optional	Mandatory, unless the purchaser has a valid, Minnesota-issued permit to carry a pistol
Effect of Background Check	An applicant that is prohibited from possession of a pistol or semi-automatic military-style assault weapon must not be granted a transferee permit
Who Requests and/or Performs Check; Fee	Chief of police conducts the check; if the applicant resides in an area where there is no local chief of police, the county sheriff conducts the check No fee is charged for conducting the background check
Rights and Duties of Subject	An applicant who is denied a transferee permit may appeal the denial in district court; applicant must be provided with written notice of the denial and the specific reason the application was denied
Liability and Immunity/Data Practices	A person who makes a false statement in order to obtain a transferee permit, and who knows or has reason to know the statement is false, is guilty of a gross misdemeanor

Permit to Carry a Pistol in Public Places	
Minn. Stat. § 624.714	
Scope of Background Check	Criminal history and warrant records in local, state, and national criminal record repositories, including the National Instant Criminal Background Check System; civil commitment records collected by the DHS; other state and local records systems, if possible
Mandatory or Optional	Mandatory
Effect of Background Check	An applicant that is prohibited from possession of a pistol or semi-automatic military-style assault weapon must not be granted a permit
Who Requests and/or Performs Check; Fee	County sheriff conducts the check; an application fee of up to \$100 may be charged
Rights and Duties of Subject	An applicant who is denied a permit may appeal the denial in district court; applicant must be provided with written notice of the denial and the specific reason the application was denied
Liability and Immunity/Data Practices	<p>A person who makes a false statement in order to obtain a permit, and who knows or has reason to know the statement is false, is guilty of a gross misdemeanor</p> <p>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 by law from possession of a firearm</p>

Permit to Build or Operate Hazardous or Solid Waste Facility	
Minn. Stat. § 115.076	
Scope of Background Check	State or federal criminal convictions within the past five years that bear on the likelihood of operating the facility according to law
Mandatory or Optional	Optional
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	PCA performs the check; the applicant pays the cost
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Application to Equip Motor Vehicle with Police Band Radio	
Minn. Stat. § 299C.37	
Scope of Background Check	Conviction in this state or elsewhere of a “crime of violence,” as defined in Minnesota Statutes, section 624.712 , within the ten-year period following sentence discharge
Mandatory or Optional	Mandatory
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	Unclear Applicant applies to BCA for permit Unclear whether BCA performs background check or applicant must disclose criminal record on application
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Not specified

Private Detective and Protective Agency Employees	
Minn. Stat. §§ 268.047 , subd. 2, cl. 2; 326.336	
Scope of Background Check	Conviction in this state or elsewhere of any felony or of any other offense listed in Minnesota Statutes, section 326.3381 , 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
Mandatory or Optional	Mandatory
Effect of Background Check	Applicant may not be hired or must be dismissed if background check indicates disqualifying conviction Exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee⁵	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
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	An employer is not liable for unemployment insurance in the event of mandatory discharge

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

Other Occupations and Activities

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

Guardians and Conservators	
Minn. Stat. § 524.5-118	
Scope of Background Check	<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>
Mandatory or Optional	Mandatory
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	<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>

Rights and Duties of Subject	<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>
Liability and Immunity/Data Practices	Not specified

Volunteer Instructor Applicants: Department of Natural Resources	
Minn. Stat. § 84.027	
Scope of Background Check	Criminal history
Mandatory or Optional	Optional
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	DNR commissioner conducts the background check
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Driver Training Instructor License	
Minn. Stat. §§ 171.02; 171.35; 171.3215 , subd. 3; Minn. Rules 7411.0620	
Scope of Background Check	State and federal criminal records Driving record
Mandatory or Optional	Mandatory
Effect of Background Check	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 9) Exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	DPS performs the check The applicant must pay a fee
Rights and Duties of Subject	The applicant must agree to the check and submit fingerprints
Liability and Immunity/Data Practices	Not specified

Motor Carrier of Passengers⁶	
Minn. Stat. §§ 221.011 , subds. 2a and 15; 221.178 ; 268.047 , subd. 2, cl. 2; 609B.149	
Scope of Background Check	<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 the 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>
Mandatory or Optional	Mandatory
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee	<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>
Rights and Duties of Subject	<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 the Data Practices Act; and right to be informed when background check result causes termination of employment</p>
Liability and Immunity/Data Practices	<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> <p>If acting in good faith, BCA has immunity from civil and criminal liability</p>

⁶ This does not cover school bus drivers ([page 9](#) or limousine drivers [page 42](#)). This statute uses the apartment manager background check law for its scope and procedures.

