

JOINT TESTIMONY OF
REGINA DECHABERT. PETERSEN
ADMINISTRATOR OF COURTS

AND

THE HONORABLE HAROLD W.L. WILLOCKS
ASSOCIATE JUSTICE

ON BILL 36-0101

BEFORE

THE THIRTY-SIXTH LEGISLATURE
COMMITTEE ON RULES AND JUDICIARY

ON

SEPTEMBER 8, 2025

Good Afternoon, Honorable Chair Joseph, Honorable Vice-Chair Gittens, Honorable Members of the Committee on Rules and Judiciary, Honorable Members of the 36th Legislature present, Legislative staff, ladies and gentlemen.

I am Regina DeChabert Petersen, Administrator of Courts, and head of the Judicial Branch Administrative Office with primary responsibility over the day-to-day internal non-judicial operations of the branch including assisting the Chief Justice in making recommendations to the Legislature of the Virgin Islands, as appropriate, for changes to the organization, jurisdiction, operation, and procedures

of the courts which are appropriate for legislative action, as well as any other changes that promote the effective and expeditious administration of the judicial branch and the Virgin Islands court system as outlined in 4 V.I.C. section 4(c)(3). The authority to appoint judicial officers to assist judges existed in chapter 3 of the V.I. Code and in the 1921 codes which allowed the appointment of Court Commissioners who acted to assist the District Court Judge in resolving cases and to act when the District Court judge was absent from the Territory. Bill 36-0101 speaks to a 49-year-old judicial function, the appointment of senior sitting judges to:

- (1) Temporarily oversee the docket when one of the ten (10) authorized Superior Court judgeships or four (4) authorized magistrate judgeships is vacant due to the incumbent's elevation, death, resignation, retirement, or term expiration;
- (2) Combat case backlogs, over-crowded dockets and other delays by hearing a defined class of cases to permit active judges and magistrate judges time to concentrate on complicated, multi-issue, and/or time-consuming cases; and
- (3) Hear a specific case when every active judicial officer qualified to hear the case has recused due to an ethical or other conflict.

When I appeared before this Committee in February, I specifically identified the limitations placed on this authority in November as a significant challenge facing the Judiciary, so I understand the invitation to me to testify on this bill in that context. However, because this is a judicial function and affects the administration of justice in the Virgin Islands, I am pleased to have with me today, Associate Justice Harold W. L. Willocks, to speak on the limitations and the compromise to reinstitute a

critical tool used to assist with management and caseload reduction, because as a former Presiding Judge, who was once responsible for case assignment and management in the Superior Court of the Virgin Islands, he made recommendations to the Chief Justice for the appointment of Senior Sitting Judges pursuant to the then existing statutes and court rules. When his own terms of service expired without nomination, he also served in senior sitting status, covering and disposing of hundreds of cases.

Associate Justice Harold W. L. Willocks

The Judiciary began fiscal year 2025 with 11,666 cases pending and awaiting disposition. As of June 30, 2025, an additional 10,168 new matters have been filed and 9,097 matters have been disposed for a case clearance of nearly 90%, which results in a current caseload of 12,737. Approximately 1300 cases are assigned to the three judges, who will retire at the end of their 180-day hold-over period, and for whom, to date, no new nominations for replacement have been sent. As we have informed this body previously, except for the impact of natural disasters and the pandemic on case management within the branch, judicial vacancies are the greatest contributing factor to the growth of pending caseloads over the past 2 decades. Only judges can exercise judicial power, and with the exception of magistrate judges, the Judiciary doesn't hire judges. The Governor must nominate an individual to serve

as a Judge, and the Legislature must provide its advice and consent to confirm the process.

In May of this year, the terms of 4 of our 10 judges expired. Only one judge, the Honorable Jessica Gallivan, who is now the Presiding Judge based on the rules of seniority, was renominated to a second 6-year term, prior to the expiration of her term. Judge Gallivan was confirmed during the 180-day holdover period without any adverse impact to caseload management in the Family Division in St. Croix. That, however, may not be the case for the other 3 judges whose terms have come to an end. Judge Debra S. Watlington, who is the family court judge in the St. Thomas/St. John District, Judge Kathleen Mackay, a general jurisdiction judge in the St. Thomas/St. John District, and Judge Douglas Brady, a general jurisdiction judge in the District of St. Croix have all indicated their intent to retire, and to date, no names have been submitted to replace those judges who plan to retire. To be clear, in less than 60 -70 days, the holdover periods for the incumbent Judges will expire, and the administration and management of their caseloads will be left to be re-distributed or otherwise re-assigned by Presiding Judge Gallivan until such time as new judges are confirmed.

