This testimony is being offered by Jane Ranum, retired Hennepin County District Court
Judge and retired MN Senator and Patty Moses, retired Hennepin County Family Court
and Juvenile Court Referee, where she heard CHIPS cases.  In addition, both of us worked in the Hennepin County Attorney’s Office for many years before joining the Hennepin County Bench.  Referee Moses served as the Managing Attorney for the Child Protection Division and for the Juvenile Prosecution Division. As Assistant Hennepin County Attorneys, both of us carried Child Protection cases in Juvenile Court, and as members of the 4th Judicial District Family Court bench, we heard and decided hundreds of child custody and domestic abuse cases, many of which included allegations of child abuse or neglect.

With this experience we totally support efforts that are being made to reform the Foster Care Licensing process.  We agree with efforts to remove crimes that are unrelated to child safety as bars to licensing, and support removal of all property crimes, both misdemeanor and felony level.  We have been working with Joanna Woolman on her legislative efforts but have raised our concerns that some aspects of her proposal are inconsistent with child safety and the “best interest of the child” which is the legal standard that is used to evaluate child protection related matters in Juvenile Court and in Family Court matters.

Below is our latest memorandum, which outlines our specific concerns with the current bill.  We appreciate your consideration of our concerns.

**MEMORANDUM**

**TO: Joanna Woolman**

**FROM: Patty Moses and Jane Ranum**

**RE: Concerns with SF 1217**

**Date: March 13, 2020**

Below is our last version of proposed changes to the Foster Care Licensing Bill. The focus of our continued concerns are convictions for crimes that relate to violence and that can place children in moderate to high risk for abuse and neglect. They include crimes against children,

crimes with victims of physical and sexual abuse, crimes relating to harming vulnerable adults, domestic violence and other crimes of violence.

The group that we have been working with were members of the 2015 Governor's Task Force. We were not. There may be some disagreement about certain crimes and the length of time that the bar should be in place. However, this is our best good faith proposal at this time. We do, however, recommend that you reach out to the domestic abuse community and other child advocacy groups because they may have a different perspective. We look forward to

meeting with you on Monday.

1. **Period of Disqualification.** We believe that there should be a 10 and/or 15-year disqualification period, in addition to permanent or 5 years. We agree that some crimes can be moved out of permanent disqualification, but for some crimes, individuals should be barred for longer than a 5 year period. The lengths of disqualification issue is tied to when the time begins to run. Current statute is from “the discharge of the sentence,” which we think means when the individual completes probation or parole.

As we indicated earlier, dating the disqualification from conviction could result in the person spending most of the disqualification period incarcerated. Minimally, time should start to run from the release from incarceration, so that adjustment in the community can be evaluated.

1. Following is the list of crimes that we believe should be restored as disqualifiers or moved to a different category.

**Minn. Stat. 609.561 Arson in the 1st degree**: You have agreed to add this to the bill as a 5-year disqualifier. We believe it should be a permanent bar. This crime involves intentionally destroying or damaging a dwelling by fire or explosives or any building in which a person is present. Extremely serious crime, even if few and far between.

**609.562 Arson 2nd degree =** non-dwelling with no people in it when committed and

**609.563 Arson 3rd degree =** property. Both should be 5 year disqualifications.

**609.221 Assault in the 1st Degree** (Causing great bodily harm) and **609.222** **Assault in the 2nd degree** (Assault with a dangerous weapon) are currently permanent bars. Should be in 15 year category at least. There is a split among us. Some feel that this level of assault should be permanent, some feel less, depending upon how the timing is done.

**609.223 Assault in the 3rd degree.** There are three types of Assault 3. Those involving a past pattern of child abuse, and where the victim is under 4 and is injured in the head or other multiple bruising and these are included in the bill, appropriately, as permanent bars. The third type is causing substantial bodily harm and is currently in the 5 year category. We believe this is seriously violent and should be in a 10 or 15-year category.

**All levels of felony assaults where the victim is a *child* should be permanent bars, just like Malicious Punishment.**

**609.224, Subd. 2 and 3. Assault in the 5th degree.** Repeat misdemeanor assaults against the same victim within ten years of a previous qualified domestic violence-related offense is enhanced to gross misdemeanor and felony level crimes. Because of the link between domestic violence and child abuse, this can be very serious. Gross Misdemeanor should be 10-year and felony should be 15-year bars.

**609.224 Assault in 5th degree. Misdemeanor.** We know from our experience, first time convictions for assault in the 5th degree when the victim is a domestic partner, are usually not the first time (Disorderly Conduct is usually negotiated first time around). Should be 5 year bar, first time.

**Misdemeanor Assault in the 5th degree**, where the victim is a child under the age of 10 should be 5 year bar.

**609.2672 Assault of Unborn Child in the Third Degree.** 1st and 2nd degree are permanent bars. 3rd degree is an act with intent to cause fear in a pregnant woman of harm to the unborn child. Should be treated like a 5th degree assault when this is in a domestic abuse situation. 5 yr bar.

**609.2242 Domestic Assault, Subd. 3 (gross misd) and Subd. 4 (felony) and 609.2243.** We feel strongly that a history of repeat domestic assaults are usually serious threats to a child’s safety, both physical and emotional. The bill includes the felony as a permanent bar, but ignores misdemeanor and gross misdemeanors, which should be 5-year and 10-year bars, respectively.

**609.245 Aggravated Robbery. 1st degree** = robbery while armed with a dangerous weapon or infliction of bodily harm while committing a robbery. Should be 10 years.

