

# Licensing's legislative changes in 2017

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The 2017 Legislature made several statutory changes for programs licensed by DHS. Please note these are only summaries of the changes enacted and may not reflect all changes to laws that impact licensed programs. For details, please refer to the applicable law in [Minnesota statute](#).

- [Child care centers](#)
- [Family child care](#)

## **Sudden unexpected infant death and abusive head trauma training requirements for relatives clarified**

Clarifies that an individual who is related to the license holder and who is involved only in the care of the license holder's own infant or child under school age and who is not designated to be a caregiver, helper, or substitute for the licensed program is exempt from the sudden unexpected infant death and abusive head trauma training. [S.F. 2, Article 7, section 24](#). Modifies §245A.50, subdivision 5. Effective July 1, 2017.

## **Definition of "annual" modified for purposes of 245A.50**

Defines "annual" or "annually" for the purposes of family child care training requirements in section 245A.50 to mean the 12-month period beginning on the license effective date or the annual anniversary of the effective date and ending on the day prior to the annual anniversary of the license effective date. [S.F. 2, Article 9, sections 1-2](#). Modifies §245A.02, subdivision 2b; creates a new subdivision, 2c, in 245A.02. Effective July 1, 2017.

## **Licensing inspection exit interview required**

Requires the county licensing agency to offer an exit interview following a licensing inspection to discuss violations of law or rule observed during the inspection and offer technical assistance on how to comply with applicable laws and rules. [S.F. 2, Article 9, section 3](#). Modifies §245A.04, subdivision 4. Effective October 1, 2017.

## **Request for expedited correction order review permitted**

Permits licensed family child care providers to request expedited review of a correction order if 1) the corrective action pending reconsideration would require either a substantial expenditure of funds or change to the licensed program and 2) the license holder describes actions the license holder will take in lieu of the corrective action to ensure the health and safety of children in care

pending reconsideration of the correction order. [S.F. 2, Article 9, section 4](#). Modifies §245A.02, subdivision 2. Effective July 1, 2017.

### **Fix-it ticket authorized**

Requires the commissioner to issue, in lieu of a correction order, a fix-it ticket if the commissioner finds that 1) the license holder failed to comply with an applicable requirement that is eligible for a fix-it ticket; 2) the violation does not imminently endanger the health, safety, or rights of the persons served by the program; 3) the license holder did not receive a fix-it ticket or correction order for the violation at the license holder's last licensing inspection; 4) the violation can be corrected at the time of inspection or within 48 hours, excluding Saturdays, Sundays, and holidays; and 5) the license holder corrects the violation at the time of inspection or agrees to correct the violation within 48 hours, excluding Saturdays, Sundays, and holidays. Within one week of receiving a fix-it ticket, the license holder must submit evidence that the license holder corrected the violation; if the license holder does not submit evidence or the evidence of the correction is insufficient, the commissioner must issue a correction order. The list of violations eligible for a fix-it ticket will be developed by the commissioner following consultation with license holders and county agencies. [S.F. 2, Article 9, section 7](#). Creates a new section, §245A.065. Effective October 1, 2017.

### **Correction order quotas prohibited**

Prohibits the commissioner and county licensing agency from ordering, mandating, requiring, or suggesting to any person responsible for licensing or inspecting a family child care or child care center a quota for the issuance of correction orders. [S.F. 2, Article 9, section 6](#). Modifies §245A.06. Effective July 1, 2017.

### **Correction order posting modified**

Requires the Commissioner to issue amended correction orders following a reversal or rescission of a correction order violation and modifies posting requirements for correction orders that are reversed or rescinded. [S.F. 2, Article 9, section 5](#). Modifies §245A.06, subdivision 8. Effective July 1, 2017.

### **Annual inspections**

To bring Minnesota into compliance with federal requirements, counties will now be required to inspect family child care programs at least annually. [S.F. 2, Article 16, Section 5](#). Modifies §245A.16, subdivision 1. Effective August 1, 2017.

