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VIA EMAIL ONLY (senatorcliffordjoseph@legvi.org)

Honorable Clifford A. Joseph, Sr.
Chairman
Committee on Homeland Security, Justice and Public Safety
Legislature of the Virgin Islands
3022 Estate Golden Rock
Christiansted, VI 00820

**RE: Bill No. 36-0231
Testimony of Martial A. Webster, Sr., Esq.**

Good morning/afternoon to everyone, Chairman Honorable Clifford A. Joseph, Sr., of the Committee on Homeland Security Justice and Public Safety, Honorable Senator Kenneth I. Gittens, the sponsor of Bill No. 36-0231, and other senators present of the Thirty-Six Legislature of the Virgin Islands, and hereby present my testimony on an act to amend Title 5 Virgin Islands Code, subtitle 3, part III, chapter 401, by adding section 4507a to establish procedures for persons committed to the Virgin Islands Bureau of Corrections transfer to prison facilities outside the Virgin Islands, which in my view is a necessary amendment for a number of reasons I hope to expound upon in my presentation before you this today. I would like to offer a sincere gratitude to the Chairman of this Committee, Honorable Senator Clifford A. Joseph, Sr. and the sponsor of the bill, Honorable Senator Kenneth Gittens for the invitation to present my opinion and views on the matter for consideration. I truly appreciate this opportunity, and I sincerely hope I am not speaking solely on my behalf, but for the many others, and especially for those who

are our most vulnerable citizens, their families, friends and supporters. Thank you Senators again for the invitation.

Permit me to first give a brief history of my educational background and work experience so the listening audience may appreciate the scope and limitation of my understanding on the subject matter we are about to address. A brief biography of who I am, but not necessarily in chronological sequence, for those who may not know me and/or may be listening outside the presence of this esteem chamber, virtually or otherwise. My name is Martial A. Webster, Sr., I am attorney licensed to practicing law U.S. Virgin Islands for last 34 years. I was admitted to the practice in 1991. I was law clerk to two judges, summer law clerk for the Honorable George Eltman Territorial Court, following my second year at Howard University School of Law. I also clerked for the late Honorable Raymond L. Finch, Chief Judge Territorial Court of the Virgin Islands at the time and later District Court Judge. I graduated from California State University Dominguez Hill in 1984, with a BA in political science, minors in Human Studies and Paralegal Studies. I graduated from St. Croix Central High School in 1979. While attending college, I joined the U.S. Marine Corps Reserves in 1981, and transferred to the V.I. National Guard in 1985, until admission to Howard University School of Law in 1987. After clerking for the Court, I joined partnership with the late Eszart A. Wynter, Esq., as a junior partner. Attorney Wynter was my first mentor and employer in the legal profession following my undergraduate studies. He unfortunately transitioned earlier this year. Rest in peace my brother, until we meet in that great courtroom, where the jurors and the judge will be just, fair minded and righteous. I went solo for approximately six (6) years, taught various courses in paralegal studies part-time at the University of the Virgin Islands during those six years. I left teaching part-time at the UVI to serve as legal counsel to two senators, the late Ronald E. Russell, Esq. and former senator, Sir Luther Renee. Attorney and former Senator Russell also transitioned this year. May his soul too rest in eternal peace. I have served on a number of boards by appointment or otherwise, including, Legal Services of the Virgin Islands, where I serve as treasurer during my last term, the Territorial Public Defenders Board, I did an 8 year term on the Virgin Islands Board of Education, and presently serve on two other boards, Office of Conflict Counsel, and St. Croix Board of Realtors, where I currently serve as treasurer.

As a practicing attorney, I have tried various criminal, civil, and family matters, both in federal and local courts, and St. Croix and in St. Thomas as well. The most difficult and grievous experiences in my practice is standing before a court on sentencing day with my client, and I imagine it is a daunting experience for the judges as well; it is not difficult because I developed a confidential or special relationship with my clients, I do that with every client whether criminal or not, but because I am acutely conscious of the foundational law that freed the slaves in this country, that is, the 13th Amendment to the United States Constitution, which reads:

Thirteenth Amendment, United States Constitution (December 6, 1865)

Section 1

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2

Congress shall have power to enforce this article by appropriate legislation.

The **13th Amendment**, ratified on **December 6, 1865**, formally abolished slavery and involuntary servitude in the United States, except as a punishment for a crime where the individual has been duly convicted (Section 1). It also granted Congress the power to enforce this article by appropriate legislation.