**2d degree** = while committing robbery implies by word or act possession of a dangerous weapon. Should be a 5 year bar.

**617.23 Indecent Exposure. Subd. 2, gross misdemeanor** when the exposure is in the presence of a minor under age 16. **Subd. 3, felony** when the offender exposes in front of a minor under age 16 after a previous conviction for the same offense. Should be permanent bar. Someone who appears to be fixated on exposing to children is very serious threat.

**609.713 Terroristic Threats.** Under current law, this is a 15-year disqualifier, but it is not in the bill. This is a common crime related to domestic violence. Should be at least a 5 year bar.

**609.749 Harassment, Stalking.** You agreed to put felony stalking in the 5 year-category. Felony stalking should remain a permanent bar. On DV lethality assessments, stalking is considered very serious. Gross misdemeanors should be at least 5 year bars.

**518B.01, Subd. 14 Violation of an Order for Protection.** Under current law, this is a 10-year disqualifier, but is not in the SF1217 at all. A history of domestic abuse often poses a grave threat to children. Misdemeanor level (1st offense) should be at least a 5-year disqualifier and gross misdemeanor and felony (repeated offenses), at least 15-year, if not permanent. There is a difference of opinion among us, some feel that this should be permanent.

**624.713 Certain persons not to possess firearms.** Currently is a 15-year disqualifier. Not in bill at all. Should remain in a 15-year category.

**609.746 Interference with Privacy, Subd. 1(e).** “Surreptitious intrusion, observation device.” Felony level when violation is against a minor. This crime is to protect against peeping toms, installation of observing or recording devices. Creepy anytime, but we are very concerned when a child is the target of this crime. Should be a permanent bar for such a felony.

# 617.293 Harmful Materials; Dissemination and Display To Minors Prohibited. Should be 5 year bar.

**609.322 Solicitation, Inducement, and Promotion Of Prostitution; Sex​ Trafficking.​** Subd. 1 is 20 year felony when victim is a minor. Subd. 2 is also a felony when victim is an adult – but children nevertheless could be exposed. Should be a permanent bar.

**609.498 Tampering with a Witness, Subd. 1 and 1b –** Currently at 15-year disqualified. This crime is often charged in gang-related trials and involves serious threats. Should be 10 or 15 year-bar. Subd. 2 and 2a – 5 year.

**609.582, Subd. 1 Burglary in the 1st degree.** Burglary of a dwelling while the home is occupied. Should be at least 5 year bar.

**169A.24 First Degree Driving While Impaired.** The individual has at least 3 prior DWIs within 10 years or has previously been convicted of criminal vehicular homicide or other offenses – in other words, this person has a serious problem with substance abuse. This is a permanent bar currently. Should be 10-year bar.

**609.2325 Criminal abuse, Subd. 3.** Abuse of vulnerable adults that results in death, great bodily harm, substantial bodily harm or risk of death. In 5 yr-bar category in bill. All should be a permanent bar. Persons who would abuse vulnerable adults at such levels very likely would pose a threat to children in their care.

**609.233 Criminal Neglect.** Neglect of vulnerable adults. Should similarly be permanent bar. These are rarely charged in our experience. When charged and convicted, most likely it was a severe situation for the victim.

**609.66 Dangerous Weapons, Subd. 1e, Drive by shooting,** is in the bill with a 5 year bar but we think should be 10 year. Reckless discharge, furnishing to a minor, etc. – we think all the other felonies under this statute should be 5 yr bar.

# 609.228 Great Bodily Harm Caused by Distribution of Drugs. In bill as 5 year bar, but should be 15 year bar or permanent. Difference of opinion, seen as similar to Assault in 1st degree.

# 609.687 Adulteration. Subd. 3(1) is when the adulteration results in death and should be a permanent bar. Less serious than death should be in 15 year category. Currently in bill as 5 yr bar.

1. **Termination of Parental Rights under Minn. Stat. 260C.301, Subd. 1(a).** Currently is a 15 year bar and bill includes only a 5 year bar. We recommend 10-15 years AND that the department must determine if the issues raised in the TPR case have been resolved.
2. **Addition of Subd. 9, (Information to be reviewed).** In Sec. 3 of the bill, lines 3.19, we propose that the language be amended to read:

**Sub. 9. Licensed family child foster care. (a) Before recommending to grant or deny a license….**

The information should be gathered and evaluated when making the decision on licensing, not only for a denial, but importantly, when determining whether to GRANT a license when the applicant has a criminal history.

We would also like a provision added, for clarity, that when an individual is on probation or parole, information about compliance with terms and conditions of probation/parole and adjustment in the community must be considered.

1. This is probably a matter of statutory construction, but let’s discuss whether you believe that current provisions of 245C.15 other than the crime lists would still be in effect for family foster care licensing – such as that aiding and abetting the named crimes is included; offenses from other states that are same or similar are covered; and other provisions. Since the language in the new proposed Subdivision 6 is “Notwithstanding subdivisions 1 to 5…” we are not sure ourselves how to interpret.
2. We have not received any DHS proposed language on Secs. 12, lines 13.3 to 13.8. These are the provisions that prevent the department from setting aside the disqualification of an individual “affiliated with a licensed family child foster care program” except for individuals younger than 18. If the intent is to prevent disruptions of foster placements when these “individuals” are foster children or children living in the home, the language must be more clear. There is no definition of “affiliated with….” but could extend well beyond that – relatives of the foster parents, significant others of any family members, friends, etc.

Lines 14.31-15.2 are more clear but still confusing.