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TERRITORIAL PUBLIC DEFENDER**
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**35TH LEGISLATURE'S COMMITTEE ON
HOMELAND SECURITY, JUSTICE AND PUBLIC SAFETY**

TESTIMONY

ON

BILL NO. 35-0179

My name is Julie S. Todman and I am the Interim Chief Territorial Public Defender.

I thank the members and staff of the Committee on Homeland Security, Justice and Public Safety of the 35th Legislature for this invitation to testify on proposed Bill Number 35-0179: An Act amending Virgin Islands Code, title 14, chapter 61, relating to gambling violations, and title 32 Virgin Islands Code, chapter 13, relating to the Virgin Islands Lottery Commission, to strengthen the enforcement tools against illegal gambling and lottery. I thank Senators Capehart and Bolques especially as co-sponsors of the proposed Bill.

The Office of the Territorial Public Defender is established by title 5, section 3521 of the Virgin Islands Code to represent the indigent charged with crimes in court. I appreciate the opportunity to provide you with the position of my office as to these changes. After considering the amendments promulgated in Bill 35-0179, the Office of the Territorial Public Defender

respectfully opposes the contemplated changes. OTPD opposes the imposition of greater criminal penalties generally – but especially where those penalties disproportionately impact the indigent.

The Office of the Territorial Public Defender specifically opposes the proposed increase in penalties contemplated in 14 V.I.C. §1223 from “one (1) year” to “two (2) years.” With the proposed change, this penalty changes from a misdemeanor offense to a felony offense.

The OTPD also opposes the proposed increase in penalty contemplated in 14 V.I.C. §1224(d)(2), wherein the incarceration penalty increases from “180 days” to “two years.” The proposed penalty increases the offense from being categorized as a misdemeanor to a felony.

The OTPD additionally opposes the increase of the incarceration period proposed in 14 V.I.C. §1225, from “180 days,” a misdemeanor to “two years,” a felony. This is literally a 300 percent increase in the penalty.

Changing the classification of these offenses from misdemeanors to felonies has a broader impact than just the maximum term of incarceration. School admission, employment, licensing, housing, and government benefits may all be negatively impacted by a felony conviction. It increases the

resources required by the Court and Corrections. Finally, and obviously, there is the impact of longer incarceration.

The National Institute of Justice is the research, development, and evaluation agency within the U.S. Department of Justice. According to the NIJ, “increasing the severity of punishment does little to deter crime.”¹ This approach can be counterproductive. As stated by the NIJ, “Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not “chasten” individuals convicted of crimes, and prisons may exacerbate recidivism.”

Rather than increasing jail terms and fines, the OTPD would suggest the adoption of strategies embracing harm reduction – to reduce the time spent gambling and the amount of money that gamblers spend.

Harmful gambling is a public health issue. Nearly every U.S. jurisdiction has some manner of legalized gaming and as gaming has spread, so have the harms of problem gaming. In recent years, new all-time highs have been seen in the dollars spent on gambling. It is estimated that

¹ National Institute of Justice, *Five Things About Deterrence*, available at <https://www.ojp.gov/pdffiles1/nij/247350.pdf>

approximately one percent of Americans meet the criteria for severe gambling problems.² Gambling Disorder is now one of several behavioral addictions recognized in the DSM-5, the widely-used reference book by the American Psychological Association which defines mental health disorders.³ Multiple studies have shown that gambling addiction is even worse among the poor – with incidents of problem gaming among poor Americans nearly double that of the general population.^{4 5} Individuals with lower incomes, on government assistance, and without a job are more likely to experience problems as a result of gambling compared to those who are not. Among people living in poverty, motivations for engaging in gambling behaviors often include coping with high levels of distress and financial motives in hope of a better life.⁶ Gambling related harms include financial harm, relationship difficulties, emotional and psychological distress, and reduced performance at work, among others.⁷

² National Council on Problem Gambling, *Help & Treatment FAQ*, available at <https://www.ncpgambling.org/help-treatment/faq/>.

³ <https://www.psychiatry.org/patients-families/gambling-disorder>

⁴ *Gambling Rates Among Poor People*, Wisconsin Council on Problem Gaming, available at <https://wi-problemgamblers.org/wp-content/uploads/2022/02/PGAM-Brochure-Updated-2022.pdf>

⁵ See also Gronroos, Tanja, *Socio-Demographic Factors, Gambling Behavior, and the Level of Gambling Expenditure: A Population-Based Study*.

⁶ Oregon Health Authority, *Economic Disadvantages and Problem Gambling*, citing Hahmann, T., *Problem gambling within the context of poverty: A scoping review*. International Gambling Studies.

⁷ Touma, Nada, *Why not harm reduction for problem gambling?* Behavioral Health News, Apr. 1, 2018.

A harm reduction model would begin with campaigns about the dangers of gambling; it would encompass a focus on comorbidities, whether drugs, alcohol, nicotine, or other use disorders; it would include the application of industry initiatives; and finally, would embrace treatment and therapeutic options.

Finally, if penalties are going to be increased and civil forfeiture instituted on these issues, the OTPD believes that those funds would best be directed toward public health agencies that may assist local problem gamblers.

None of this is to say that illegal gambling does not present a challenge, whether to the bottom line of legal gambling avenues or to the community at large. However, it is the position of the Office of the Territorial Public Defender that increasing the fines and penalties is just not the best path to addressing these issues.

Again, I thank this body for the opportunity to address the question and am happy to answer any questions that I can.