Now I don't want anyone walking away believing the 13th Amendment only applies to the newly freed population of enslaved peoples, because here comes the 14th Amendment, July 9, 1868, less than three years later, mandating there will be no discrimination in the application of the laws of any state or the United States with regard to race, color, national origin, religion, you know the rest, thereby extending the application of the 13th amendment to everyone, without regard to race, color, national origin, gender, religion and such. And most of us know that one of the main reasons behind enactment of the 14th Amendment, yes, the Black Codes of the former slave states that needed labor to work their plantations. But that is for another time, not necessarily here. And let me be clear, the views and opinions expressed here, by me, are my opinion and views solely. They may not be supported by any organization or membership of any organization, public or private, I may be associated with or affiliated with. Just me. If you don't agree with me that's ok, I do not expect everyone will understand or agree. I am here mainly in support of this Bill to amend Title 5 of the Virgin Islands Code, subtitle 3,

part III, chapter 401 by adding section 4507a to establish guard rails for prisoners committed to the Bureau Correction and their transfers outside the territory, which I believe is very crucial.

Under existing Virgin Islands law, the decision to send an individual committed to the V.I. Bureau of Corrections off-island potentially for the remainder of a lengthy sentence, thousands of miles from home, family, friends, attorney, and support system rests with a single unelected executive official, the director of the Bureau of Corrections, subject to no legislatively defined criteria, no independent review, no deadline, and no guaranteed notice to the inmate's family. Title 5 VIC section 4503(c). That is not a hypothetical risk. It is the Bureau's actual, current practice: as of the Bureau's own testimony to the Legislature June 18, 2026, 170 sentenced inmates are housed off island (137 in Mississippi, 33 in Virginia), a number some senators are actively pushing to expand for no reason other than cost associated with housing these individuals. During the hearing concrete cases surfaced in which families learned of a relative's stabbing and death, not from the Bureau's officials, but through their own efforts or families or friends of other prisoners.

The proposed amendment, Section 4507a, does not prevent the Bureau from using off-island placement to meet the housing needs of BOC — rather it replaces the Director's single unreviewable discretion to transfer inmates with a defined process: a written justification, reviewed by a multidisciplinary committee that includes mental health and defense-side perspectives, a family-proximity and legal-impact analysis, a real deadline, and a Governor-level sign-approval with an expedited but still accountable track for genuine emergencies.

I understand we house approximately 2 million prisoners at a time in American prisons on a daily basis, rivaling the size of China's People's Liberation Army, a great deal of potentially free labor if you apply the 13th Amendment right. Instead of putting our inmates to work, we are paying prisons for profit to warehouse inmates outside the territory, for someone else's use and exploitation. That is a political and economic decision neither the Governor nor any official of the executive branch should be allowed to make without legislative oversight and procedural safeguards aimed at avoiding potential abuse and/or corruption. This political and financial decision must be closely

scrutinized by the branch of government the people of the Virgin Islands entrusted and empowered to set the policies of this territory by legislation, no one else. You are the first branch of government, and therefore the most crucial. The second branch, the executive, the Governor and executive agencies, are entrusted to carry out the policies of the people through your legislation. We must assume that when citizens vote they know what they are doing in electing individuals for various political offices and positions. The third branch, the judiciary interprets the law, variably laws created by you, and gets the last say on what the law means. There can be no second or third branch without you, the first. The executive branch should not be free to change legislative policy aimed at a particular or specific policy consideration by deciding what expenditures and services are necessary to the detriment of the required services mandated by legislation. We should not allow political appointees of the executive branch to singly make policy decisions traditionally reserved to the people, through their representatives in the legislature, that significantly impact or affect the policy considerations our legislature aimed to implement. As an example, the commissioner of education should not be able to decide that teachers are no longer necessary and to save money certain teaching positions or educational policies or programs will be eliminated from the curriculum to save money without legislative consent or approval. The same for every other governmental agency. You are truly the people's power, not the executive or the judiciary. We, the people look to you to make policy decisions that potentially affect our daily lives. The people expect you will legislate with the understanding that the executive will carry out your policies or mandates. The courts, the third branch, may step in to say what you meant by your legislation should a legal question arise as a result of a genuine conflict. If for whatever reason you do not agree with the interpretation given by the courts, you have the power to amend, repeal, or otherwise affect that policy by legislation. Your only constraints are limited by the document(s) that give you your power and authority, that is the Revised Organic Act of 1954, and the United States Constitution. Own your power and take back that sweeping discretionary power you gave to the director of the Bureau of Correction to transfer inmates without checks or balances as stated in Section 4503(c) of title 5 of the Virgin Islands Code. I do not know who was at the helm at the legislature when the provision was passed. But some people were asleep and let that one slip through. The provision,

in my view, demonstrates a complete reliction of responsibility of the law makers considering that statute. Anyway, not too late to make things right.

