

**A report to the
Senate Education Committee Chair and
House Education Committee Chair
of the Minnesota Legislature**

***Recommendations
for conducting background checks***

**in accordance with Minnesota Laws 1996, Chapter 412,
Article 9, Section 15**

**From the
Commissioner of Children, Families and Learning**

Minnesota  Children
Minnesota Department of Children, Families & Learning

February 1997

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Individuals from the following organizations and school districts were appointed to serve on the 1996 Working Group on Criminal Background Checks:

(Minnesota Board of Teaching, Minnesota School Boards Association, Minnesota Association of School Administrators, Minnesota Bureau of Criminal Apprehension, Minnesota Elementary School Principals Association, University of Minnesota/College of Education and Human Development, Minnesota Association of School Personnel Administrators, Minnesota Private College Council, Private College Student Association, Minnesota Association of Secondary School Principals, Minnesota State Colleges and Universities, Minnesota Association of Colleges for Teacher Education, Minnesota Education Association, Minnesota State University Student Association, University of Minnesota Student Association, Association of State, County and Municipal Employees, Minnesota Federation of Teachers)

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SUMMARY

In accordance with Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subdivision 1, the Commissioner of Children, Families and Learning convened a working group to recommend an efficient and effective process for conducting criminal history background checks on candidates for teacher licensure, elementary and secondary school teachers, and other school district employees, consistent with the requirements under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8. Legislation required that by February 1, 1997, the Commissioner submit the group's recommendations to the chairs of the education committees of the legislature.

The report contains 11 recommendations related to existing legislation for conducting criminal history background checks. Recommendations requiring statutory changes are presented for *substitute employees, service cooperative employees, flexibility in collecting fees, nonstate residents, and duplication between licensure and employment.*

WORKING COMMITTEE ON CRIMINAL BACKGROUND CHECKS **RECOMMENDATIONS AND ISSUES RESOLVED**

Recommendation #1 [Substitute employees] (*Legislation Required*)

It is recommended that Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subdivision 3 (d) be maintained authorizing a school hiring authority to use results of a criminal history background check performed at the request of another school hiring authority if: the results of the check are on file with the other school hiring authority or are otherwise accessible; the check was performed within the past year; and there is no reason to believe that the individual has committed an act subsequent to the check that would not be included in it. However, the legislation should be amended to include that the employee needs to provide a written request authorizing another school hiring authority to access the results of the check on file with another school hiring authority.

Recommendation #2 [Service cooperative employees] (*Legislation Required*)

It is recommended that the definition of "school" in 1996 legislation, M.S. §120.1045, Subdivision 4 (a), be amended to include service cooperatives, special education cooperatives, education districts and joint powers districts.

Recommendation #3 [Teacher interns]

In accordance with Board of Teaching Licensure Rules, 8700.6900, teacher interns are required to be licensed. Thus, teacher interns are required by M.S. §125.05, Subdivision 8, to complete a criminal history background check for initial licensure. New legislation is not necessary.

Recommendation #4 [Student teachers]

New legislation is not recommended requiring student teachers to undergo criminal history background checks.

Student teachers may only practice while under appropriate supervision by a fully qualified teacher. Additional overseeing of practice is provided by building administration and college/university faculty. Furthermore, the processing time for a criminal history background check at the federal level is currently three months. Therefore, because of the restricted time that a student teacher is assigned to a school, the value of subjecting a student teacher or other college/university student to a federal check is questionable.

Recommendation #5 [School volunteers, independent contractors and student employees] *(Legislation Required)*

It is recommended that the decision to conduct a criminal history background check for individuals, groups or parties categorized as school volunteers, independent contractors, or student employees, should be made by the school district. All costs for requested criminal background checks should be the responsibility of the individual, notwithstanding M.S. § 299C.62.