	<p>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 a 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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Special Transportation Service Drivers for Elderly and Handicapped Passengers	
Minn. Stat. §§ 174.30; 268.047 , subd. 2, cl. 2; Minn. Rules 8840.5900 , subps. 11 and 12	
Scope of Background Check	State driving records and criminal records
Mandatory or Optional	Mandatory
Effect of Background Check	An individual may not be a driver if the check shows: (1) within the past three years, specified driver’s 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
Who Requests and/or Performs Check; Fee⁷	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
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	The employer is not liable for unemployment insurance for termination required by law

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

Limousine and Personal Transportation Service Drivers	
Minn. Stat. § 221.84 ; Minn. Rules, parts 8880.0800 to 8880.1000	
Scope of Background Check	Criminal history records of BCA Driving records of DPS
Mandatory or Optional	Mandatory for initial permit and annual review
Effect of Background Check	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
Who Requests and/or Performs Check; Fee⁸	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
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Not specified

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

Certain Combative Sports Commission Licensees	
<i>(Includes referees, judges, promoters, and combatants)</i> Minn. Stat. § 341.30	
Scope of Background Check	Not specified
Mandatory or Optional	Optional, upon initial application and renewal
Effect of Background Check	Not specified
Who Requests and/or Performs Check; Fee	Commission requests fingerprints and information from applicant Commission may charge a fee for receiving fingerprints and background information, including a reasonable charge for DPS expenses
Rights and Duties of Subject	Applicant furnishes fingerprints and background information to commission upon application and/or upon request for renewal
Liability and Immunity/Data Practices	Not Specified

Horse Racing: Track Ownership, Operation, or Employment	
Minn. Stat., ch. 240; § 299L.02	
Scope of Background Check	Comprehensive criminal and financial background investigation No limit on look-back period
Mandatory or Optional	Mandatory
Effect of Background Check	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 A license may be issued to an applicant who has a felony conviction, but only for occupations that do not involve gaming operations, security, surveillance, or handling of pari-mutual or card club revenues. The applicant must not have been convicted of a felony or other crime involving fraud or misrepresentation within ten years of the application, must never have been convicted of a gambling-related crime, must not have a pending felony charge, must not have been discharged from any supervision related to a disqualifying offense for at least five years, and must not be a registered predatory offender. Not exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Lawful Gambling Activities: Bingo, Raffles, Paddlewheels, Tipboards, and Pull-tabs	
Minn. Stat. §§ 299L.02; 349.151 , subds. 4 and 8; 349.155 , subds. 2 and 4; 349.16 , subd. 8	
Scope of Background Check	Criminal history data on licensees and applicants
Mandatory or Optional	Mandatory
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee	<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>
Rights and Duties of Subject	Contested case hearing is available for adverse licensing action
Liability and Immunity/Data Practices	Not specified

Gambling Enforcement Director Duties Regarding Casinos and Gambling Device Manufacturers and Sellers	
Minn. Stat. §§ 299L.02; 299L.07 , subd. 5	
Scope of Background Check	Criminal records check of persons involved in (1) casinos operated by Indian tribes and (2) the manufacture and sale of gambling devices
Mandatory or Optional	Mandatory
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	Contested case hearing is available for adverse licensing action
Liability and Immunity/Data Practices	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