I. CURRENT LAW: TRANSFER AUTHORITY IS BROAD AND EFFECTIVELY UNCHECKED AT THE THRESHOLD, EVEN THOUGH IT IS NOT ENTIRELY STANDARDLESS

A. *The statutory hook the Bureau uses.*

The Bureau's authority to place Virgin Islands inmates in facilities outside the Territory is set out in 5 V.I.C. section 4503(c), which the Third Circuit Court of Appeals has confirmed operates together with 18 U.S.C. section 5003(a), which is the federal statute authorizing the Director of the U.S. Bureau of Prisons to contract with territorial officials for the custody of territorially sentenced offenders. *See Graham v. Lanfong*, 25 F.3d 203, 205 (3d Cir. 1994). Section 4503(c) authorizes the Director to contract with the U.S. Bureau of Prisons, or with correctional facilities of any state, local government, or private correctional entity, accredited by the American Correctional Association, "when the Director of Corrections determines that detention and/or correctional facilities within the Virgin Islands are inadequate to serve the best interest of the inmate or the general interest or welfare of the Territory." As a condition of any transfer, the Director must ensure the receiving institution offers educational and/or vocational programming, and "no inmate is to be transferred to any institution lacking such program(s)."

The current law is not entirely standardless. The ACA-accreditation and program-availability conditions are real, and they constrain where an inmate already slated for transfer can be sent. But nothing in section 4503(c) constrains the threshold decision itself. The trigger phrase "when the Director of Corrections determines" facilities are inadequate is a self-certifying standard. The Director decides both that a transfer is warranted and, in the same act, satisfies the only check the statute imposes. There is no requirement that this determination be written, justified with any particularity, reviewed by anyone else, or communicated to the inmate, the inmate's counsel, or the inmate's family before it is carried out.

The Bureau's general administrative powers are set out separately at 5 V.I.C. section 4504, which makes the Bureau responsible for "all institutions within the Virgin

Islands for the care, custody and correction” of sentenced and detained persons and directs the Director to develop the Bureau's administrative structure. Nothing in section 4504 speaks to out-of-territory placement, family contact, or any review mechanism specific to sending an inmate off-island.

B. What is missing

Comparing current law to Bill No. 36-0231 's proposed section 4507a is instructive because of what current law does not contain, despite the program-availability and accreditation conditions described above:

- No requirement that the Director's threshold determination be documented, particularized, or reviewed by anyone before the fact.
- No independent body or no committee, no board, no court reviews the decision before it is carried out, i.e., executed.
- No statutory factors bearing on the individual inmate such as family proximity, security classification, impact on pending legal proceedings, and mental health input the Director is required to weigh with regard to the existing adequacy of our prison facilities under section 4503(c), which seems to run to the receiving institution generally, not to the individual inmate's circumstances.
- No deadline by which a decision must be made or communicated.
- No guaranteed notice to the inmate's counsel or family, before or after the transfer.
- No distinction between routine transfers and genuine emergencies — meaning there is currently no accountability difference between a considered decision and a snap one.
- No reporting obligation to the Legislature on how often the power is used, why, or with what outcome.

In short: current law regulates the destination, not the decision. It says something about where an inmate may be sent once the Director singly decides to send someone, but nothing about who gets sent, why, or whether that threshold call is ever checked.

The proposed amendment is designed to close these gaps, and it is worth acknowledging the existing section 4503(c) conditions honestly in testimony. Doing that will give credit to what current law already does, while making clear it does not touch the actual decision-making authority at issue.