Recommendation #6 [Flexibility in collecting fees] *(Legislation Required)*

It is recommended that Minnesota Statutes §120.1045 be amended to permit a school hiring authority to request a person offered employment to pay the employer, rather than the BCA, the costs for conducting the criminal history background check. The hiring authority may then directly pay the Minnesota Bureau of Criminal Apprehension.

Recommendation #7 [Expense for conducting background checks]

Cost reductions to school hiring authorities and individuals for conducting criminal background checks will result from other recommendations made in this report (#1, #4, #6 and #10). No additional legislation is recommended to attempt to make conducting criminal history background checks less expensive.

Recommendation #8 [Nonstate residents] *(Legislation Required)*

It is recommended that a nonstate resident applying for school district employment be subject to criminal history-background check requirements. The background check for nonstate residents should require, at minimum, a Minnesota check with the Bureau of Criminal Apprehension and a state level check from the state of residence, if allowable by that state's law. The additional federal background check shall be requested by the hiring authority when a nonstate resident check is unavailable. All costs for requested criminal background checks should be the responsibility of the employee, notwithstanding M.S. § 299C.62.

Recommendation #9 [Central repository of data]

The creation of a new and separate central repository system is not recommended at this time. The current operating criminal justice information system provides the required data.

Recommendation #10 [Duplication between licensure and employment] (*Legislation Required*)

It is recommended that if a person has been issued an initial entrance license by the Board of Teaching or the State Board of Education within the past year of the period of offered employment, the hiring authority should not be required to request an individual undergo another background check solely to comply with the requirements of Minnesota Statutes, section 120.1045. Acceptance of the background check at initial licensure or the requirement for an additional check, however, should be at the discretion of the school district.

Recommendation #11 [Periodic background checks]

It is recommended that individuals subject to criminal history background checks, consistent with the requirements under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8, not be required by law to undergo periodic background checks.

BACKGROUND

1996 LEGISLATION

The 1996 Minnesota legislature directed the Commissioner of Children, Families and Learning to convene a working group to recommend an efficient and effective process for conducting background checks on candidates for teacher licensure, elementary and secondary school teachers, and other school district employees, consistent with the requirements under Minnesota Statutes, Sections 120.1045 and 125.05, Subd. 8.

COMPOSITION OF THE WORKING GROUP

In accordance with legislation, the following organizations and institutions were contacted and asked to appoint a member from their respective organizations to serve on the Working Group:

**Minnesota Board of Teaching
Minnesota School Boards Association
Minnesota Education Association
Minnesota Federation of Teachers
Minnesota State Colleges and Universities
University of Minnesota
Minnesota Private College Council
Minnesota Association of Colleges of
Teacher Education
Minnesota State University Student Association
University of Minnesota Student Association
Private College Student Organization
Minnesota Bureau of Criminal Apprehension
American Association of State, County and
Municipal Employees**

In addition, the Commissioner of Children, Families and Learning elicited appointments from the following organizations and institutions:

**Minnesota Association of School Administrators
Minnesota Elementary School Principals Association
Minnesota Association of School Personnel Administrators
Minnesota Association of Secondary School Principals
Nonpublic Education Council**

See Appendix A for a complete list of committee members.

CHARGE TO THE WORKING GROUP

The 1996 Working Group on Criminal Background Checks met five times between September 1996 and January 1997. In recommending an efficient and effective process for conducting background checks for candidates for teacher licensure, elementary and secondary school teachers, and other school district employees, consistent with the requirements under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8, the working group was charged to resolve the following issues:

- (1) *How might the process for conducting background checks be made more efficient and less burdensome for substitute employees;*
- (2) *To what extent should service cooperative employees, teacher interns, student teachers, school volunteers, independent contractors, or student employees be subject to background checks;*
- (3) *How might the process of paying for background checks be made more flexible and less expensive;*
- (4) *To what extent should nonstate residents applying for school district employment be subject to background check requirements;*
- (5) *To what extent would a central repository of background check data be useful and, if it is useful, how would it operate;*
- (6) *How might duplication between licensure and employment checks be avoided;*
- (7) *To what extent should an individual be subject to a periodic background check;*
- (8) *Whether the scope of the background check is appropriate to accomplish the intended purpose of the statutes and whether the scope of the background check should be tailored to particular classes of individuals.*

Each member of the Working Group periodically reviewed and discussed these issues with their respective organizations/institutions and shared findings and perspectives with the Working Group.

