



# THE PATE LAW FIRM

P.O. BOX 370 • CHRISTIANSTED, VI 00821

OFFICE: 340.777.7283 • FAX: 888.889.1132 • EMAIL: PATE@SUNLAWVI.COM

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August 19, 2024

## VIA EMAIL

Senator Diane T. Capehart  
35th Legislature of the Virgin Islands  
Chair of the Committee on Rules and the Judiciary

**Re: 35-1247 – Amending Title 5, Section 31 to clarify the statute of limitations for employment lawsuits.**

Dear Senator,

I write regarding Bill 35-1247 – *Amending Title 5, Section 31 to clarify the statute of limitations for employment lawsuits*. As background, the Wrongful Discharge Act was passed in 1986 as 24 V.I.C. § 76. The Legislature, likely as an oversight, did not specify a statute of limitations.

The time to file lawsuits is specified at 5 V.I.C. §31. For example, if you are paralyzed in a car accident, you have two years to file a lawsuit from the day of the accident. Lawsuits for the recovery of real estate and real property can be brought up to twenty years from the event of deprivation. However, if the V.I. Code creates a Legislative remedy, but does not specify a time period, then six years is the time period.

For 30 years of litigation, courts of the Virgin Islands applied a two year statute of limitations, reasoning that a person who is killed or injured only has two years, why would someone who is fired receive six years to wait before suing? Further, the Federal Government only provides 180 days for a lawsuit to be commenced for EEOC violations. And many states follow the 180 day federal time frame. Other States provide one year for employment and labor disputes.

In 2015 in *Rennie v. Hess Oil V.I. Corp.*, 62 V.I. 529 (2015) the Supreme Court of the Virgin Islands enforced the law at 5 V.I.C. § 31(3) that the statute of limitations is six years because the Legislature failed to specify a time frame at 5 V.I.C. §31. This finally ended other courts ignoring the V.I. Code to apply their own preferential statute of limitations.



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In fairness, the wrongful discharge act should have a two year statute of limitations. Businesses should not have to hold-their-breath for six years for a lawsuit on a labor or employment issue. Those fired, terminated or treated unfairly do not need six years to contemplate to sue, while a person who lost their arm, leg, or eye would only have two years. Adding “wrongful discharge” to 5 V.I.C. § 31 at subsection (5) will make the V.I. statute of limitations two years. Two years is more time than the Federal Government and all other States with labor and employment laws provide. So two years is clearly sufficient.

I am not a corporate or business lawyer. I represent people who are generally injured by corporate negligence. All laws should be fair and balanced. Just as providing a person in a car accident six years to sue would be too long, six years for wrongful discharge is too long – and is a burden upon businesses (from large to small). This is an easy fix, which promotes balance and fairness.

Best Regards,

J. Russell B. Pate, Esq.  
Attorney at Law