II. THIS IS NOT A HYPOTHETICAL PROBLEM — IT IS DOCUMENTED, RECURRING PRACTICE.

A. 2016: 105 inmates transferred with no outside review

In March 2016, then-Governor Kenneth Mapp announced that the Bureau had transferred 105 sentenced inmates from the Golden Grove Correctional Facility to two mainland prisons, the Citrus County Detention Facility in Florida and Saguaro Correctional Center in Arizona, both then operated by Corrections Corporation of America, a private for-profit prison company. The stated rationale the governor cited was a Territory-wide daily cost of roughly \$150 per inmate versus \$67–\$82 at the receiving facilities and staffing relief. Then-Director Rick Mullgrav said the inmates would eventually be returned but declined to give any timeframe for the return. The decision was announced as already in motion; the inmates were, in the governor's words, already airborne at the time of the press conference. There was no indication in the public record that any independent body reviewed the decision, that affected families received advance notice, or that the Legislature had any defined role in approving or overseeing that decision.

B. 2026: unchecked authority, now exercised at greater scale

In budget testimony before the Committee on Budget, Appropriations and Finance on June 18, 2026, current BOC Director Wynn Testamark disclosed that the Bureau now houses 170 sentenced inmates off-island: 137 in Mississippi (through CoreCivic, a private prison operator) and 33 in Virginia, alongside 181 inmates still held locally. Director Testamark testified that housing an inmate locally costs the Bureau approximately \$320 per day, versus roughly \$85 per day in Mississippi and \$109.58 per day in Virginia. No analysis or justification for the substantial and significant discrepancy or disparity in cost for housing has been provided or questioned, however. The Director's statement was taken at face value with no consideration regarding the cause, which may be corrected or mitigated if properly identified. Perhaps the cost of electricity, water, or other goods and services are responsible for driving the cost up for local housing. Until that issue is addressed and the reason ascertained, there is no ability to rectify the situation. But paying private prisons and others to house our prisoners, who intern contract with vendors in their home state for goods and services to meet their contract obligation with the

Bureau. This is not sustainable and has a great economic impact on the territory. This should be an important concern of the legislature, because the payments are significant and substantial, results in loss opportunities to local tax contributing businesses. I do not believe the private prison entities pay any Virgin Islands taxes whatsoever from income received on those contracts with BOC. So, are we really saving money or giving away money? This requires careful examination and consideration.

That cost differential is already driving political pressure for more transfers, not fewer. At the same hearing, Senator Carla Joseph argued for shifting a larger share of the inmate population off-island, calculating the annual savings aloud for the committee and framing continued local incarceration as money better spent on roads and hospital care for law-abiding residents. No senator at that hearing identified any statutory process the Bureau would be required to follow in deciding which inmates to move, on what basis, or with what notice because, under current law, none exists.

The human cost of that gap surfaced in the same hearing. Senator Franklin Johnson raised two specific cases: a family that learned an incarcerated relative had been stabbed and killed only because the inmate's mother called the Bureau herself, and an inmate who was cremated before some relatives were even aware he had died. The Bureau's medical director attributed the cremation case to a records error, stating the listed next of kin turned out to be estranged, and the correct contact information on file was wrong. Whatever the explanation for that case, it illustrates exactly the kind of harm that a structured process with a defined family-notice component and legal-counsel involvement, as Bill No. 36-0231 would require and is designed to catch before it happens, rather than explain afterward.

Taken together, the 2016 and 2026 episodes show the same pattern a decade apart: a Bureau under capacity or budget pressure, a Director with unilateral authority to relocate inmates off-island, and no statutory guard rail between that pressure and the decision to do so.

C. The one existing independent check does not reach off-island transfers at all.

A 2018 investigative report documented that a Virgin Islands inmate, Hector Ledesma, was transferred from Golden Grove and Citrus County Detention Facility in

Florida to Red Onion State Prison, a Virginia supermax with a well-documented history of human rights concerns on Human Rights Watch and Amnesty International reports, an HBO documentary on its use of extended solitary confinement, and (in later years) inmates setting themselves on fire in protest of conditions in that facility. Ledesma's own written account of his treatment prompted the Virgin Islands Attorney General's office to open an investigation into stateside prison abuse. At the time of that reporting, the Bureau's own Public Information Officer confirmed Virgin Islands inmates were distributed across four mainland jurisdictions (56 in Virginia, 66 in Mississippi, 85 in Florida, and 1 in South Carolina), confirming that large-scale off-island placement is not a new or occasional practice.