RECOMMENDATIONS AND RATIONALES

OVERVIEW

Effective January 1, 1996, Minnesota statutes require that the Board of Teaching and the State Board of Education request a criminal history background check on all initially licensed teachers and administrators. An applicant for an initial Minnesota teacher license or Minnesota administrator license must undergo a state check through the Minnesota Bureau of Criminal Apprehension and a federal criminal history background check (*M.S. §125.05, Subdivision 8*). In addition, M.S. §120.1045 mandates that a school hiring authority request a criminal history background check from the superintendent of the Minnesota Bureau of Criminal Apprehension on all individuals who are offered employment in the school. Legislation does not address individuals who were licensed or hired before January 1, 1996, or future periodic background check requirements for individuals who will have undergone criminal background checks or who had not changed district of employment prior to the legislation.

This report provides recommendations and the rationale for each of the eight legislated *Issues to Resolve* (Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2). Presented first is the Working Group's review of the intent and scope of the background check, [*Issues to Resolve*, Subd.2 (8)]. The Working Group then addressed legislated issues Subd. 2 (1-7).

The Working Group began from the premise that requiring criminal history background checks is a proactive procedure intended to provide additional security for supporting safe school environments for Minnesota students. Furthermore, the Working Group discussed the need, given the limited scope of existing problems, to reach a reasonable balance between ensuring students' safety and the rights of individuals. The recommendations presented in this report focus attention on children's safety without imposing unreasonable requirements on school districts and on individuals seeking employment in a district.

INTENT AND SCOPE

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (8)

Whether the scope of the background check is appropriate to accomplish the intended purpose of the statutes and whether the scope of the background check should be tailored to particular classes of individuals.

The Working Group identified two significantly important issues related to the scope of conducting criminal history background checks: 1) the range of particular classes of individuals who should be subject to criminal history background checks; and 2) at what time/period should criminal history background checks be conducted.

The group reviewed the issues of who specifically should be requested to undergo a criminal history background check. The Working Group identified the range of particular classes of individuals included under current legislation (*new hires and initially licensed teachers and administrators*) and classes of individuals who are not included in current legislation. Recommendations for specific individuals and particular classes of individuals (*substitute employees, service cooperative employees, teacher interns, student teachers, school volunteers, independent contractors, student employees*) listed in Minnesota Laws 1996, Chapter 412, Article 9, Section 15, are presented in this report. For some classes of individuals the Working Group recommends that the decision as to whether to request a background check be left to the discretion of a school hiring authority, based on careful judgment and review of individual circumstances.

The Working Group also reviewed issues focused on the time/period when an individual should be required to undergo a criminal history background check. This question involved examination of the concerns that individuals may be subject to multiple background checks, and/or periodic background checks.

SUBSTITUTE EMPLOYEES (Legislation Required)

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (1)

How might the process for conducting background checks be made more efficient and less burdensome for substitute employees?

RECOMMENDATION #1 - It is recommended that Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subdivision 3 (d) be maintained authorizing a school hiring authority to use results of a criminal history background check performed at the request of another school hiring authority if: the results of the check are on file with the other school hiring authority or are otherwise accessible; the check was performed within the past year; and there is no reason to believe that the individual has committed an act subsequent to the check that would not be included in it. However, the legislation should be amended to include that the employee needs to provide a written request authorizing another school hiring authority to access the results of the check on file with another school hiring authority.

