

**PRESENTATION OF ACTING DEPUTY ATTORNEY GENERAL
PATRICIA LYNN PRYOR
ON BEHALF OF ATTORNEY GENERAL GORDON C. RHEA
DEPARTMENT OF JUSTICE'S TESTIMONY
THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS
IN RE: BILL NO. 35-0336
December 12, 2024**

Good Morning, Senate President Novelle E. Francis, Jr., Senators, legislative staff, and the listening and viewing audience. I am Acting Deputy Attorney General Patricia Lynn Pryor. It is my pleasure to appear before you today to address Proposed Bill No. 35-0336.

The Department of Justice serves as the attorney for the People of the Virgin Islands, and we recognize the need for the Office of Conflict Counsel. Too often, criminal cases involve multiple defendants who cannot be represented by attorneys from the same office or there is some other conflict between the client and the Office of the Territorial Public Defender. Establishment of the Office of Conflict Counsel in the Virgin Islands Code is the appropriate measure that needs to be taken. Therefore, the Attorney General of the Virgin Islands has no opposition to the addition of Chapter 302a to Chapter 301 of the Virgin Islands Code.

The primary concern of the Attorney General's Office in this particular bill is the granting of personal immunity to the attorneys and personnel employed by the

Office of the Territorial Public Defender and the Office of Conflict Counsel. The bill does not provide exceptions for unethical or even criminal behavior, not that any is expected, but that effectively provides these attorneys with unfettered freedoms that any attorney of law would otherwise be prohibited from. The attorneys and staff of the Office of the Attorney General have never been afforded such immunity, nor should any other attorney at law.

The Revised Organic Act of 1954 granted sovereign immunity to the Government of the Virgin Islands, including any officer or employee thereof in his official capacity, from any tort action, absent consent of the legislature. However, in 1971, the government of the Virgin Islands waived its sovereign immunity to tort claims when it enacted the Virgin Islands Tort Claims Act, Title 33 V.I.C. §3408(a). This is troublesome, in that the Virgin Islands courts have held that this offers no immunity to government actors with regard to tort claims.

Historically in the United States, there are two types of immunity for government employees, particularly attorneys who are employed by the government, and they are absolute immunity or qualified immunity. Absolute immunity is normally reserved for judicial officials acting in their judicial capacity. Qualified immunity is a judicially established doctrine designed to protect public officials from liability arising from their performance of acts or duties required by their job.

Qualified immunity protects government officials if their actions do not violate clearly established rights using a reasonable person standard. If a clearly established right is violated by a government official, including governmental attorneys, the violation must be objectively reasonable at the time. Personal immunity is a term that typically arises in international law matters.

If any form of immunity is considered for attorneys who represent indigent defendants in criminal cases is considered by this distinguished body, it should be applied to all attorneys involved in criminal representation or prosecution. This would provide safeguards for government employed attorneys and encourage them to continue their public service.

That concludes my remarks. Thank you for your time and attention today.