

House Bill 1609
House Judiciary Committee

Testimony Presented by Kara J. Erickson
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Good morning, Chairman Klemin and members of the committee. For the record, my name is Kara Erickson. I am here today on behalf of the Disciplinary Board in opposition to House Bill 1609.

As background, I serve as Disciplinary Counsel for the Judicial Conduct Commission and the Disciplinary Board of the Supreme Court. As Disciplinary Counsel, my office handles the administrative, investigative, and prosecutorial roles for matters that are before the Judicial Conduct Commission and the Disciplinary Board. More simply stated, my office handles allegations of ethical violations for both lawyers and judges within the judicial branch.

In looking through House Bill 1609, several concerns are present. Firstly, the importance of the education gained from law school is vastly downplayed within this bill. Law school helps to shape competent lawyers who are able to conduct the critical thinking and legal analysis that is necessary for representing a client. The other options set forward without a more definitive plan and oversight could not be ensured to accomplish those same goals and criteria which have been overseen by both the law schools and the American Bar Association. Having less educated lawyers endangers your constituents, rather than helping them. As a result, those lawyers would be more likely to wind up in my office facing disciplinary complaints.

Additionally, there are several steps involved to becoming a licensed lawyer that are not contemplated within this bill. One does not just go to law school, pass the bar exam, and then become licensed. In addition to the bar exam, there is a separate examination that all licensed lawyers must pass, which is called the

Multistate Professional Responsibility Exam (“MPRE”), which tests specifically on the rules of ethics and the Code of Judicial Conduct. Most students take a course in law school called Professional Responsibility prior to taking this exam. By removing the requirements for a law school education and allowing licensure without passing the MPRE, these potential new lawyers would have no education or background in the ethical rules required of a lawyer. Without that background, those individuals are very likely to end up in my office facing discipline for violating those same ethical rules. As a result, even if individuals were to meet the requirements and pass the bar, House Bill 1609 is not designed to set these individuals up to become successful lawyers.

Further, all lawyers must pass a character and fitness background check. This also does not appear to be contemplated by House Bill 1609. If they were to be admitted absent this background check, my office may be forced in some circumstances to seek immediate suspension of their licenses pursuant to the Rules of Lawyer Discipline. This problem is better explained through an example. If, for instance, a person was to meet the requirements within the bill and successfully pass the bar, but have a criminal background in which they had been found or pled guilty to theft crimes, our office would ask the Court for an immediate suspension of that lawyer. It would shift from this being an admissions issue, handled on the front end, to a disciplinary issue, handled on the back end of licensure.

While the bill is likely well intentioned as an avenue to further increase access to justice, it does not appear that either the Court or the Board of Law Examiners were consulted prior to introducing this bill. The bill does not provide for any appropriation for the Court or the Board of Law Examiners to develop the process contemplated. The Court already has beneficial ideas discussed in Senate Bill 2002 to increase access to justice, and is in a better position to understand various initiatives that would help our state. Rather, than supporting this bill, I

would encourage you to support fully funding the Court's appropriation request in Senate Bill 2002 and its access to justice initiatives.

I would urge the Committee to recommend a "do not pass" of House Bill 1609. I would be happy to try to answer any questions the Committee may have at this time. Thank you for your consideration.