The Working Group discussed existing legislation relating to substitute employees that reduces the number of required checks when the employee works in more than one district. The group concluded that current legislation generally provides an efficient process for substitute employees working in multiple districts to comply with requirements for criminal background checks:

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 3 (d)

A school hiring authority may use the results of a criminal history background check performed at the request of another school hiring authority if: the results of the check are on file with the other school hiring authority or are otherwise accessible; the check was performed within the past year; and there is no reason to believe that the individual has committed an act subsequent to the check that would not be included in it.

However, the Working Group recommended adding language to provide a means for individuals to give permission for information to be shared efficiently without violating privacy rights. In addition, the Working Group determined that procedures through the Minnesota Bureau of Criminal Apprehension currently exist which allow an individual to authorize the BCA to direct the results of a background check to multiple specified districts.

PARTICULAR CLASSES OF INDIVIDUALS

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (2)

To what extent should service cooperative employees, teacher interns, student teachers, school volunteers, independent contractors, or student employees be subject to background checks?

The Working Group discussed each of the above classes of individuals and determined that each has unique dimensions to their service to a school, work sometimes performed in a school, or work that supports educational/learning environments for students. While the group acknowledged that for any particular class of individuals, exceptions, variations and exclusions to the statutes might be proposed, the Working Group concluded that the decision to require criminal history background checks for the protection of students must be based on serving the larger whole, as opposed to trying to work with every individual case.

SERVICE COOPERATIVE EMPLOYEES (Legislation Required)

RECOMMENDATION #2 - It is recommended that the definition of "school" in 1996 legislation, M.S. §120.1045, Subdivision 4 (a), be amended to include service cooperatives, special education cooperatives, education districts and joint powers districts.

The Working Group discussed individuals who are service cooperative employees in terms of their work directly in school buildings or directly in contact with students. In addition, it was reported to the group that service cooperatives, while not specifically identified in current legislation requiring criminal history background checks, are requiring that individuals who are offered employment undergo background checks. To ensure that the intended scope of requiring criminal history background checks is reached, the amended definition of school should include each type of district identified in M.S. §122.895.

TEACHER INTERNS

RECOMMENDATION #3 - In accordance with Board of Teaching Licensure Rules, 8700.6900, teacher interns are required to be licensed. Thus, teacher interns are required by M.S. §125.05, Subdivision 8, to complete a criminal history background check for initial licensure. New legislation is not necessary.

The working group determined that current Board of Teaching rules require that teacher interns be licensed and are therefore currently subject to criminal history background checks.

Board of Teaching Rules, 8700.6900

An intern is a person preparing for eventual service in a licensed teaching position. A one-year, nonrenewable license for elementary and secondary teacher interns may be issued to an applicant who is recommended by a teacher-preparing institution approved by the Board of Teaching and who has not less than three years of teacher preparation. Such a license shall be issued only upon the written request of the administrative head of the school system in which the intern is to be employed...

Thus, no additional legislation is required.

STUDENT TEACHERS

RECOMMENDATION #4 - New legislation is not recommended requiring student teachers to undergo criminal history background checks.

Student teachers may only practice while under appropriate supervision by a fully qualified teacher. Additional overseeing of practice is provided by building administration and college/university faculty. Furthermore, the processing time for a criminal history background check at the federal level is currently three months. Therefore, because of the restricted time that a student teacher is assigned to a school, the value of subjecting a student teacher or other college/university student to a federal check is questionable.

The Working Group reviewed conditions allowing student teachers and other college/university students to receive portions of their preparation experiences in schools working with students. The scope of the experience in schools includes such arrangements as a full quarter or semester of student teaching, student teaching at multiple levels and/or in multiple buildings, and other field experiences prior to student teaching. Thus, the timing or point at which the check could occur varies. The working group found that the length of any student teaching experience was generally shorter than the approximate three months reporting time required in conducting a federal criminal background check. Therefore, it was determined that a federal check would typically be untimely in providing results from background checks on any college/university student during the time of the student teaching experience in a district.

