

**299C.66 CITATION.**

Sections 299C.66 to 299C.71 may be cited as the "Kari Koskinen Manager Background Check Act."

**History:** *1995 c 226 art 4 s 13*

**299C.67 DEFINITIONS.**

Subdivision 1. **Terms.** The definitions in this section apply to sections 299C.66 to 299C.71.

Subd. 2. **Background check crime.** "Background check crime" means:

(a)(1) a felony violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.20 (first-degree manslaughter); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.25 (kidnapping); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.561 (first-degree arson); or 609.749 (stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (2) in this state; or

(b)(1) a felony violation of section 609.195 (third-degree murder); 609.205 (second-degree manslaughter); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.255 (false imprisonment); 609.52 (theft); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or a nonfelony violation of section 609.749 (stalking); or Minnesota Statutes 2012, section 609.21;

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (2) in this state.

Subd. 3. [Repealed, 2009 c 59 art 6 s 25]

Subd. 4. **Manager.** "Manager" means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units. "Manager" does not include a person who is hired on a casual basis and not in the ongoing course of the business of the owner.

Subd. 5. **Owner.** "Owner" has the meaning given to "landlord" in section 504B.001, subdivision 7. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, 144B, or 245A, or a board and lodging establishment with special services registered under section 157.17.

Subd. 6. **Superintendent.** "Superintendent" means the superintendent of the Bureau of Criminal Apprehension.

Subd. 7. **Tenant.** "Tenant" has the meaning given to "residential tenant" in section 504B.001, subdivision 12.

**History:** 1995 c 226 art 4 s 14; 1996 c 408 art 10 s 7; 1999 c 199 art 2 s 7,8; 2001 c 7 s 62; 2010 c 299 s 14

**299C.68 BACKGROUND CHECK ON RESIDENTIAL BUILDING MANAGER.**

Subdivision 1. **When required.** Before hiring a manager, an owner shall request the superintendent to conduct a background check under this section. An owner may employ a manager after requesting a background check under this section before receipt of the background check report, provided that the owner complies with section 299C.69. An owner may request a background check for a currently employed manager under this section. By July 1, 1996, an owner shall request the superintendent to conduct a background check under this section for managers hired before July 1, 1995, who are currently employed.

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than ten years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding ten years. 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 of a background check through a fee charged to the owner.

Subd. 3. **Form.** (a) The superintendent shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the manager that the owner will request the superintendent to perform a background check under this section;

(2) a notification to the manager of the manager's rights under subdivision 4; and

(3) a signed consent by the manager to conduct the background check.

(b) If the manager has resided in Minnesota for less than ten years, or if the owner is requesting a search of the national criminal records repository, the form must be accompanied by the fingerprints of the manager on whom the background check is to be performed.

Subd. 4. **Manager's rights.** (a) The owner shall notify the manager of the manager's rights under paragraph (b).

(b) A manager who is the subject of a background check request has the following rights:

(1) the right to be informed that the owner will request a background check on the manager to determine whether the manager has been convicted of a crime specified in section 299C.67, subdivision 2;

(2) the right to be informed by the owner of the superintendent's response to the background check and to obtain from the owner a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of information contained in the report or record under section 13.04, subdivision 4; and

(5) the right to be informed by the owner if the manager's application to be employed by the owner or to continue as an employee has been denied because of the result of the background check.

Subd. 5. **Response of bureau.** The superintendent shall respond in writing to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. The superintendent's response from the search of the Minnesota computerized criminal history system must clearly indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of the conviction, and date of discharge of sentence. If a search is being done of the national criminal records repository, the superintendent shall determine eligibility based upon national records received. The superintendent shall reply to the owner in writing indicating whether the manager is or is not eligible for employment.

Subd. 6. **Equivalent background check.** (a) An owner may satisfy the requirements of this section: (1) by obtaining a copy of a completed background check that was required to be performed by the Department of Human Services as provided for under section 144.057 and chapter 245C, and then placing the copy on file with the owner; (2) in the case of a background check performed on a manager for one residential setting when multiple residential settings are operated by one owner, by placing the results in a central location; or (3) by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

**History:** 1995 c 226 art 4 s 15; 1996 c 408 art 10 s 8-10; 1Sp2001 c 7 s 1,2; 2002 c 321 s 3; 2003 c 15 art 1 s 33; 2003 c 89 s 1; 2009 c 59 art 6 s 17

**299C.69 OWNER DUTIES IF MANAGER CONVICTED OF CRIME.**

(a) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner may not hire the manager or, if the manager was hired pending completion of the background check, shall terminate the manager's employment. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner shall terminate the manager's employment.

(b) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner may not hire the manager unless more than ten years have elapsed since the date of discharge of the sentence. If the manager was hired pending completion of the background check, the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence.

(c) If an owner knows that a manager hired before July 1, 1995, was convicted of a background check crime for an offense committed before July 1, 1995, the owner may continue to employ the manager. However, the owner shall notify all tenants and prospective tenants whose dwelling units would be accessible to the manager of the crime for which the manager has been convicted and of the right of a current tenant to terminate the tenancy under this paragraph, if the manager was convicted of a background check crime defined in:

(1) section 299C.67, subdivision 2, paragraph (a); or

(2) section 299C.67, subdivision 2, paragraph (b), unless more than ten years have elapsed since the sentence was discharged.

Notwithstanding a lease provision to the contrary, a current tenant who receives a notice under this paragraph may terminate the tenancy within 60 days of receipt of the notice by giving the owner at least 14 days' advance notice of the termination date.

(d) The owner shall notify the manager of any action taken under this subdivision.

(e) If an owner is required to terminate a manager's employment under paragraph (a) or (b), or terminates a manager's employment in lieu of notifying tenants under paragraph (c), the owner is not liable under any law, contract, or agreement, including liability for unemployment insurance claims, for terminating the manager's employment in accordance with this section. Notwithstanding a lease or agreement governing termination of the tenancy, if the manager whose employment is terminated is also a tenant, the owner may terminate the tenancy immediately upon giving notice to the manager. An eviction action to enforce the termination of the tenancy must be treated as a priority writ under sections 504B.321; 504B.335; 504B.345, subdivision 1; 504B.361, subdivision 2; and 504B.365, subdivision 2.

**History:** 1995 c 226 art 4 s 16; 1999 c 199 art 2 s 9; 2004 c 206 s 52

**299C.70 PENALTY.**

An owner who knowingly fails to comply with the requirements of section 299C.68 or 299C.69 is guilty of a petty misdemeanor.

**History:** *1995 c 226 art 4 s 17*