When asked whether the federal court-appointed special master overseeing the Golden Grove consent decree had ever inquired about the condition of Virgin Islands inmates transferred off-island, the Attorney General's office simply answered, "No." That is a documented on-the-record admission by the one independent oversight mechanism already monitoring the Bureau. A federal court monitor was imposed because the Bureau could not be trusted to self-regulate conditions at Golden Grove but has never extended its oversight into what happens to inmates once the Bureau sends them off-island, thus flying under the radar of the federal consent decree. Bill No. 36-0231 would not duplicate that consent-decree oversight; it would fill the gap the consent decree leaves entirely unregulated.

A Bureau press release from Director Testamark's tenure describes a site visit to four Virginia prison facilities including Red Onion with Testamark stating: "We do not just send them away and forget about them; they are human beings and must be treated with the utmost respect," and Testamark's own FY 2027 budget testimony to the Legislature states an intention to visit inmates in Virginia and Mississippi later this year. That commitment is worth acknowledging in testimony as a genuine, current practice but it is exactly that: a practice, adopted at this Director's discretion, with no statutory obligation binding any future Director's continuation of that practice. That is precisely the vulnerability section 4507a's reporting and review requirements are designed to close.

III. CONSTITUTIONAL BACKDROP.

A. *The Constitution does not fill this gap*

The U.S. Supreme Court has squarely held that inmates have no federal constitutional right to be confined in any particular institution, and that this holds even for interstate or, by direct extension, interterritorial transfers.

In *Meachum v. Fano*, 427 U.S. 215 (1976), the Court held that transferring an inmate to a different institution with substantially less favorable conditions, with or without a hearing, does not itself infringe any liberty interest protected by the Due Process Clause, so long as the transfer stays within the sentence originally imposed. In *Olim v. Wakinekona*, 461 U.S. 238 (1983), the Court extended that reasoning across state lines, holding that an inmate has no constitutionally protected expectation of remaining within any particular jurisdiction, and that even a transfer spanning long distances and an ocean crossing, even from Hawaii to California, remains within constitutional limits. *Olim* is on point for a Virgin Islands transfer to Mississippi or Virginia: the ocean crossing that the *Wakinekona* majority treated as constitutionally irrelevant is the same pattern the Bureau's off-island placements present today.

Nothing in the U.S. Constitution requires the Virgin Islands to give inmates any due process at all before an off-island transfer. Any protection inmates and their families receive must come from the Legislature. The proposed Amendment to 4507 is not imposing a federal mandate or reacting to a court order; it would be Virgin Islands lawmaker choosing, as a matter of local policy, to provide necessary safeguards the current law does not require and that the Constitution or the courts can never supply.

B. *A consideration*

Bill No. 36-0231, as drafted, specifically subsection (c)(2) directs the Multidisciplinary Case Review Committee to “consider” family proximity, program availability, security classification, legal-proceeding impact, and professional input, and subsection (c)(4) requires the Governor issue a “written approval or denial” but nothing in the bill actually limits when the Governor may approve a transfer, or requires the decision to rest on the Committee's findings rather than override them. That is a defensible legislative choice which preserves executive flexibility, but the committee should understand that, by itself, it will likely function the way Hawaii's regulation did: real

procedural protection, but not the kind of substantive limitation on discretion that would let a court treat the resulting expectation as a protected liberty interest.

If the sponsor of this bill wants to include additional safeguards, you may want to consider adding a provision that the Governor may not approve a transfer over the Multidisciplinary Case Review Committee's recommendation against the transfer absent a written finding of a specific, itemized reason or clarifying that transfer is disfavored absent one of the listed triggers of 5 V.I.C. section 4503(c), that is, (1) the stateside facility is accredited by the American Correctional Association, (2) the Director of Corrections determines that detention and/or correctional facilities within the Virgin Islands are inadequate to serve the best interest of the inmate or the general interest or welfare of the Territory; and (3) the Director of Corrections ascertain and ensure the availability of educational and/or vocational programs at the institution inmates are to be transferred to for the purpose of enabling such inmates to gain marketable skills.

IV. THE BILL'S RATIONALE CAN BE BACKED BY CRIMINOLOGY RESEARCH AND THE BUREAU'S OWN RECENT DATA.

Bill No. 36-0231's findings clause asserts that off-island transfer "undermines rehabilitation and can lead to psychological harm." That is not merely a humane-sounding assertion; there is a substantial body of peer-reviewed criminology research behind it, and it directly supports section 4507a(c)(2)(A), which would require the Committee to weigh "the inmate's proximity to family for visitation and rehabilitation purposes." This is done routinely by the Federal Bureau of Prison as a matter of practice.