The Working Group examined the roles of student teachers and other college/university students when working with students. It was determined that in accordance with existing legislation (*Minnesota Statutes §123.35*), student teachers must be closely supervised by a fully qualified teacher, with additional supervision coming from both building administration and college/university faculty. As a result, student teachers are very limited in their unsupervised contact with students and it therefore seems unnecessary to require the time and expense for background checks. However, if a school district chooses to require criminal background checks on student teachers it may do so under M.S. §299C.62.

SCHOOL VOLUNTEERS, INDEPENDENT CONTRACTORS AND STUDENT EMPLOYEES
(Legislation Required)

RECOMMENDATION #5 - It is recommended that the decision to conduct a criminal history background check for individuals, groups or parties categorized as school volunteers, independent contractors, or student employees, should be made by the school district. All costs for requested criminal background checks should be the responsibility of the individual, notwithstanding M.S. § 299C.62.

The Working Group determined that due to the extensive range of circumstances in which these individuals or parties serve in schools, the requirements for a criminal background check can be more accurately made at the local level.

MORE FLEXIBLE AND LESS EXPENSIVE (Legislation Required)

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (3)

How might the process of paying for background checks be made more flexible and less expensive?

RECOMMENDATION #6 - It is recommended that Minnesota Statutes §120.1045 be amended to permit a school hiring authority to request a person offered employment to pay the employer, rather than the BCA, the costs for conducting the criminal history background check. The hiring authority may then directly pay the Minnesota Bureau of Criminal Apprehension.

RECOMMENDATION #7 - Cost reductions to school hiring authorities and individuals for conducting criminal background checks will result from other recommendations made in this report (#1, #4, #6 and #10). No additional legislation is recommended to attempt to make conducting criminal history background checks less expensive.

Current legislation restricts the procedures for hiring authorities to collect fees for conducting criminal history background checks. The Working Group concluded that school districts need flexibility in the collection of fees for conducting background checks. Allowing a school or hiring authority to request a person offered employment to pay the employer the cost for conducting the criminal history background check will provide the flexibility needed to simplify the processing system with the Bureau of Criminal Apprehension.

Recommendations made in this report regarding substitute employees (#1), student teachers (#4), flexibility in collecting fees (#6) and duplication of background checks (#10), are intended to provide more flexibility and reduce the expense of criminal history background checks.

The Working Group determined that current fees for criminal background checks may be subject to change and that the cost for actual fingerprinting varies across the state. While some individuals may be subject to more than one background check and although it might be desirable to reduce the expenses for conducting background checks, when the intent is to provide protection to students, the current costs seem reasonable. With the current charges of \$8.00 per hiring authority request and \$25.00 per licensure request, and varying costs for actual fingerprinting, the overall costs to undergo a criminal history background check do not appear to cause a hardship for any particular

class of individuals. Additional effort to reduce the costs for conducting criminal background checks is not necessary.

NONSTATE RESIDENTS (Legislation Required)

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (4)

To what extent should nonstate residents applying for school district employment be subject to background check requirements?

RECOMMENDATION #8 - It is recommended that a nonstate resident applying for school district employment be subject to criminal history background check requirements. The background check for nonstate residents should require, at minimum, a Minnesota check with the Bureau of Criminal Apprehension and a state level check from the state of residence, if allowable by that state's law. The additional federal background check shall be requested by the hiring authority when a nonstate resident check is unavailable. All costs for requested criminal background checks should be the responsibility of the employee, notwithstanding M.S. § 299C.62.

School districts must have access to important information on all new hires, both Minnesota residents and non-residents. Information reported by the Minnesota Bureau of Criminal Apprehension is limited to Minnesota residents only. Action on this recommendation is necessary to provide comparable information on new hires in Minnesota school districts who are non-residents of Minnesota.

CENTRAL REPOSITORY OF DATA

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (5)

To what extent would a central repository of background check data be useful and, if it is useful, how would it operate?

RECOMMENDATION #9 - The creation of a new and separate central repository system is not recommended at this time. The current operating criminal justice information system provides the required data.

