

**PRESENTATION OF ATTORNEY GENERAL GORDON C. RHEA  
REGARDING BILL NO. 35-0399, AMENDING TITLE 16  
VIRGIN ISLANDS CODE, CHAPTER 2, SECTION 99  
BEFORE THE THIRTY-FIFTH LEGISLATURE OF THE  
VIRGIN ISLANDS, COMMITTEE ON RULES AND JUDICIARY  
NOVEMBER 19, 2024**

Good afternoon, Chairperson Diane T. Capehart, Committee on Rules and Judiciary, other Senators, legislative staff, and the listening and viewing audience. I am Attorney General Gordon Rhea. It is a pleasure to appear before you to testify concerning an Act amending Title 16 Virgin Islands Code, Chapter 2, Section 99, establishing a mandatory minimum bail amount in domestic violence cases, proposed by Senator Angel L. Bolques, Jr. Accompanying me is the Chief of the DOJ’s Criminal Division on St. Croix, Assistant Attorney General Amie Simpson, who can explain from first-hand experience the practical need for the proposed amendment.

At present bail in domestic violence cases is guided by 16 V.I.C. § 99(b), which states as follows: **“A person arrested for or charged with a crime that constitutes domestic violence shall be admitted to bail as follows...”**

<b>(1) \$1,000; no 10%</b>	<i>IF</i> no prior DV conviction + no use/threatened use of weapon+ no harm
<b>(2) \$5,000; no 10%</b>	<i>IF</i> no prior DV conviction + no use/threatened use of weapon + harm OR 1 prior DV conviction + no use/threatened use of weapon + no harm
<b>(3) \$15,000; no 10%</b>	<i>IF</i> no prior DV conviction + use or threatened use of weapon involved OR 1 prior DV conviction + harm (“ <i>substantial bodily harm</i> ”) OR 1 prior DV conviction + use or threatened use of weapon involved OR 2 prior DV convictions

To remove all ambiguity, the statute should be amended to read as follows:

**(b) A person arrested for or charged with a crime that constitutes domestic violence shall be admitted to bail as follows:**

**(1) one thousand dollars ~~with no 10% provision~~, FULLY SECURED**, if the defendant has no prior conviction for domestic violence, and the use or threatened use of a weapon was not involved and there is no reason to believe that the crime for which the person was arrested resulted in substantial bodily harm; or

**(2) five thousand dollars ~~with no 10% provision~~, FULLY SECURED**, if the person has:

**(A) no previous conviction for domestic violence and the use or threatened use of a weapon was not involved, but there is reason to believe that the crime for which the person was arrested resulted in substantial bodily harm; or**

**(B) one previous conviction for domestic violence, and the use or threatened use of a weapon was not involved, and there is no reason to believe that the crime for which the person was arrested resulted in substantial bodily harm; or**

**(3) fifteen thousand dollars ~~with no 10% provision~~, FULLY SECURED**, if the person has:

**(A) no previous convictions for domestic violence, but the use or threatened use of a weapon was involved; or**

**(B) one previous conviction for domestic violence and there is reason to believe that the crime for which the defendant was arrested resulted in substantial bodily harm; or**

**(C) one previous conviction for domestic violence and the use or threatened use of a weapon was involved; or**

**(D) the defendant has two or more convictions for domestic violence.**

**(4) If the underlying crime has a bail amount of more than the amount specified under this provision, that bail amount shall apply.**

**The Office of the Attorney General supports adding language that strengthens the Virgin Islands bail laws in domestic violence cases.**

Typically, in a domestic violence case, bail is set the morning after arrest by the Magistrate Judge.

In some instances, judges deviate from current law by assigning bail to DV defendants upon lesser financial conditions than the law provides. The proposed language should make clear the Legislature's intent to set a *minimum* bail and bring an end to this practice.

In other instances, judges interpret current law as limiting the Court's authority to set bail in DV cases. This has led to dangerous defendants being assigned artificially low bail due to the DV designation. For example, in an Attempted Murder case (no DV designation), bail is generally set by the Court at \$100,000. If the same attempted murder was charged with the "DV" designation, the current law, 16 V.I.C. §§99(b)(1-3), would apply, and the Court may set the defendant's bail at \$15,000. The proposed language makes the Legislature's intent to set a *minimum* bail clear and provides ample authority for the judge to tailor the bail to the facts and circumstances of the defendant. The amendments could be further strengthened if the Legislature added language requiring that in domestic violence cases, "the Court shall apply the highest applicable bail based upon the charges, with no 10% provision."

At least one recent defendant, when his victim called 911, announced, "Go ahead, call the police. I've got \$101 for bail." In other cases, abusers who have caused significant injury have been able to bond out with bail amounts of less than \$2,000. This underscores the advisability of removing the 10% provision.

The Virgin Islands legislature has made its intent to take domestic violence seriously very clear by enacting Chapter 2 of Title 16 of the Virgin Islands code. Clearly, the enactment's purpose was to ensure that those who abuse loved ones and family members have bond provisions which protect the victims. In the last twelve months, St. Croix has seen at least two domestic violence-related shootings, with roughly the same number for St. Thomas. Assault Second arrests (intimate partner

strangulation) happen approximately once a week. It is vital that both victims and abusers know that we as a community understand how dangerous domestic violence really is.

Suggestions for future consideration: Typically, in a DV case, the Defendant's conditions for pretrial bail release include "no contact" with the victim. Unfortunately, a small number of offenders disregard the Court's order and reoffend, sometimes within days (i.e. a *second DV charge, while out on bail on a DV charge*). The Legislature could provide for immediate revocation of bail upon a showing of probable cause in such repeat offender cases and could further impose a presumption against bail (i.e. defense counsel would be required to demonstrate to the Court that the defendant is not dangerous to the victim to secure his/her release). Such an approach would enhance the safety of DV victims and deter DV stalking behavior by defendants. Please note, the Legislature could also impose mandatory sentencing conditions in DV cases, for example, by making *a certified batterer intervention program* a required term of sentencing in domestic violence abuse cases.

Suggestions for potential revisions include:

Title 16 V.I.C. § 99(c) to be revised as follows:

(c) When a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the Court authorizing the release may as a condition of release issue an Order prohibiting the defendant from having any contact with the victim, including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing the victim or victim's relatives in any way, prohibiting the defendant from using or possessing a firearm or any other weapon, from possessing or consuming any alcohol or controlled substances and by imposing any other order required to protect the safety of the alleged victim or to ensure the

defendant's appearance in court. The Clerk of the Court, or other person designated by the court, shall provide a copy of this Order to the victim forthwith.

**(1) If, after being admitted to bail, a defendant has contact with any of the protected persons or places, and the People can prove said contact by a preponderance of the evidence, the defendant shall be immediately remanded and his or her bail revoked. In order to again secure the defendant's release, the defendant must be able to demonstrate to the Court that the defendant is not a danger to the victim(s).**

Title 16 V.I.C. § 99(e) to be revised as follows:

(e) Upon conviction of a crime or offense involving domestic violence, the Court may require, in lieu of or in addition to a term of incarceration, that the defendant receive professional counseling or other appropriate treatment from either a private source or a source appointed by the Court, and the Court shall require the defendant to provide documentation of attendance at the professional counseling or treatment center. **Appropriate treatment options include, but are not limited to a certified Partner Abuse Intervention Program.**

Thank you for including the Department of Justice in this important discussion.