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S.F. No. 1558 – Child foster care and background studies provisions modifications, 1st engrossment

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S.F. No. 1558 modifies provisions relating to licensed family foster setting background study requirements. All sections are effective July 1, 2022, except that section 7 is effective July 1, 2021, section 14 is effective July 1, 2023, and section 15 would be effective by operation of law on July 1, 2021, since it does not specify an effective date.

Section 1 (245A.05, paragraph (a), clause (11)) permits the commissioner of human services to deny a family foster setting license if an individual has non-disqualifying background study information that reflects on the individual’s ability to safely care for foster children.

Section 2 (245A.07, subdivision 1, paragraph (a)) authorizes the commissioner to take a licensing action against a license holder based on non-disqualifying background study information that reflects on the individual’s ability to safely care for foster children.

Section 3 (245A.16, subdivision 9) lists the information and other materials that must be included and followed by a county agency or designated private agency prior to recommending that the commissioner take a licensing action for a licensed family foster setting.

Sections 4-5 (245C.05, subdivision 2c, paragraph (c), clause (1); 245C.05, subdivision 2d) modify the privacy and fingerprint data notices that must be provided to a background study subject, to inform the subject that the FBI will not retain the subject’s fingerprints.

Section 6 (245C.05, subdivision 4, paragraph (a), clause (3)) requires the commissioner’s secure electronic information transmission system to accommodate electronic transmission to counties of relevant underlying investigative information from a background study, including a summary of non-disqualifying results, except as prohibited by law.

Section 7 (245C.08, subdivision 3, paragraph (c)) removes the prohibition against the commissioner sharing data obtained during a national criminal history check with county agencies or private agencies, effective July 1, 2021.

Section 8 (245C.14, subdivision 1, paragraph (c)) makes a conforming change to accommodate the new subdivision with the disqualifying crimes and conduct for family foster setting background study subjects.

Section 9 (245C.15, subdivision 4a) lists the disqualifying crimes, acts, and other conduct for licensed family foster setting disqualifications. Paragraphs (a) and (b) establish permanently disqualifying crimes and conduct. Paragraphs (d) and (e) establish five-year disqualifying crimes and conduct. Paragraph (c) establishes that involuntary termination of an individual's parental rights, including a substantially similar termination that takes place in another state, results in a 20-year disqualification period. Paragraphs (f) and (g) establish that aiding or abetting, or committing a substantially similar offense in another state to the offenses or acts listed in paragraphs (a), (b), (e), or (f) results in the same permanent or 5-year disqualification.

Section 10 (245C.24, subdivision 2, paragraphs (e) and (f)) prohibit the commissioner from setting aside or granting a variance for the disqualification of an individual 18 or older that is based on a crime or conduct listed in 245C.15, subdivision 4a, paragraphs (a) and (b). The commissioner is allowed to grant a variance to the disqualification of an individual who is under 18 years old at the time of the background study.

Sections 11-12 (245C.24, subdivisions 3, 4) make conforming changes to remove references to foster care setting licenses in the existing ten- and seven-year bars to set aside a disqualification.

Section 13 (245C.24, subdivision 6) establishes a five-year bar to set aside a disqualification for foster care setting licenses that is based on conviction of a felony listed in section 245C.15, subdivision 4a, paragraph (c). The commissioner is allowed to set aside or grant a variance to the disqualification of an individual who is under 18 years old at the time of the background study.

Section 14 (260C.215, subdivision 4, clause (7)) revises the commissioner's duties with respect to foster care to add a duty to establish family foster setting licensing guidelines for county agencies or designated private agencies to perform licensing functions. The guidelines are considered directives of the commissioner.

Section 15 directs the commissioner to consult with relevant stakeholders to develop family foster setting guidelines for use by county agencies or designated private agencies when carrying out licensing functions. The guidelines are due by July 1, 2023.

Section 16 appropriates \$115,000 in fiscal year 2022 and a fillable amount in fiscal year 2023 from the general fund to the commissioner of human services for costs related to implementation of the provisions in this proposal. The appropriation assumes \$37,000 of federal financial participation in fiscal years 2022 and 2023.