

# Bullet Points DQ Subcommittee

# Disqualification Subcommittee Overview:

- The Disqualification Subcommittee of the Task Force was organized to review the list of criminal matters listed in 245C. 21 to determine if there are areas the law for improvement. The SW Subcommittee reviewed the law with the paramount concern for the health and safety of vulnerable adults and children. Notwithstanding this concern, the DQS sought ways to simplify the law, reduce disqualifications for those who do not pose a risk of harm to vulnerable populations.
- The DQ subcommittee reviewed the following laws:
  - • List of Disqualifying Offenses
  - • Length of Disqualification for Offenses
  - • Date disqualification period should begin
  - • Juvenile Offenses
  - • Child Foster Care [haven't gotten to]

# Juvenile Offenses:

## i. Law:

- Under current law, the reviewing agency (DHS, MDH, etc.) review juvenile records when conducting a BGS. (add law). The reviewing agency is required to use “juvenile adjudications” when determining if a person is disqualified from direct care positions.
- Accordingly, if a fourteen-year-old is adjudicated for a burglary, then they are disqualified for 15 years; the same as an adult committing the crime.

## i. Concern:

- The Background Study Act treats juvenile adjudications the same way as adult convictions. Juvenile adjudications are not, by law criminal convictions. Juvenile process is different – no trial by jury, (more)
- Brain Science/Maturity. [focus on: Brain science info]. Although connected with Brain science, as a person ages, they mature and thus lessen the risk of harm. If we judge them, judge them on actions committed as an adult.
- Racial Disparities. In HC, from 2018-2022, 66.5% of juvenile prosecution are listed as “Black or African American.” While 19.89% identify as “white.” According to 2021 Census, 74.2 of Hennepin County residents identify as “white alone” while 13.8% identified as “Black or African American alone.”
- **260B.002 POLICY ON DISPROPORTIONATE MINORITY CONTACT.**
  - It is the policy of the state of Minnesota to identify and eliminate barriers to racial, ethnic, and gender fairness within the criminal justice, juvenile justice, corrections, and judicial systems, in support of the fundamental principle of fair and equitable treatment under law.
  - Some juvenile matters are severe and require exclusion from vulnerable individuals.

## i. Recommendation:

- [add later]

# Length of Disqualification:

- **i. Law:**
- Minnesota law currently separates the length of a disqualification into four (4) categories.
- • **Permanent Disqualification.** Disqualification period never expires. Reserved for serious offenses (regardless of the level of the offense) such as murder, kidnapping, criminal sexual conduct. See 245C.15, Subd. 1 for a complete list.
- • **15-Year Disqualification.** Disqualification period ends 15 years since the discharge of sentence. List includes felony level offenses of numerous crimes. See 245C.15, Subd. 2 for a complete list.
- • **10-Year Disqualification.** Disqualification period ends 10 years since the discharge of sentence. List includes gross misdemeanor level offenses of numerous crimes. See 245C.15, Subd. 3 for a complete list.
- • **7-year Disqualification.** Disqualification period ends 7 years since the discharge of sentence. List includes misdemeanor level offenses of numerous crimes and substantiated serious or recurring maltreatment of a minor (260E) or vulnerable adult (626.557). See 245C.15, Subd. 4 for a complete list.

# Length of Disqualification, Concerns:

- • DQ Periods longer than other states
- • Racial disparities [add language/data]
- • 15-year disqualification for drug possession not consistent with public safety. DQ periods longer than necessary to maintain public safety. [Could put in Data Analysis work re: workforce]
- • Exceeds Adam Walsh requirements
- • Inconsistent with expungement statute (2/4/5 vs 7/10/15 schemes). (Forster care licensing has simplified 7/10/15 scheme)
- • Confusing/hard to implement
- • Science does not support recidivism for those free from crime for many years. [clean up terminology]
- iii. Recommendation:
  - a) Eliminate current structure of 7/10/15/Perm DQ. The current structure includes disqualifications that are far too long. Not commiserate with statutory need/purpose of protecting the vulnerable.
  - b) Replace with two tier system of 5 year and permanent DQ.
  - c) Consistent with AWA.
- [ID where consistent/inconsistent with 2008 report]
- [note: Perm/5 inconsistent with Child Foster Care 20-year termination of parental rights]

# List of Disqualifying Offenses

- i. Law:
  - Minnesota Statutes section 245C.15.
- ii. Concern:
  - • Includes offenses that not based on community safety (Drug possession, crimes of poverty, property crimes (more)?)
  - • Removes employer from making informed decision. BGS law prohibits employers from hiring those they think are best suited for job. Unique structure.
  - • Many offenses not listed in federal law (AWA and Block Grant)
  - • Inconsistent with other states
  - • Inconsistent with new Child Care Foster rules [compare: what's different]
  - • [describe Child Foster crimes deliberations?]

# Date disqualification period should begin

- iii. Recommendation:
- Use the date of the offense as the date the disqualification period begins. This ties the conduct to the period of disqualification. Assures equal treatment for all regardless of time it takes for court to process the case.
- [change to: date of offense, unless committed to DoC, then date of release]
- (disagreement?)
- [mirror Child Foster Care statute instead]