



**35TH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HEALTH, HOSPITALS AND HUMAN SERVICES**

**The Honorable
Ray Fonseca
Chair of Committee**

THE VIRGIN ISLANDS DEPARTMENT OF HEALTH

**COMMISSIONER
JUSTA E. ENCARNACION, RN, BSN, MBA/HCM**

Testimony

On

Bill No. 35-0187, An Act amending Title 19, part V, chapter 45, by adding subchapter XI, titled Extreme Risk Protection Orders, to allow a family or household member, law enforcement officer, healthcare worker, educator or co-worker to intervene and file a court petition to temporarily confiscate and ban a person's access to guns for one year if that person is deemed to be a risk to themselves or others, sponsored by Senator Diane T. Capehart

1 Good day, Honorable Senator Ray Fonseca, Chairperson of the Committee on Health, Hospitals
2 and Human Services; The Honorable Kenneth L. Gittens Vice Chair, Committee Members, and
3 all Non-committee members, and the viewing and listening audience. I am Justa Encarnacion,
4 Commissioner for the Virgin Islands Department of Health. I have with me today Dr. Nicole
5 Craigwell-Syms, Assistant Commissioner, and Renan Steele, Deputy Commissioner.

6 I appear before you today to present my testimony about red flag laws, also known as Extreme
7 Risk Protection Orders (ERPOs) or Gun Violence Restraining Orders (GVROs). My perspective
8 is informed by a profound understanding of the intricate issues surrounding domestic violence and
9 behavioral health. While I recognize the earnest intention to safeguard public welfare, I would like
10 to articulate my reservations regarding the potential consequences associated with red flag laws,
11 specifically concerning their implications for individuals and the broader behavioral health system.

12 A central and critical concern pertains to the unintended stigmatization of mental health matters
13 that could arise because of enacting red flag laws. The apprehension of legal repercussions linked
14 to these laws might discourage individuals requiring vital assistance from seeking it, thereby
15 undermining endeavors to cultivate a climate of openness and support for individuals grappling
16 with mental health difficulties.

17 Of equal significance is the prospective influence on the therapeutic rapport existing between
18 mental health practitioners and their clientele. Trust stands as the cornerstone of efficacious mental
19 health interventions, and the looming prospect of legal ramifications could erode this trust, thereby
20 impeding the fundamental underpinning upon which successful treatment relies. Furthermore, the
21 reliance on human judgment to identify individuals in peril introduces a substantial potential for
22 error. The likelihood of individuals encountering temporary restrictions on their rights in the

1 absence of a bona fide threat underscores the inherent susceptibility of the procedure, potentially
2 culminating in inadvertent and inequitable outcomes.

3 The compulsory seizure of firearms, a fundamental aspect of red flag laws, prompts apprehensions
4 regarding the potential escalation of tensions in specific scenarios. Rather than contributing to de-
5 escalation, the forcible confiscation of firearms might, inadvertently, result in heightened tensions
6 and adverse consequences, thereby undermining the legislative objectives. The substantial concern
7 regarding potential misuse and abuse is noteworthy. Due to the inherent ambiguity of the process,
8 there exists the risk of individuals lodging false or malicious reports against others with the
9 intention of firearm confiscation, which may result in unwarranted encroachments upon the rights
10 of lawful gun owners.

11 While red flag laws do include provisions for due process, ongoing concerns revolve around the
12 sufficiency of these safeguards. The procedure for securing a red flag order may encroach upon an
13 individual's rights without the presence of robust legal protections, potentially resulting in
14 erroneous confiscation. Ensuring an equitable and lawful process is of utmost importance to
15 safeguard the rights of individuals impacted by these laws and to mitigate any inadvertent
16 consequences that may stem from the delicate equilibrium between public safety considerations
17 and the rights and welfare of those contending with mental health issues. The operative term and
18 practice here will have to be “red flags” and the ability to identify and heed those warning signs
19 which would include properly understanding both verbal and physical cues of violence.

20 In conclusion, while I commend the intentions behind red flag laws in promoting public safety and
21 preventing harm, I urge caution in their implementation from a behavioral health perspective. The
22 Department of Health is committed to reducing health risks, increasing access to quality

- 1 healthcare, and enforcing health standards. The Department commits to continued collaborative
- 2 efforts with the members of the 35th Legislature. I trust that, together, we can forge legislation that
- 3 safeguards both our communities and the individuals within them.