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**Testimony of Troy de Chabert-Schuster**

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*In Support of Bill No. 36-0277—Probate Reform*

Before the 36<sup>th</sup> Legislature of the Virgin Islands, 2023

Chairman, Carla J. Joseph

**October 22, 2023**

Good afternoon, Chairman Joseph and members of the Committee, and the 36<sup>th</sup> Legislature of the Virgin Islands. Thank you for convening this hearing and for your continued commitment to preserving the legacies of Virgin Islanders. I am Troy de Chabert-Schuster, and I serve as State Director for AARP Virgin Islands. On behalf of AARP's nearly 38 million members nationwide, including more than 22,000 members across the Virgin Islands, I am pleased to submit testimony in strong support of Bill No. 36-0277.

AARP commends Senator Novelle E. Francis, Jr. for introducing this legislation and advancing a workable probate framework that can help Virgin Islands families transfer homes, property, savings, and other assets with greater clarity and certainty.

Probate reform matters because it helps families preserve and transfer what a loved one worked a lifetime to build. It also aligns directly with AARP's commitment to financial security, family caregivers, consumer protection, access to justice, housing stability, and the preservation of family assets and generational wealth.

For more than nine years, AARP Virgin Islands has worked with policymakers, legal professionals, national and local partners, and community stakeholders to advance probate

modernization. Bill No. 36-0277 builds on that sustained effort and support for legislation addressing electronic will, digital assets, non-probate transfers, heirs' property, and the preservation of family assets.

Our advocacy has always focused on helping Virgin Islanders protect their homes, assets, and family legacies. **Bill No. 36-0277** advances that commitment by making the probate process more accessible and efficient, helping families transfer property with greater certainty and fewer barriers.

### **Why Probate Reform Matters**

To understand why this reform matters, it is helpful to begin with what the bill does. Bill No. 36-0277 establishes a comprehensive framework addressing testate and intestate succession, estate administration, personal representatives, creditor claims, distribution of estate assets, estate closing, and procedures involving smaller estates. Probate reform matters regardless of whether an individual leaves a valid will or dies intestate, because in either case there must be a clear process for determining who is legally entitled to estate property and how that property should be transferred.

For Virgin Islands families, the important point is simple: probate is not only an issue for wealthy families. "Estate" in this context simply means the property of a deceased person. Many people accumulate property during their lives and want to make sure it's taken care of or used to care for others after their deaths. Older Virgin Islanders are often at the center of this issue, whether as people planning for the transfer of their assets, surviving spouses seeking stability, or family members helping a loved one's affairs move through a legal process.

## **Modernizing Procedures for Modest Estates**

One practical way this bill advances our goal is by modernizing procedures for modest estates. It raises the threshold for the affidavit procedure applicable to certain personal property from \$25,000 to \$150,000, establishing a separate summary procedure for estates valued at \$150,000 or less.

AARP Virgin Islands views this provision as important because estates of modest value can still represent a lifetime of work and accumulated assets. Importantly, the \$150,000 threshold should not be interpreted as creating an automatic exemption from the probate process. Rather, it makes more estates eligible for simplified procedures, underscoring the importance of clear public guidance on their requirements, eligibility criteria, and limitations.

## **Surviving Spouses and Families**

Just as important, probate reform must also take into account the needs of surviving spouses and families. AARP Virgin Islands recognizes the importance of the legislation's treatment of surviving spouses and families. Bill No. 36-0277 preserves the existing Virgin Islands statutory framework governing a surviving spouse's right of election under Title 15, section 10, while also including a \$22,500 homestead allowance, up to \$15,000 in exempt property, and a reasonable family allowance for qualifying surviving spouses and children.

These provisions illustrate how probate policy can affect a family's financial security. The death of a loved one is not only an emotional transition; it can also create significant legal and financial decisions for the surviving household.

## **Family Property and Accountability**

Beyond the immediate needs of a surviving household, probate reform also affects family property and long-term accountability. Family property is another important reason AARP Virgin Islands has remained engaged in probate reform. Bill No. 36-0277 establishes procedures for recognizing heirs, devisees, and legatees and placing them in possession of property. Where real estate is involved, the legislation ensures that courts can efficiently resolve ownership. We do not suggest that probate reform alone will resolve every heirs' property, title, or intergenerational land ownership issue facing Virgin Islands families. It will not. But a clearer process for recognizing heirs and documenting interests in estate property is an important part of the broader framework for transferring family assets.

Modernization must also include accountability. Bill No. 36-0277 recognizes the personal representative as a fiduciary responsible for settling and distributing an estate under the law. For AARP, probate reform should support efficiency while maintaining appropriate safeguards for heirs, devisees, creditors, and others with legitimate interests in an estate.

## **Preserving the Electronic Wills Framework**

Another important feature of the bill is that it works with other important recent reforms. Bill No. 36-0277 coordinates with the Virgin Islands Uniform Electronic Wills Act by preserving the existing electronic wills framework and clarifying that Chapter 1A of Title 15 continues to govern electronic wills to the extent of any inconsistency with the new probate framework.

## **Recognizing the Role of Family Caregivers**

Probate is not only a legal issue; it is often a caregiving and family-navigation issue as well. Probate reform is part of AARP's longstanding commitment to family caregivers. AARP Virgin Islands supported the territory's Caregivers Leave Act because caregivers are essential to the

health, independence, and financial security of Virgin Islands families. Following a death, those same family members are often the people locating wills and records, arranging services, protecting the home, identifying assets and debts, communicating with institutions, and helping a surviving spouse or dependent family member navigate the transition. AARP recommends that the bill's implementation be caregiver-informed. Public materials should explain the practical steps a family member may need to take after a death, where reliable assistance is available, and the distinction between providing care and having a legal right to inherit or control estate property.

### **Preparing for Successful Implementation**

Because the bill touches so many areas of family life, implementation will be just as important as enactment. Bill No. 36-0277 provides for an effective date of January 1, 2028, or the date that is six months after enactment, whichever is later. This delay is wise. AARP Virgin Islands believes thoughtful implementation is essential to reform of this magnitude. Virgin Islanders will need to understand the new law, navigate the processes it creates, and obtain reliable information when they need it.

AARP Virgin Islands recommends that the rollout includes five practical elements:

1. plain-language public education;
2. standardized forms and instructions;
3. caregiver-informed guidance for families navigating this system after a death;
4. affordable legal navigation or referral resources; and
5. adequate staffing, training, technology, funding, and evaluation to ensure the new framework works effectively for Virgin Islands families.

These priorities reflect AARP's commitment to financial security, family caregivers, improving access to understandable legal information, aging in place, and the preservation of family assets and generational wealth.

## **Conclusion**

Madam Chair and members of the Committee, probate reform is ultimately not just about statutes, lawyers, or court proceedings. It is about the Virgin Islander who spent decades acquiring and maintaining a home, the person who saved what they could to leave something behind, and the surviving spouse or family member navigating loss while also facing important legal and financial decisions.

For these reasons, AARP Virgin Islands strongly supports Bill No. 36-0277 and urges its favorable consideration. With thoughtful implementation, this legislation can give Virgin Islands families a clearer path to protect what a loved one built and carry that legacy forward.

Thank you for the opportunity to testify.

I would be pleased to answer any questions the Committee may have.