State Lottery Activities	
Minn. Stat. §§ 299L.02; 349A.02, subd. 6; 349A.06, subd. 2; 349A.07, subd. 3	
Scope of Background Check	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
Mandatory or Optional	Mandatory
Effect of Background Check	<p>Employees: 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>Retailers: Same except only applies to convictions within past five years</p> <p>Vendors: 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>State employment: Not exempt from the Criminal Offender Rehabilitation Act</p>
Who Requests and/or Performs Check; Fee	<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>
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Not specified

Change of Name	
(Does NOT include requests as part of marriage license applications or marriage dissolution) Minn. Stat. §§ 259.11(b); 259.13	
Scope of Background Check	Criminal history
Mandatory or Optional	Mandatory
Effect of Background Check	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 a name change to the BCA, if required, is a gross misdemeanor
Who Requests and/or Performs Check; Fee	Court conducts check Fee and fingerprints, if necessary, submitted by the court to the BCA
Rights and Duties of Subject	An individual must be granted a name change if failing to do so would infringe on that person's constitutional rights
Liability and Immunity/Data Practices	Not specified

Manufacture, Wholesale, and Retail Liquor Licenses	
Minn. Stat. §§ 340A.301; 340A.402; 340A.412	
Scope of Background Check	Background and financial investigation required by DPS and any additional information required by the governing body with jurisdiction over the license requires
Mandatory or Optional	Mandatory
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	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)
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	Not specified

Apartment Managers and Caretakers	
Minn. Stat. §§ 268.047 , subd. 2, cl. 2; 299C.66 to 299C.71	
Scope of Background Check	<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>
Mandatory or Optional	Mandatory
Effect of Background Check	<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>
Who Requests and/or Performs Check; Fee	<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>
Rights and Duties of Subject	<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 the Data Practices Act; and right to be informed when background check result causes termination of employment</p>

Liability and Immunity/Data Practices	<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 a petty misdemeanor</p>
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Currency Exchange Licenses	
Minn. Stat. § 53A.03	
Scope of Background Check	Any criminal conviction No limit on look-back period
Mandatory or Optional	Mandatory for new and renewing license
Effect of Background Check	Not exempt from the Criminal Offenders Rehabilitation Act
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Acquiring Control of a Banking Institution	
Minn. Stat. § 46.08	
Scope of Background Check	State and federal criminal records
Mandatory or Optional	Mandatory, upon request of the Commissioner of Commerce
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	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
Liability and Immunity/Data Practices	Not specified

Residential Mortgage Originators	
Minn. Stat. § 58.125	
Scope of Background Check	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
Mandatory or Optional	Not specified
Effect of Background Check	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
Who Requests and/or Performs Check; Fee	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
Rights and Duties of Subject	Not specified
Liability and Immunity/Data Practices	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

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

Resident Insurance Producer and Resident Insurance Adjuster Licenses⁹	
Minn. Stat. §§ 60K.37; 72B.041	
Scope of Background Check	State and federal criminal records
Mandatory or Optional	Mandatory
Effect of Background Check	The Commissioner of Commerce may suspend or revoke a license, or deny a license application if the applicant has been convicted of a felony under the laws of any state, federal law, or in a foreign country
Who Requests and/or Performs Check; Fee	<p>Commissioner of Commerce initiates the background check. The commissioner may receive information from the BCA or any other government agency.</p> <p>The commissioner may contract for the collection and transmission of fingerprints with a third party and may agree to a reasonable fee for fingerprinting to be charged by the contractor</p> <p>Applicant pays fees associated with the background check</p>
Rights and Duties of Subject	Applicant must submit a fingerprint card to the commissioner and pay fees
Liability and Immunity/Data Practices	<p>Commissioner must treat and maintain applicant's fingerprints and any criminal history data as confidential and apply specified security measures to the electronic storage of the data</p> <p>Data collected may not be used for any purpose other than as authorized by statute</p> <p>Fingerprints and criminal history data may not be subject to a subpoena, except in a criminal action or investigation</p>

For more information about these procedures, visit the civil law area of our web site, www.house.mn/hrd/hrd.htm.

⁹ These requirements are effective July 1, 2010.