

# Position Statement

2020

## Background Study Clearance Required Prior to Child Care Institution Employment

### Proposal

**Issue:** Minnesota Statute currently allows adults to work in child care institutions—including a group home, residential treatment center, shelter, or other congregate care setting—prior to receiving a background study clearance as long as a background study request has been submitted. This allows people to be in facilities serving children and youth without yet knowing that the individual is free from prior history of maltreatment or crimes that may indicate a risk to children. The federal Family First Prevention and Services Act (FFPSA) requires an enhanced background study to be completed prior to the adult’s employment in a child care institution, so Minnesota’s current practice does not comply with the Title IV-E requirement and does not allow restricting access to children in a facility by a new employee with significant harmful history.

**Implementation Strategy:** Amend Minnesota Statute 245C.04, subdivision 1, (g) to read, “Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy and receive a background study clearance before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.” Further, any additional changes needed to Chapter 245C Human Services Background Studies to provide consistent direction requiring background study clearance prior to contact with children in child care institutions must be included with this change.

### Systemic Priority Alignment (check all that apply and explain why)

Equity       Service Integration       Fiscal Framework

**Comments:**

Fiscal Framework: Compliance with federal Title IV-E requirements is required for IV-E reimbursement of placement costs for eligible children.

### Operational Priority Alignment (check all that apply and explain why)

Behavioral Health       Case Management       Child Well Being       Community Based Settings & Services  
 Health Care       Housing & Transportation       Modernization       Self Sufficiency

**Comments:** The intent of the background study requirement is to help ensure child safety from maltreatment while in a child care institution.

### Rationale/Background:

Family First Prevention Services Act (FFPSA) amended the Title IV-E plan to require procedures for fingerprint-based criminal records checks of three national crime information databases, and child abuse and neglect registry checks in any state in which the person has resided in the preceding five years for any adult working in a child care institution, including a group home,

residential treatment center, shelter, or other congregate care setting. The Adam Walsh Child Protection and Safety Act of 2006 required this type of background study for adults in any prospective foster care and adoptive home, but did not include childcare institutions in its provisions at the time. The changes under FFPSA bring the same requirements for all adults working in any capacity in a child care institution. Minnesota passed enabling legislation to comply with the child care institution requirement effective July 1, 2019.

This rigorous background study requirement is intended to prevent access to children by adults who have a history that indicates a risk to child safety. Minnesota Statute 245C.04, subdivision 1, (g) requires that people subject to this background study complete the background study request process before beginning a position that allows direct contact in any licensed program, but does not require the background study clearance prior to contact. This has the effect of allowing adults to work in a child care institution for a period of time without complete information on the individual's history while awaiting the background study results.

Changing the statute to require background study clearance to be received prior to employment in a child care institution better addresses the intent of the background study requirement to restrict adults with troubling past criminal or maltreatment conduct toward children from working in settings serving children. It further ensures that Minnesota's child care institutions consistently comply with the requirements of Title IV-E.

Potential opposition: Requiring completion of a background study prior to allowing access in a child care institution takes time. These studies typically take weeks, and occasionally take longer for clearance to be received. Child care institutions often struggle to have adequate staffing, and this change would delay availability of new staff if the applicant had not had this type of background study conducted in the past in Minnesota. Opposition could be anticipated when sustaining sufficient staffing in a facility is seen as a greater need compared to the potential risk of placing an employee prior to clearance being received. It may also be worth considering that since these positions are generally of modest income, the delay in awaiting clearance could have greater impact on lower income adults seeking employment.

The Minnesota County Attorneys Association could be a potential ally of this position, but their support has not been sought yet.

### Additional Information:



Submitted by: Joan Granger-Kopesky  
Approved on: [insert date position was approved]