

DISQUALIFICATIONS

As part of licensing you for childcare, our agency must conduct background study on you and anyone age 13 or older, living in your home or working with the children in care. We will give you background study release forms for these people to fill out. The release form lists all the agencies we check with in doing our background studies. These release forms must be completed as part of the licensing process. Our licensing workers review the information we get back from these agencies. The licensing workers are looking for any issues that might disqualify the person from having contact with children in care. **Remember: we have to check the backgrounds of everyone age 13 and over, who is staying in your home or has contact with the children.** You must tell your worker if someone is coming for an extended visit, or stays with you for the summer. You also must inform us of anyone helping with the care of children - even for just a few hours - so a background study can be completed. Let us know as soon as you know!

What is a disqualification?

A disqualification is an event in a person's background that makes a person ineligible to be around children in licensed care. These are often actions that caused a person to be arrested and charged with a crime. They also might be actions that led to a child protection or adult protection investigation.

Does that mean that if a person in my household has been arrested or investigated by child protection, I won't be able to get a child care license?

Not necessarily. Not all arrests or investigations are disqualifications. We look at what the charge was and how long ago it happened. Disqualifications generally are actions or crimes committed against a person, crimes involving drugs, and crimes involving theft. Minnesota law determines how far back we look at specific kinds of actions. Less serious charges or crimes might only be a disqualification if they happened in the last seven or ten years. More serious crimes could be an issue even if they are fifteen years old or older. The attached list of crimes and actions describe some of the "look back" periods for specific kinds of events.

Even if we find a disqualification in your background studies, you still might be able to be licensed. The state will review disqualifications on a case-by-case basis. We explain the steps for the process to the person with the disqualification.

How will I know if you find a disqualification in my licensing process?

We will notify you in writing if something in your record disqualifies you. The letter would say what the event was and when it occurred. It will also tell you how to request a case-by-case review from the state. If the disqualification is on someone other than you, a letter would be sent to the person with the disqualification. This letter would explain what event (or events) is a disqualification. It also explains how to request a case-by-case review of the event. If it is a serious charge, we may also send a letter to the applicant/child care provider. This letter would say we found a disqualification, but cannot reveal what the event was. We usually are unable to tell you details about someone else's background study unless they give us written permission. One exception to that is if the disqualified person is your child and is under eighteen.

I know I have a disqualification. Can I do anything to help this process along?

Talk to your licensing worker. Your licensing worker can explain more about disqualifications. Your worker knows what the state looks at in the review process. Be honest with your worker about disqualifying event. We can do a better job when we know the whole story. Also, the licensing law prohibits you from giving false or misleading information when applying for a childcare license. This means you might not be licensed if you lie or leave out information we require as part of the process.

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NOTE "LOOK-BACK" PERIOD AND CONVICTION LEVEL FOR EACH OFFENSE.

If a disqualification is revealed in background studies for licensure, the individual who is disqualified is notified of the disqualification and the process for having the disqualification reconsidered. Disqualifications are reviewed case by case at the state level. With some crimes, disqualified individuals may describe why they do not pose a risk of harm to persons served by the licensed program. The state may decide to allow licensure in these cases, depending on the circumstances of the individual cases. With other more serious incidents, disqualified individuals might only be able to challenge the accuracy of the information used to disqualify them.

Please consult a licensing worker for statute numbers and further information on the disqualification process.

The following disqualify individuals from having direct contact with or access to persons served by a program. **NO MATTER HOW MUCH TIME HAS PASSED SINCE THE OFFENSE.** An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph, as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14. An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in the following paragraph, permanently disqualifies the individual under section 243C.14. In the absence of a conviction, if there is an admission or preponderance of evidence that meets the definition of any of the following offenses, no matter how much time has passed, the individual is disqualified.

- Murder in the first, second, or third degree
- Manslaughter in the first or second degree
- Assault – 1st degree or 2nd degree – felony level
- Felony offense - Domestic assault – spousal abuse, child abuse or neglect, or crime against children
- Domestic assault by strangulation
- Great bodily harm caused by distribution of drugs
- Aggravated robbery
- Kidnapping
- Murder of an unborn child in the first, second, or third degree
- Solicitation, inducement, and promotion of prostitution
- Other prohibited acts: prostitution/minors (609.324, subd. 1)
- Criminal sexual conduct in the first, second, third, fourth degree and fifth degree
- Criminal sexual predatory conduct
- Solicitation of children to engage in sexual conduct
- Incest
- Malicious punishment of a child
- Neglect or endangerment of a child
- Arson in the first degree
- Drive-by shooting
- Felony level - Harassment; stalking
- Shooting in or at a public transit vehicle or facility
- Indecent exposure involving a minor
- Use of minors in sexual performance
- Possession of pictorial representations of minors
- Violation of predatory offender registration law
- Attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes
- Offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause

The following disqualify individuals from direct contact with or access to persons served by a program **IF LESS THAN FIFTEEN YEARS HAS PASSED SINCE THE DISCHARGE OF THE SENTENCE FOR THE FELONY CONVICTION** or there is an admission or a preponderance of evidence that meets the definition of a felony offense of the following.

