

**PRESENTATION OF ATTORNEY GENERAL
GORDON C. RHEA
DEPARTMENT OF JUSTICE'S TESTIMONY
THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS
IN RE: BILL NO. 36-0005
COMMITTEE ON HOMELAND SECURITY,
JUSTICE AND PUBLIC SAFETY
APRIL 3, 2025**

Good Morning honorable Senators, legislative staff, and the listening and viewing audience. I am Attorney General Gordon C. Rhea. It is my pleasure to appear before you today to address Proposed Bill No. 36-0005. Thank you for including the Department of Justice in this very important discussion.

Domestic violence continues to plague our community. Its effects do not end within the four walls of private homes. Children who witness domestic violence are statistically much more likely to turn toward violent solutions both in their families and within the community. It is critical that we, as a society, insist that those who commit violence against family and household members be held accountable and that potential offenders understand that the consequences of their actions may be severe.

The Department of Justice serves as the attorney for the People of the Virgin Islands, and we recognize the need for increased bail in domestic violence ["DV"] cases. At present, in the Virgin Islands, bail in domestic violence cases is guided by 16 V.I.C. §99(b), which provides: "A person arrested for or charged with a crime that constitutes domestic violence shall be admitted to bail as follows ..."

(1) \$1,000; no 10%:

IF no prior DV conviction + no use/threatened use of weapon + no harm

(2) \$5,000; no 10%:

IF no prior DV conviction + no use/threatened use of weapon + no harm

OR

1 prior DV conviction + no use/threatened use of weapon + no harm

(3) \$15,000; no 10%:

IF no prior DV conviction + use/threatened use of weapon involved

OR

1 prior DV conviction + harm (“substantial bodily harm”)

OR

1 prior DV conviction + use of threatened use of weapon involved

OR

2 prior DV convictions

The proposed amendment inserts “not less than” at the beginning of each numbered section and strikes the “with no 10%” proviso. Most importantly, it amends the domestic violence bail law by inserting language as paragraph (4): “If the underlying crime has a higher bail amount than the amount in subsection (b) of this section, the higher bail shall apply.”

The Office of the Attorney General supports this Bill by adding language that strengthens the Virgin Islands bail law 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); and in some instances, judges have deviated from the current law by assigning bail to DV defendants upon lesser financial conditions than the law provides. The proposed language in this amendment should make the Legislature’s intent to set a **minimum** bail clear and bring an end to this practice. The additional proposed paragraph (4) makes that intent even more clear, as does striking the “no 10%” provisions.

Further, under the current statute, it is common practice for judges to set bail in domestic violence cases at ten percent “plus one.” The statute lays out bail amounts and specifies that there shall be “no ten percent provision.” So, for

example, if bail under the statute should be set at one thousand dollars, judges are routinely setting bail at one hundred and one dollars. This has led to a situation in which both defendants and victims understand that offenders will be released with very little financial penalty. As one defendant was reported by the press to have said to his victim, “Go ahead and call the police. It’s only one hundred and one dollars.”

The proposed amendments will assist judges in setting bail in domestic violence cases that more accurately reflects our concern as a society for the safety of victims and of the community. 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 bail to the facts and circumstances of the defendant.

In other instances, judges have interpreted 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 attached to the crimes they are charged with. For example, in an Attempted Murder case with 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 in 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 for paragraph (4) makes it very clear that the Legislature’s intent is to prevent the application of the DV bail amount to charges that are more serious and carry a higher bail amount.

These proposed amendments clearly set a minimum bail and provide ample authority for the judge to tailor bail to the facts and circumstances of the case and the defendant, while utilizing the word “shall” so that judges know their obligation with regard to setting bail in DV related cases.

One of the most important concerns in domestic violence cases is protecting the victim from further violence after a defendant has been charged, particularly once

they have been released. This Bill provides language that requires revocation of the bail and release of any defendant who has contact with the victim in a domestic violence case “after release” if the People can establish by a preponderance of the evidence that the defendant did indeed contact the victim. The provision further provides that “to be released, the defendant must demonstrate to the Court that he is not a danger to the victim.” This provision is critical as it provides prosecutors with an important tool to protect victims in domestic violence cases.

Sadly, defendants currently reach out to victims in the majority of domestic violence cases in the Virgin Islands and throughout the United States. We receive letters from victims asking that we “drop the charges” in approximately 70% of our domestic violence cases. We can, in most cases, continue forward with prosecution. As our Criminal Division Chief in St. Croix often tells victims: “I’m the bad guy. You can tell his family and his friends that you tried to drop the charges, but I wouldn’t do it.” Through the dedication of our attorneys and Victim Advocates, we are able to seek a resolution in these cases which includes treatment for offenders while also supporting victims in seeking counselling and other support.

The language in this amendment would underscore to both defendants and victims that “no contact” means NO CONTACT. This allows for a critical cooling off period, during which legal resolution can be sought.

I urge this esteemed body to pass Bill No. 36-0005, which underscores our commitment as a community to protecting victims of domestic violence and holding offenders accountable. That concludes my remarks. Thank you for your time and attention today.