



**VIRGIN ISLANDS DEPARTMENT OF JUSTICE**  
**OFFICE OF THE ATTORNEY GENERAL**

September 26, 2024

**TO:** Hon. Angel L. Bolques, Jr.  
Senator  
35<sup>th</sup> Legislature of the U.S. Virgin Islands

**FROM:** William A. Appleton Jr., Esq.  
Deputy Attorney General  
Virgin Islands Department of Justice

**RE:** Proposed Amendment of T. 16 V.I.C. §§99(b)(1-3)  
(Bail in Domestic Violence Cases)

Senator Bolques, good day and thank you for including the Department of Justice in this important discussion.

The Office of the Attorney General was asked to review the proposed amendment of T. 16 V.I.C. §§99(b)(1-3) (Bail in Domestic Violence Cases); see yellow paper dated 9/23/2024.

At present, in the Virgin Islands, bail in domestic violence cases is guided by 16 V.I.C. §99(b):  
“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 (“ <b><i>substantial bodily harm</i></b> ”) OR 1 prior DV conviction + use or threatened use of weapon involved OR 2 prior DV convictions

The proposed amendment adds the language “***not less than***” prior to the bail amounts set forth in §99(b)(1), (2) and (3).

**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. Upon information and belief, the Magistrate Judges do not, at present, consistently apply 16 V.I.C. §99(b)(1-3); the “***not less than***” language in this proposed amendment looks to correct this issue.


In some instances, judges have been deviating from the current law by assigning bail to DV defendants upon lesser financial conditions than the law provides. The proposed “*not less than*” language should make the Legislature’s intent to set a *minimum* bail clear and bring end to this practice.

In other instances, the judges have been interpreting the current law as a *limitation* on 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 “*not less than*” 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 “not less than” amendments could be further strengthened if the Legislature added language to specifically indicate that, in domestic violence cases, “the Court shall apply the highest applicable bail based upon the charges, with no 10% provision.”**

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 bail conditions in DV cases, for example, by making *anger management/ batterer intervention* a required term of pre-trial release in domestic violence abuse cases.

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

Sincerely,



William A. Appleton Jr., Esq.  
Deputy Attorney General