

Senate Workforce Development  
February 21, 2025

Testimony of the State Board of Law Examiners  
SENATE BILL NO. 2395

Chair Wobbema and members of the Committee, I am Petra Mandigo Hulm, appearing on behalf of the State Board of Law Examiners in opposition to Senate Bill 2395. I am secretary-treasurer of the Board.

The State Board of Law Examiners opposes the bill, and as amended, as Mr. Porsborg discussed. I testify separately to answer any questions the committee has on the attorney admission rules and to discuss one concern.

The original bill appeared to limit the Board to a state and federal criminal check for a motion applicant who seeks to be admitted based on two years of practice in a foreign jurisdiction within the past three years. However, the proposed amendment by Senator Hogue and discussions with him and former labor commissioner Svihovec indicate the amendment to the first sentence of the Uniform Licensure section alleviates that concern.

In contrast with most other boards, criminal matters are not the only areas to be investigated prior to the licensure of attorneys. Attorneys are evaluated for both their competency and fitness to practice law. To the Board's knowledge, there is no United States jurisdiction that accepts only a criminal background check for attorney admission. All do a character and fitness investigation. Twenty-nine jurisdictions use the National Conference of Bar Examiners (NCBE), as North Dakota does, to assist in their investigations; other jurisdictions do their own in-house investigations.

Evaluation of fitness for all out-of-state applicants should involve an investigation into an applicant's litigation history, financial history, job history, recommendations, criminal history, honesty and trustworthiness and other matters. Without a character and fitness investigation, the burden shifts to the discipline system to deal with arising issues. Once admitted, the Board of Law Examiners has no jurisdiction over that attorney's practice. And unfortunately, a great deal of damage can be done to clients before the discipline system becomes aware of a problem. Additionally, disciplinary counsel may need to step in shortly after licensure to address an issue that did not arise from only a criminal background check.

Thank you.