- A 1972 study following parolees from California prisons found inmates with no visitors were six times more likely to be reincarcerated than those with three or more visitors.
- William D. Bales & Daniel P. Mears, "Inmate Social Ties and the Transition to Society: Does Visitation Reduce Recidivism?" *Journal of Research in Crime and Delinquency*, Vol. 45, p. 287 (2008) which is a peer-reviewed study that found visitation reduces and delays recidivism, which led the authors themselves to recommend placing incarcerated people close to their home communities as a low-cost policy intervention.
- Minnesota Department of Corrections, "The Effects of Prison Visitation on Offender Recidivism (November 2011)" is a separate, independently conducted agency study

finding a single prison visit reduces recidivism by 13% for new crimes and 25% for technical parole violations. On page 31, that report recommended that Minnesota “should seriously consider distance from home when placing incarcerated people in particular prisons.”

The Bureau’s FY2027 budget reports that inmates released in 2025 (from the 2023 release cohort, tracked over three years) had an 18.6% recidivism rate, compared to an 11.0% rate for the 2022 cohort. This shows an increase in recidivism of 7.6% across cohorts released in a window that overlaps closely with the period in which the Bureau's Mississippi/CoreCivic placement population nearly tripled. The Bureau's own testimony attributes the increase primarily to post-release housing instability and does not itself draw any connection to off-island placement or family separation. It is axiomatic when prisoners are housed off-island with limited communications by way of prison recorded 5-minute paid telephone conversations with relative and friends, there is likely to be a loss of communication and contact overtime with those contacts and support as opposed to visitation locally on weekly, monthly or occasionally. This issue may deserve further independent examination and study rather than relying on the Bureau’s unsupported conclusion.

V. NOTES ON BILL NO. 36-0231

Section 4507a(b)5

Limits the mandatory-review requirement to inmates serving 10 years or more, meaning shorter-term inmates are still subject to the current, unstructured regime. I would suggest that the amendment apply across the board, regardless of the length of sentence. We should and must be able to care for, protect and house our most vulnerable, even if they commit crimes defined by our laws. You don’t dispose of your children because they committed a crime or made mistakes in their lives. We must continue to believe that all humans have redeemable qualities. That is essentially that we commit our convicted individuals to the “Bureau of Corrections” not corruption or condemnation, Honorable Senator Carla Joseph and those of the same ilk.

§ 4507a(c) — *The core process*

Requires a written transfer request from the warden or supervising officer with a stated justification (subsection (c)(1)); creates the Multidisciplinary Case Review Committee and directs it to weigh family proximity, program availability, security classification, impact on pending legal proceedings, and mental-health/counsel input (subsection (c)(2)); imposes a 10-business-day deadline for the Committee's written recommendation, with a copy to the inmate's counsel (subsection (c)(3)); and requires Governor-level sign-off within five business days of receiving a favorable recommendation, with no transfer permitted absent that approval (subsection (c)(4)). This is the heart of the bill and directly answers the “one person” concern: it replaces sole Director discretion with a documented, multi-actor process, and it is the first point in Virgin Islands law where the inmate's own counsel is guaranteed to receive notice before a transfer occurs. This subsection ensures important safeguards against abuse and corruption. One person no longer has sole discretion to transfer an inmate and/or effect the economic interest of the territory, or themselves in anyway.

§ 4507a(d) — *Emergency track*

Preserves the Bureau's ability to act quickly for a genuine imminent threat. It still requires 48-hour advance notice to the Governor with details such as the nature of the threat, internal remediation efforts, receiving facility, and projected duration. It also includes a default approval/denial window, and a committee review within seven days even if the transfer has already occurred, with a 30-day return requirement if the Committee finds the transfer should not have occurred. This is a meaningful accountability backstop: it does not let the Bureau bypass oversight by labeling every transfer an emergency, because even emergency transfers get checked after the fact.