To provide further context to the current crisis, not of the judiciary's making, the pertinent provisions of the Virgin Islands Code clearly contemplate that the Governor will either reappoint an incumbent judge or select a new judge **before** the

end of an incumbent judge's six-year term, and that the Legislature will confirm, if not before the expiration of the six year term, then certainly within the 180-day grace period, so there are no adverse impacts to case management. However, this theory or assumption has not necessarily held true. Historically, with few exceptions, nominations have been significantly delayed, often leading to breaks in judicial service and confirmations well beyond the expiration of the six-months grace period, making a specialized tool, the appointment of senior sitting judges, common place out of necessity. The Judiciary will certainly face a significant crisis of judicial vacancies come November, and it is also important to note that the terms of 2 more Superior Court Judges will expire in 2026.

The irony is that despite the special ordered bill that was signed into law in November, all of the retiring judges qualify to preside as senior judges over the 1,300 cases, but only once the Chief Justice certifies that no sitting judge can preside over each of the 1,300 cases due to a conflict. This requirement is not only time-consuming and overly burdensome, but also highly impractical. This is the undeniable impact of the change in the law, and this certification requirement still exists in this new bill.

To ensure continuity of the most critical of judicial functions, the management, and disposition of cases, Section 1 of Bill 36-0101 would amend title 4, chapter 5, section 72(a) of the Virgin Islands Code to strike the 180-day limit of

service after the expiration of a judicial term, and allow the judge to continue to serve unless renominated and confirmed, or the confirmation of a successor occurs. This change should inspire timely nominations but importantly eliminate the need for entire caseloads to be re-assigned on an interim basis. This is the current process in the federal judiciary, where a District Court judge serves after expiration of the 10-year term, until his or her successor is appointed and qualified.

Section 2 would amend title 4, chapter 5, section 74a of the Virgin Islands Code by designating the existing language as section 74a(a) and amending it to establish a mechanism to appoint a former judge to hear a case or cases due to conflict, disability, absence, suspension, or other disqualification or unavailability of a current judge, and to permit the Chief Justice to waive the 12-year service requirement upon further certifying that no former judge possessing at least 12 years of service is available to hear the case or cases. This is important, because currently in the Territory, only three former Judges and the three retiring judges meet the 12-year requirement, and they have to be willing and able to serve.

Section 2 further creates a new section 74a(b), which authorizes the appointment of former judges to serve as Senior Sitting Judges for renewable terms not to exceed one year. Section 3 would amend title 4, chapter 8 of the Virgin Islands Code to create a new section 127, which authorizes the Chief Justice of the Virgin Islands to recall, with his or her consent, a former justice of the Supreme Court,

former judge of the Superior Court, or former magistrate judge of the Superior Court, without regard to years of prior service, for temporary service as an acting magistrate judge of the Superior Court. This very well could become a critical tool as three Magistrate terms will be expiring within the next six months, and we continue to face challenges with recruitment.

Finally, Section 4 would amend title 4, chapter 8 of the Virgin Islands Code to create a new section 128, to authorize the Presiding Judge of the Superior Court to appoint no more than four members in good standing of the Virgin Islands Bar to serve as part-time magistrate judges for terms not to exceed three years, and to place limitations on the types of matters such part-time magistrate judges are authorized to hear, subject to the approval of the Chief Justice. These provisions, taken together, will ensure that the Judicial Branch not only always has access to its most important resource—judges—but the flexibility to temporarily assign them where they are needed most.

The Judiciary has and will always challenge itself to increase operational efficiency and effectively manage caseloads. The public we serve and other two co-equal branches of government expect and demand no less. This demand isn't something new. But the judiciary needs more tools and funding, not less, to meet and rise above those challenges. The responsibility to nominate must involve

advanced planning and must be done timely to avoid or otherwise mitigate the challenges a judicial vacancy creates, let alone multiple vacancies occurring at once.

On behalf of the Judicial Branch of the Virgin Islands, Administrator Petersen and I again thank you for the opportunity to provide testimony in favor of Bill No. 36-0101.