

TESTIMONY OF ATTORNEY GENERAL
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THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HOMELAND SECURITY, JUSTICE AND PUBLIC
SAFETY
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Good morning, Chairman Clifford Joseph, Committee on Homeland Security, Justice and Public Safety members, other Senators, Legislative staff, and the listening and viewing audiences. I am Attorney General Gordon Rhea. Joining me today are Christopher Timmons, Chief of the Virgin Islands Department of Justice's Civil Division; H. Timothy Perry, Chief of the Criminal Division; and Sean Bailey, an assistant attorney general with the Solicitor General Division. It is an honor and privilege to appear before you today.

The Department of Justice appreciates the opportunity to comment on Bill No. 36-0144. The stated purpose of Bill No. 36-0144 is to amend title 14 of the Virgin Islands Code, chapter 113, "to define and prohibit assault rifles, ban suppressors and silencers, require safety training for licensed rifles and shotgun holders; prohibit large-capacity magazines and prevent the illegal sales of firearms, firearm accessories and ammunition."

My testimony today, however, will focus on the proposed “Second Amendment Rights and Public Safety Act,” as recently presented by Governor Albert Bryan, Jr. If enacted, the Second Amendment Rights and Public Safety Act would overhaul the territory’s existing laws regarding the possession, receipt, purchase, sale, transfer, transportation, and carrying of firearms. I offer the following testimony in full support of the Second Amendment Rights and Public Safety Act.

This legislation brings the territory’s existing laws into conformity with recent United States Supreme Court precedent. It adopts a balanced approach designed “to safeguard the right of the people to keep and bear arms, while enabling law enforcement to protect the people of the Virgin Islands from unlawful gun violence in a manner that is consistent with the Nation’s historical tradition of firearm regulation.”¹

These revisions are both timely and unavoidable. Recently, the United States Supreme Court struck down New York state’s concealed carry law in *N.Y. State Rifle & Pistol Association v. Bruen*, which focused on New York’s requirement that an individual seeking a firearm license show “proper cause” for a license to issue.² The Supreme Court held the “proper cause” provision unconstitutional because it impermissibly burdened the Second Amendment’s “right to bear commonly used

¹ See Sec. 2(h) of the proposed Second Amendment Rights and Public Safety Act

² *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022)

arms in public subject to certain reasonable, well-defined restrictions.” However, the Second Amendment right to keep and bear arms is not unlimited.³ The Supreme Court has repeatedly recognized the validity of longstanding prohibitions on the possession of firearms by felons and the mentally ill, laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, and laws imposing conditions and qualifications on the commercial sale of arms. The Supreme Court has also recognized the validity of historical prohibitions on the carrying of “dangerous and unusual weapons” and weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns. This Bill incorporates each of these well-recognized limitations on the right to bear arms and provides a coherent, comprehensive framework for the regulation of firearms in the Virgin Islands.

Specifically, the Second Amendment Rights and Public Safety Act establishes a licensing and registration process for citizens who may lawfully possess, receive,

³ These are the words of the Justices of the Supreme Court: In *Bruen*, Justice Kavanaugh emphasized that “the Court’s decision does *not* prohibit states from imposing licensing requirements for carrying a handgun for self-defense.” *Bruen* at 79. Justice Alito, joining the majority in *Bruen*, noted that the holding in *Bruen* does not invalidate laws regulating who may lawfully possess a firearm; “we [have not] disturbed anything that we held in *Heller* or *McDonald* about restrictions that may be imposed on the possession or carrying of guns.” *Bruen* at 72. In *McDonald v. Chicago*, 561 U.S. 742 (2010), the Supreme Court held that the right to keep and bear arms is “not ‘a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose’... We made it clear in *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008) that our holding did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill,’ ‘laws forbidding the carrying of firearms in sensitive places such as schools and government buildings...’” *Id.* at 81.

sell, transfer, transport, or carry a firearm in the Virgin Islands, including exceptions for military and law enforcement; reduces restrictions; lowers fees; creates strict processing timelines once a completed application has been submitted; permits those who are properly licensed to conceal carry permitted firearms in public; provides a transition period and renewal process for residents who are currently licensed under existing law; encourages compliance by including a 180-day surrender period for unlicensed and unregistered firearms; and provides penalties for violations.

The Bill also fosters public safety by restricting where firearms can be carried, including sensitive areas such as government buildings, schools, houses of worship, polling places while voting is occurring, parks, beaches and events open to the public; prohibiting especially dangerous weapons, such as explosive devices, automatic weapons, short-barreled rifles and shot guns, ghost guns and .50 caliber rifles; restricting especially dangerous firearm accessories such as large-capacity magazines, bump stocks, and silencers; and establishing protocol and responsibility for the safe storage and handling of firearms.

Drafting this Bill to comprehensively reform the territory's firearm laws was not a simple undertaking. Many issues were considered and many people consulted. The Bill's completion was made possible by the hard work of our attorneys at the Department of Justice; by the diligent leadership of Governor Bryan and his staff;

by contributions from the Virgin Islands Police Department, with special thanks to Police Commissioner Mario Brooks and Assistant Police Commissioner Sean Santos; and by the support of this Legislature, with Senators Clifford Joseph, Marice James, Kenneth Gittens, and Angel Bolques proposing significant firearm legislation, the elements of which have been incorporated into the Second Amendment Rights and Public Safety Act before you today.

Additionally, significant time was spent reviewing firearm statutes in various jurisdictions across the country that have recently amended their own laws to address the precedent set by the Supreme Court in *Bruen* while providing a constitutionally sound framework for the regulation of firearms and the prevention of unlawful gun violence. This review also involved a thorough examination of the ways in which different courts have addressed recent challenges to the constitutionality of these laws.

At the same time, this Bill was drafted to directly address the needs and concerns of the people of the Virgin Islands. In the St. Thomas/St. John District, approximately 20 percent of the criminal cases prosecuted involve an illegal firearm and 60 percent of cases involve violence. These percentages are similar in the St. Croix District. Firearms are often used during crimes of violence to intimidate and harm others, sometimes irreparably. Accordingly, the Government of the Virgin

Islands has a responsibility to enact and enforce laws that enable the VIPD to protect our community from unlawful gun violence. To be effective, these laws must be enforced and violations prosecuted to the fullest extent of the law.

Second amendment law is constantly evolving. The proposed Bill places the Virgin Islands on the cutting edge of that development. The provisions of this Bill are designed to be severable, so that if any one provision is later held invalid, illegal, or unenforceable, the remaining portions of the statute would survive and remain enforceable. Additionally, future revisions should be more straight forward and less time consuming.

This legislation will have a significant impact on how we regulate the possession and carrying of firearms in the Territory. But, more importantly, this legislation will advance our laws into the 21st century and will conform with the precedents espoused by the U.S. Supreme Court. We support this legislation and ask that the 36th Legislature of the United States Virgin not only support this legislation, but pass it into law.

I want to thank this Committee for affording the Department of Justice the opportunity to testify on this Bill, which will advance the Territory's preservation of its citizens' constitutional rights while assisting law enforcement in meeting its obligations to protect its citizens and keep them secure.

This concludes my formal remarks. Chief Perry, Chief Timmons, Assistant Attorney General Bailey and I are prepared to answer any questions regarding the Bill.