

Testimony of Tom Bolt
Chair, Virgin Islands Uniform Law Commission
Chair, Virgin Islands Bar Association Probate Committee
on Bill No. 36-0277
Committee on Rules and the Judiciary
Thirty-Sixth Legislature of the Virgin Islands
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Madam Chair members of the Committee on Rules & Judiciary, Senators, legislative staff, ladies and gentlemen, good morning. I am Tom Bolt, Chair of the Virgin Islands Uniform Law Commission and Chair of the Virgin Islands Bar Association's Probate Committee. Also appearing before the Committee today is Attorney Ben Orzeske, Counsel to the National Conference of commissioners on Uniform State Laws who is an expert witness with respect to the Uniform Probate Code having appeared before many state and territorial legislature on the Uniform Probate Code. We thank you for this opportunity to testify in strong support of Bill No. 36-0277.

This legislation addresses a problem every family may face, often at one of the most painful times in their lives: settling the affairs of a loved one who has died. The process should help families identify the rightful heirs, protect the estate and distribute property according to the decedent's wishes and the law. Too often, our existing system adds delay, expense and uncertainty to an already difficult time. Our towns of Christiansted, Frederiksted and Charlotte Amalie are littered with abandoned buildings and homes due to complicated, lengthy and costly process that Virgin Islanders face under our current probate law.

For more than 18 years, members of the Virgin Islands Bar Association, the Virgin Islands Uniform Law Commission and the people of these Virgin Islands have worked to improve that system. The Legislature enacted the Uniform Probate Code in 2009. Many of its provisions were repealed in 2011. Since then, lawyers and other members of our community have continued to study the law, address concerns and work toward legislation best suited to the Virgin Islands.

That history has taught us that meaningful reform requires careful work and broad understanding. The proposed code reflects that work. We are ready to move forward.

Our current probate law still relies upon an outdated statutory framework. The Uniform Probate Code, by contrast, has been revised over time to respond to changes in families, property ownership and estate administration. Bill No. 36-0277 would bring the heart of that modern framework to the U.S. Virgin Islands through updated rules for inheritance, wills, estate administration and probate matters involving more than one jurisdiction.

The need is practical and immediate. Under the current system, court supervision can be required even when an estate is straight forward and no one disputes what should happen. That can add hearings, expense and delay for families and consume court resources that could be used where judicial attention is truly needed.

Bill No. 36-0277 provides a more flexible approach. In appropriate, uncontested cases, estates could proceed informally, with notice to heirs and devisees and access to the court when a dispute or legal question arises. Personal representatives would have clear authority to manage estate property and carry out their duties. When people disagree or need a court ruling, the court remains available to protect their rights. The legislation before you also retains the existing option to settle an estate without administration when the circumstances permit.

The bill would also make the law fairer and clearer. Its rules for intestate succession would use the "per capita at each generation" method to distribute an estate among descendants. That approach can avoid uneven results when a person's children have died before them and grandchildren inherit through different family branches.

The bill updates the surviving spouse's elective share as well. The current rules can produce results that turn heavily on how property was titled, even when the couple accumulated or held assets together. The Uniform Probate Code considers the length of the marriage and a broader picture of the spouses' property and transfers. That can better protect a surviving spouse while recognizing the circumstances of the marriage and the interests of children from earlier or outside relationships.

In addition to enacting the Uniform Probate Code, adoption of this legislation would make available forms designed to simplify the probate procedures. Those forms could help Virgin Islands families understand and complete routine filings, including families who lack the financial means to hire counsel or who prefer to handle an uncomplicated estate themselves. Making the process more accessible can help people take the steps needed to settle an estate and transfer property without avoidable confusion.

The legislation also includes a delayed effective date to give the Virgin Islands Bar and our courts' administrative staff time to learn the new law and prepare for its implementation. That period would also allow the courts to consider how probate matters should be assigned: whether to continue using Magistrate Judges or designate a probate judge. If the courts determine that additional resources are needed, the delay would provide time to assess those needs and request appropriate funding from the Legislature.

Finally, clear rules for multi-jurisdiction estates matter where people may own property or have family ties down-island or in other stateside jurisdictions. The bill sets out how personal representatives can act when an estate crosses jurisdictional lines, reducing uncertainty for families and practitioners.

This legislation will not eliminate grief or settle every family disagreement. What it will do is give Virgin Islands families a clearer, more efficient process when they must settle an estate, and it will reserve court involvement for only the matters that need it. It will also give Virgin Islands residents and practitioners a modern set of rules supported by decades of experience in jurisdictions that use the Uniform Probate Code which has been adopted in whole or in part in some 39 states.

After more than 18 years of work, we have an opportunity to replace unnecessary burdens with a system that is clearer, fairer and more responsive to the needs of the people of this Territory. I respectfully urge the Committee to support Bill No. 36-0277 and advance it for consideration by the full Legislature.

Thank you for this opportunity to appear before you today. If we can address any questions that the members of the Committee or Senators may have, Attorney Orzeske or I would welcome the opportunity to address same.