The Minnesota Bureau of Criminal Apprehension (BCA) has an operational system which serves as a central source for retrieval of criminal history data in the criminal justice information system. The Working Group discussed the potential duplicative nature of a new and separate system,

as well as the shortcomings of maintaining an up-to-date and accurate data base. Furthermore, the accessibility and use of data was seen to present additional and unnecessary legal issues and concerns.

DUPLICATION BETWEEN LICENSURE AND EMPLOYMENT (Legislation Required)

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (6)

How might duplication between licensure and employment checks be avoided?

RECOMMENDATION #10 - It is recommended that if a person has been issued an initial entrance license by the Board of Teaching or the State Board of Education within the past year of the period of offered employment, the hiring authority should not be required to request an individual undergo another background check solely to comply with the requirements of Minnesota Statutes, section 120.1045. Acceptance of the background check at initial licensure or the requirement for an additional check, however, should be at the discretion of the school district.

In accordance with Minnesota Statutes § 125.05, Subd.8, at the time of initial licensure teachers and administrators must undergo a state and federal criminal history background check. Therefore, the Working Group concluded that it would be reasonable to reduce the number of background checks which a person might be subject to within a 12 month period by affording school districts the discretion to use the check conducted at time of licensure.

PERIODIC BACKGROUND CHECKS

Minnesota Laws 1996, Chapter 412, Article 9, Section 15, Subd. 2 (7)

To what extent should an individual be subject to a periodic background check?

RECOMMENDATION #11 - It is recommended that individuals subject to criminal history background checks, consistent with the requirements under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8, not be required by law to undergo periodic background checks.

The working group determined that existing reporting legislation and procedures: **Mandatory Reporting** (M.S. §125.09, Subd.4) and **Crimes against minors** (M.S. §631.40, Subd. 2), potentially

provide sufficient mechanisms for the ongoing monitoring and reporting of misconduct by teachers and administrators. However, further study should be conducted to determine ways in which a reporting mechanism for other school employees might be made operational, wherein convictions of child abuse crimes can be reported to school districts. Consultation with representatives of the Bureau of Criminal Apprehension and the Minnesota Department of Children, Families and Learning involving the staff automated reporting system (STAR) could determine if access to staff data using the STAR system could help identify school district personnel who are convicted of child abuse crimes as defined under M. S. §299C.62.

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Minnesota Laws 1996, Chapter 412, Article 9, Section 15

[RECOMMENDATIONS FOR CONDUCTING BACKGROUND CHECKS.]

Subdivision 1. [WORKING GROUP.] The commissioner of children, families, and learning shall convene a working group to recommend an efficient and effective process for conducting background checks on candidates for teacher licensure, elementary and secondary school teachers, and other school district employees, consistent with the requirements under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8. The working group must include one representative from each of the following organizations: the state board of teaching; the Minnesota school boards association; the Minnesota education association; the Minnesota federation of teachers; the Minnesota state colleges and universities; the University of Minnesota; the private college council; the Minnesota association of colleges of teacher education; the statewide student associations from the state universities, the University of Minnesota, and the private liberal arts colleges; the Minnesota bureau of criminal apprehension; the American association of state, county and municipal employees; and other groups that the commissioner determines are relevant. By February 1, 1997, the commissioner shall submit the group's recommendations concerning an efficient and effective process, including recommended statutory changes, to the chairs of the education committees of the legislature.

Subd. 2. [ISSUES TO RESOLVE.] In recommending an efficient and effective process for conducting background checks, the working group must address at least the following:

(1) how might the process for conducting background checks be made more efficient and less burdensome for substitute employees;

(2) to what extent should service cooperative employees, teacher interns, student teachers, school volunteers, independent contractors, or student employees be subject to background checks;

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(3) how might the process of paying for background checks be made more flexible and less expensive;

(4) to what extent should nonstate residents applying for school district employment be subject to background check requirements;

(5) to what extent would a central repository of background check data be useful and, if it is useful, how would it operate;

(6) how might duplication between licensure and employment checks be avoided;

(7) to what extent should an individual be subject to a periodic background check; and

(8) whether the scope of the background check is appropriate to accomplish the intended purpose of the statutes and whether the scope of the background check should be tailored to particular classes of individuals.