- Issuance of dishonored checks

- Criminal vehicular homicide and injury
- Bringing stolen goods, receiving stolen property,
- Identity theft
- Insurance fraud, financial transaction card fraud
- Wrongfully obtaining assistance, federal food stamp program fraud
- Felon ineligible to possess firearm
- Aiding suicide or aiding attempted suicide
- Assault in the third or fourth degree
- Repeat offenses of assault in the fifth degree
- Repeat offenses of criminal sexual conduct in the fifth degree
- Crimes committed for benefit of a gang
- Simple robbery
- Medical assistance fraud
- Aiding an offender
- Aggravated first degree or first degree tampering with a witness
- Terroristic threats
- Use of drugs to injure or facilitate crime
- Simple robbery
- False imprisonment
- Arson in the second or third degree
- Repeat offenses of indecent exposure
- Repeat offenses of obscene materials and performances; distribution and exhibition
- Riot
- Dangerous weapons
- Unlawfully owning, possessing, operating a machine gun
- Criminal abuse of a vulnerable adult
- Manslaughter of an unborn child in the first or second degree
- Assault of an unborn child in the first or second degree
- Injury or death of an unborn child in the commission of a crime
- Theft
- Financial exploitation of a vulnerable adult
- Possession of shoplifting gear
- Burglary
- Aggravated forgery
- Forgery
- Check forgery; offering a forged check
- Obtaining signature by false pretense
- Coercion
- Attempt to coerce
- Adulteration
- Grounds for termination of parental rights
- Drugs; controlled substance
- Felony level conviction involving alcohol or drug use
- Attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes
- Offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause

An individual is disqualified if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph above.

An individual is disqualified if less than 15 years has passed since the individual's termination of the individual's parental rights under section 260C.301.

If the defendant is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the look-back period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors.

The following disqualify individuals from direct contact with or access to persons served by a program IF LESS THAN TEN YEARS HAS PASSED SINCE THE DISCHARGE OF THE SENTENCE IMPOSED FOR THE GROSS MISDEMEANOR CONVICTION or there is an admission or a preponderance of evidence that meets the definition of a gross misdemeanor offense of the following.

- Wrongfully obtaining assistance
- False representation; concealment of facts
- Federal food stamp program fraud
- Criminal vehicular homicide and injury
- Assault in the first degree, second degree, third degree, fourth degree and fifth degree
- Assault in the fifth degree by a caregiver against a vulnerable adult
- Domestic assault
- Mistreatment of person confined
- Criminal abuse or neglect of vulnerable adult
- Financial exploitation of a vulnerable adult
- Failure to report maltreatment of a vulnerable adult
- Abduction
- Attempt to coerce
- Disorderly house
- Malicious punishment of a child
- Neglect or endangerment of a child
- Minor engage in prostitution
- Medical assistance fraud
- Theft
- Bringing stolen good or receiving stolen property
- Identity theft
- Issuance of dishonored checks
- Burglary
- Insurance fraud
- Check forgery; offer a forged check
- Dangerous weapons
- Riot
- Disorderly conduct against a vulnerable adult
- Harassment; stalking
- Financial transaction card fraud, fraud in obtaining credit
- Obscene materials and performances, indecent literature, distribution
- Violation of order of protection
- Harmful materials; dissemination and display to minors prohibited
- Attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes
- Offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause

If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the look-back period for the conviction is the period applicable to misdemeanors.

The following disqualify individuals from direct contact with or access to persons served by a program IF LESS THAN SEVEN YEARS HAS PASSED SINCE THE DISCHARGE OF THE SENTENCE FOR THE MISDEMEANOR CONVICTION, or there is an admission or a preponderance of evidence that meets the definition of a misdemeanor offense of the following, or an investigation results in an administrative determination or disposition as below.

- Wrongfully obtaining assistance
- False representation; concealment of facts
- Federal food stamp program fraud
- Criminal vehicular homicide and injury
- Assault in the first degree, second degree, third degree, fourth degree and fifth degree
- Domestic assault
- Financial exploitation of a vulnerable adult
- Failure to report maltreatment of a vulnerable adult
- Assault of an unborn child in the third degree

- Coercion
- Violation of an order for protection
- Protective order authorized; procedures; penalties
- Medical assistance fraud
- Theft
- Bringing stolen goods into Minnesota
- Identity theft
- Receiving stolen property
- Issuance of dishonored checks
- Insurance fraud
- Dangerous weapons, Spring guns
- Interference with privacy
- Obscene or harassing telephone calls
- Fraud in obtaining credit
- Financial transaction card fraud
- Indecent exposure
- Harmful materials; dissemination and display to minors prohibited
- Violation of an order for protection

For the purposes of this section, **serious maltreatment** means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury or harm which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury.

For purposes of this section, **abuse resulting in serious injury** means: bruises; bites; skin laceration or tissue damage; fractures; dislocation; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third degree burns and other burns for which complications are present; extensive second degree or third degree frostbite and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke.

For purposes of this section, **care of a physician** means treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation.

For the purposes of this section, **recurring maltreatment** means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.