## **Communication regarding changes to law and policy required**

Requires the commissioner to provide information to child care license holders on a timely basis of changes to state and federal statute, rule, regulation and policy relating to the provision of licensed child care, the child care assistance program, and Parent Aware, and child care licensing functions delegated to counties, including information to promote license holder compliance. [S.F. 2, Article 9, Section 9](#). Creates new section, §245A.1434. Effective July 1, 2017.

## **Child care and development block grant changes**

Brings Minnesota into compliance with the health and safety requirements of the 2014 reauthorization of the Child Care and Development Block Grant. Changes include:

- Changes to parental access
- Modifications to the existing child growth and development and behavior guidance training
- Modifications to the existing supervising for safety training requirement
- Requirements relating to allergies, handling and disposal of bodily fluids, and emergency preparedness.

In addition, license holders will be required to use the [DHS Child Care Emergency Plan DSH-7414A \(PDF\)](#). [S.F. 2, Article 16, Sections 4, 14-17](#). Creates a new subdivision 15 in 245A.14; modifies 245A.50, subdivisions 2, 7. Creates a new section, 245A.51. Effective August 1, 2017. Modifies §245A.50, subdivision 9. Effective July 1, 2017.

## **Background study requirement modifications**

Requires a new fingerprint-based background study for all licensed family child care and licensed child care centers and their staff and household members. The new background study, which will be valid for five years and will be conducted by the Department of Human Services, will include a review of Minnesota criminal records, predatory offender registry, and child abuse and neglect registry. It will also include a review of FBI criminal records, the National Sex Offender Public Website, and child abuse and neglect registries in any state where the subject has resided in the previous five years. The background study will cost \$40 in addition to a separate finger printing fee. All individuals whose activities involve the care or supervision of a child or include unsupervised access to children will be required to obtain the new enhanced background study. [S.F. 2, Article 16, Sections 18-42](#). Various effective dates. The Department will contact license holders with more details about these changes and alert them to when they must obtain the new, enhanced background study.

## **Licensing data and correction order posting guidelines**

No later than November 1, 2017, the commissioner shall develop guidelines for posting public licensing data for licensed child care programs following consultation with stakeholders. [S.F. 2, Article 7, Section 35](#).

- [General changes for licensing](#)

**Increase of fine for serious maltreatment for certain license types**

Requires the license holder to forfeit \$5,000 if the commissioner determines that the license holder is responsible for maltreatment that meets the definition of serious maltreatment as defined in 245C.02, subdivision 18. For programs that operate in the license holder's home and programs licensed under Minnesota Rules, parts 9502.0300 to 9502.0495, the fine assessed against the license holder shall not exceed \$1,000 for each determination of maltreatment. [S.F. 2, Article 9, section 8](#). Modifies §245A.07, subdivision 3. Effective August 1, 2017.

**Modified definition of “controlling individual”**

Clarifies the definition of “controlling individual” to include the owner of a program or service provider licensed under 245A and, if applicable each officer of the organization, the authorized agent, the compliance officer, and each managerial official whose responsibilities include the direction of the management or policies of a program. Clarifies that all controlling individuals must comply with background study requirements. [S.F. 2, Article 13, section 2; Article 16, section 19](#). Modifies §245A.02, subdivision 5a. Effective July 1, 2017. Modifies §245C.03, subdivision 1, effective when the Department of Human Services implements NETStudy 2.0 or October 1, 2017, whichever is later.

**Modified definition of “owner”**

Clarifies the definition of “owner” to mean the individual or organization that has a direct or indirect ownership interest of five percent or more in a program licensed under [245A. S.F. 2, Article 13, section 3](#). Creates new subdivision, 10b, in §245A.02. Effective July 1, 2017.

**Certification of license-exempt centers accepting Child Care Assistance Payments**

Beginning September 30, 2017, the Department will begin a process to certify license-exempt child care centers that participate in the Child Care Assistance Program. Certification applications will be received and processed on a schedule to be determined by the Department. Establishes application procedures, standards, and requirements for certified license-exempt child care centers. [S.F. 2, Article 16, sections 43-59, 68](#). Creates a new chapter, 245H. Effective August 1, 2017.

- [Chemical dependency treatment programs](#)
- [Mental health programs](#)
- [Adult foster care](#)
- [Home and community-based services](#)