§ 4507a(e) — *Committee composition*

Four members: the Attorney General or designee, a Health Department-designated mental health professional, the Public Defender or designee, and a Bureau-designated family liaison officer. This configuration is a strength worth highlighting because it is not an all-Bureau body reviewing its own decision; it includes the Public Defender's office and an independent mental-health voice. Again, eschewing sole discretion in the hands of appointed executive official concerning crucial policy matters

that may impact significant legislative policy concerns such as the economy and employment opportunities.

Section 4507a(f) — Carve-outs

Excludes federal detainees held under federal law or agreement, and inmates requiring specialized external mental health placement certified by the V.I. Department of Health. Both carve-outs are sensible and track how those populations are already handled outside the Bureau's ordinary custody prerogatives.

Section 4507a(g)–(i) — Reporting, discipline, and IG oversight

Adds an annual report to the Legislature with numbers transferred, justification, receiving facilities, duration, family-visitation data, administrative discipline for violations, and Inspector General investigative authority. These provisions matter because they are the only place in the bill that gives the Legislature ongoing visibility after enactment. Without § (g), the Legislature would have no way to know whether section 4507a's requirements are actually being followed. Given that the Bureau's own June 2026 testimony did not proactively disclose family-notification failures until a senator raised specific cases, an annual report requirement is not a formality; it is the only mechanism that would have illuminated those earlier.

VI. THE COSTS AND SAVINGS

The following figures are drawn directly from two primary sources: the Legislature's Post Audit Division Fiscal Year 2027 Budget Analysis of the Bureau of Corrections June 18, 2026 and Director Wynn Testamark's own written FY2027 Budget Testimony to the Committee on Budget, Appropriations & Finance.

A. Off-island housing costs

- Off-island housing and feeding was budgeted at \$7.9 million in FY2025, per Director Testamark's own testimony. This figure excludes inmate healthcare costs, which is tracked separately.
- The FY2027 contracted annual ceilings for the two off-island placement vendors are: Virginia Department of Corrections — \$2,000,000 (contract term 12/20/2023–12/20/2028); CoreCivic — \$3,927,500 (contract term 12/16/2024–12/15/2028). Combined: \$5,927,500. These ceilings are unchanged from FY2026 to FY2027.

- Per-diem cost comparison, per Testamark's testimony: approximately \$320/day to house an inmate locally, versus approximately \$85/day (CoreCivic, Mississippi) to \$109.58/day (Virginia) off-island, which is confirmed by the Director's own words: "The expense of incarcerating a prisoner in the Virgin Islands exceeds twice the cost on the mainland." What is the reason or justification for this disparity in costs and expenses. None has been provided. The disparity must be specifically identified to determine whether remediation can be had and at what cost because the practice of housing our prisoners off island is neither prudent nor sustainable for reasons already expressed. This is crucial because there are additional costs and expenses associated with the transfers including in-mate and official travel, transportation, per diem, housing, etc.
- Off-island medical care specifically: \$301,949 in FY2025; \$231,231.54 in FY2026 year-to-date as of the testimony date.
- A discrepancy worth noting: the \$7.9 million "budgeted" figure for FY2025 off-island housing/feeding does not reconcile against the \$5,927,500 FY2026/FY2027 contract ceiling for the same two vendors. Neither explains the roughly \$2 million gap.

B. Inmate Work Programs.

Returning now to the 13th Amendment issue regarding involuntary servitude, the Director's FY 2027 Budget Testimony, states: The Bureau's inmate work program provide meaningful employment opportunities that support rehabilitation, skill development, and successful reentry while contributing to facility operations and generating cost savings for the Government. Participants engage in maintenance, agriculture, horticulture, and public works projects, including assignments supporting various government agencies to include Department of Agriculture, Department of Public Works, Virgin Islands Department of Education, Department of Sports, Parks and Recreation, Government House, WTJX, and the Virgin Islands Department of Property & Procurement. Currently, 56 inmates; 43 at John Bell Adult Correctional Facility and 13 at the Criminal Justice Complex are actively participating in work programs that promote accountability, workforce readiness, and productive community engagement. During FY2026, the inmate work program generated an estimated \$120,000 in cost savings to the Government of the Virgin Islands, equating to a total of 500 hours for approximately 20 individuals who participated in external work programs." These are the Directors words,

verbatim, page 10 of her FY 2027 Budget Testimony. Notice nothing is said anywhere about the work programs available to those prisoners transfer to the private prisons. I wonder how much money our prisoners are generating from their free labor to those private institutions we pay generous sums to house, because “it is less costly”, according to some officials. We essentially took 170 free workers and gave them to another jurisdiction and still have to pay for their housing. Doesn’t make sense to me.