Subd. 3. [TEMPORARY PROVISIONS.] (a) Notwithstanding any law to the contrary, the following provisions apply until June 30, 1997.

(b) Any candidate for teacher licensure and any prospective school district employee for whom a background check was completed after December 1, 1995, shall not be required to undergo another background check solely to comply with the requirements of Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8.

(c) The board of teaching and the state board of education shall issue a license to an otherwise qualified individual while completion of a background check is pending, subject to Minnesota Statutes, section 125.05, subdivision 8.

(d) A school hiring authority may use the results of a criminal history background check performed at the request of another school hiring authority if: the results of the check are on file with the other school hiring authority or are otherwise assessable; the check was performed within the past year; and there is no reason to believe that the individual has committed an act subsequent to the check that would not be included in it.

LEGISLATION (Employment)

Minnesota Statutes §120.1045

120.1045 BACKGROUND CHECK.

Subdivision 1. Background check required. A school hiring authority, as defined in subdivision 4, shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school, as defined in subdivision 4. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or cashier's check payable to the bureau of criminal apprehension for the fee for conducting the criminal history background check. A school may charge a person offered employment an additional fee of up to \$2 to cover the school's costs under this section. The superintendent shall perform the background check by retrieving criminal history data maintained in the criminal justice information system computers.

Subd. 2. Conditional hiring; discharge. A school hiring authority may hire an individual pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment based on the result of a background check under this section.

Subd. 3. Repealed, 1996 c 412 art 9 s 20

Subd. 4. Definitions. For purposes of this section:

(a) "School" means a school as defined in section 120.101, subdivision 4, except a home-school, and includes a school receiving tribal contract or grant school aid under section 124.86.

(b) "School hiring authority" means the school principal or other person having general control and supervision of the school.

HIST: 1995 c 226 art 3 s 2; 1996 c 412 art 9 s 2,3

LEGISLATION (Initial Licensure)

Minnesota Statutes §125.05, Subdivision 8

[Background Checks]

Subd. 8. **Background checks.** (a) The board of teaching and the state board of education shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all applicants for initial licenses under their jurisdiction. An application for a license under this section must be accompanied by:

(1) an executed criminal history consent form, including fingerprints; and

(2) a money order or cashier's check payable to the bureau of criminal apprehension for the fee for conducting the criminal history background check.

(b) The superintendent of the bureau of criminal apprehension shall perform the background check required under paragraph (a) by retrieving criminal history data maintained in the criminal justice information system computers and shall also conduct a search of the national criminal records repository, including the criminal justice data communications network. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).

(c) The board of teaching or the state board of education may issue a license pending completion of a background check under this subdivision, but shall notify the individual that the individual's license may be revoked based on the result of the background check.

HIST: Ex1959 c 71 art 6 s 5; 1969 c 435 s 1,3; 1973 c 749 s 2,3; 1975 c 271 s 6; 1976 c 222 s 12,27,208; 1977 c 347 s 20; 1978 c 706 s 37; 1980 c 345 s 2,3; 1982 c 448 s 1; 1983 c 314 art 7 s 28; 1Spl985 c 12 art 7 s 21; art 8 s 19; 1987 c 398 art 7 s 29; 1989 c 246 s 2; 1989 c 251 s 3-5; 1990 c 375 s 3; 1992 c 499 art 8 s 8-12; 1993 c 224 art 7 s 17; art 8 s 7; 1993 c 374 s 27; 1994 c 647 art 8 s 14; 1995 c 212 art 4 s 64; 1995 c 226 art 3 s 6; 1Spl995 c 3 art 16 s 13