

DISQUALIFICATION SUBCOMMITTEE UPDATE

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FOCUS OF DQ SUBCOMMITTEE

DQ Sub. Is reviewing the current structure of disqualifications (DQ) under background study law.

Current structure is:

Perm. DQ – identified serious matters that never expire.

15-year Disqualification – identified felonies

10-year DQ – identified gross misdemeanors

7-year DQ – identified misdemeanors and civil maltreatment (minors and vulnerable adults).

Identified Problems with Current Structure

DQ periods are longer than necessary to maintain public safety.

Inconsistent with other states. Significantly more crimes listed as DQ and for significantly longer periods.

Exceeds federal mandates (Adam Walsh, etc.)

Conviction cases DQ timeline does not begin until individual is off probation/court supervision, which further extends period of DQ. I.E., felony case with five years probation becomes a 20-year disqualification. Added issues during pandemic delays.

List includes too many offenses that are not based on public safety. I.E. Drug possession, crimes of poverty, other property offenses.

Law removes employer from making an informed decision about hiring someone. Why can't employer make decision like other professions?

Issues DQ Subcomm. Is NOT Addressing

Note, Remedies is addressing some/all of these issues.

Preponderance of Evidence (POE). Whether POE will remain a basis to DQ an individual.

Whether permanent DQ's should be eligible for a set-aside. If so, which ones? All of them?

Required waiting period?

Anything else?

Current Thoughts/Ideas

Possibility #1 – change the structure the DQ statute as follows:

Two Tiers:

1. Permanent DQ.
2. Five Year DQ.

Why?

Consistent with Adam Walsh Act. Cannot violate or loose state funding.

Simplicity.

Maintains public safety without overly restricting individuals from employment/licensure/etc.

Is five years the right amount of time?

Thoughts?

Questions moving forward

Which crimes would remain in permanent DQ?

Some crimes in MN DQ law are NOT required in Adam Walsh. (examples)

Which crimes should be in 5-year DQ?

Which crimes should not remain in DQ statute?

When will DQ period begin for 5 years? Date of Offense, Conviction, or release from supervision?

Permanent DQ ever eligible for set-aside?

NEXT STEPS

Continue to review crimes under permanent and 5-year structure.

Which Felony, Gross Misdemeanor, and Misdemeanor cases should remain disqualifications?
Which should be removed?

Child Foster Care analysis.

Review whether certain professions (LADC) should have different DQ laws. Similar to child foster care licenses.