VII. COMPARATIVE FRAMEWORK: US STANDARDS vs. USVI INITIATIVES

Most states place inmates out-of-state through the national Interstate Corrections Compact (“ICC”), adopted by 37 states and the District of Columbia. The ICC's model language, in the states that have adopted it, gives the sending state's officials essentially unreviewable discretion to decide that a transfer is “necessary or desirable,” with no built-in hearing or committee-review requirement at all. I believe this is part of why Olim came out the way it did for an inmate transferred under similar compact-style authority.

Some individual states have layered additional protections onto that ICC baseline through their own law or agency policy. For example, several jurisdictions require a demonstrated family tie in the receiving state, a minimum time-served threshold, or a classification-committee recommendation before an inmate-initiated ICC transfer is approved. Those protections, however, generally apply only to voluntary, inmate-requested transfers seeking a benefit (proximity to family), not to involuntary, Bureau-initiated transfers driven by capacity or cost. This is exactly the category Bill No. 36-0231 addresses and exactly the category where current Virgin Islands law provides nothing. Bill No. 36-0231 would not be importing an untested or unusually oppressive standard; it would be giving the Virgin Islands more structure around involuntary, capacity-driven transfers than the default national compact framework provides, while remaining well within the range of what other corrections systems already do for other categories of transfer.

These private prisons popping up all over the United States and now referred as the “Prison Industrial Complex” by many experts, thus replacing the military industrial complex or at least competing with same. To allow one individual, in the executive branch of government to make the single, nonreviewable decision to transfer inmates to these private facilities without oversight, creates an opportunity for abuse and corruption. You

as legislatures are the power of the people to create policy for the us, the People of the Virgin Islands, a power granted to you by the revised organic act, not the governor or anyone in the executive branch. The executive branch executes, i.e., carries out the policy assigned to it, not create policy or determines cost saving measures without the input of the legislature whose job it is to approve budgets for every agency, every commissioner or policy head, and such. To leave this matter without the obvious necessary safeguards proposed by Bill No. 36-0231 would constitute a derogation your office and abdication of your responsibility to the people of the Virgin Islands. We elected you to set the policies for this territory, not the governor or his appointees. We elected the governor because we believe he will be able to carry the policies you put in place. Bill No. 36-0231 will serve to return the policy making power with regard to BOC expenditures and policy determinations to the Legislature where it rightfully belongs.

Most of the inmates will reenter our community and society eventually. Third branch, that is, the courts have committed each inmate to the custody of the Bureau of Correction. These judges, I am almost certain, have some familiarity with the Bureau Correction facilities in the territory. I am not sure they are all familiar with the conditions and treatment of our citizens in those private prisons, maybe they are, I really don't know.

Millions of dollars are being expended to these private prisons to be outsourced for housing, rehabilitation, and correction of our prisoners without an explanation concerning the reason for the discrepancy in costs of housing. While those millions are being spent outside the territory, opportunity is being denied to local tax paying entrepreneurs who may otherwise be able to provide the same services and goods to the Bureau of Correction if those inmates were here. So are we truly saving or are we squandering.

As I understand from my short stay at the legislature, senators are always searching for means to raise revenue to improve our infrastructure and our lives. I do not believe these private prisons pay taxes here. As a business owner, I remember when my friend and colleague the late Ronald Russell, Esq. served his second term in the legislature, you guys raised the gross receipt taxes from 4% to 5% to all small business owners' chagrin. I corned Ronny, as we affectionate call him, about that. I believe he was the Senate president at the time and pushing of the raising of that tax. He said it was

temporary to generate revenue because that's all the legislature can come up with to raise funding to meet the government's obligations. It never went back to 4%. The money to pay to these private prisons does not circulate in this community not even for a second, it is paid via wire transfer directly to these private prison accounts stateside, or wherever they put their money. These outside expenses are not sustainable, and the question is when will be able to house, rehabilitate, correct, and care for our most vulnerable, wretched residents other than send our dollars outside. What will we need to reduce the cost of incarnation here, and why this great disparity or discrepancy in housing costs and expenses exist, or does it really exist.

Once again, thank you for the invitation to testify on Bill No. 36-0231 and I remain available for any questions.

Regards,

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