

# 35th LEGISLATURE OF THE U.S. VIRGIN ISLANDS

COMMITTEE ON RULES AND JUDICIARY

CHAIRPERSON – HONORABLE DIANE T. CAPEHART

Friday, May 24, 2024



## VIRGIN ISLANDS DEPARTMENT OF HUMAN SERVICES

TESTIMONY ON

*Bill No. 35-0174 An Act repealing and reenacting title 15, Virgin Islands Code, article V parts 1, 2, 3, 4, enacting part 5 and renumbering part 4A as part 6, to repeal the Uniform Guardianship and Protective Proceedings Act and enact the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act with amendments and for other related purposes*

1 A pleasant Good day, Honorable Diane T. Capehart - Chair of the Committee on Rules  
2 and Judiciary, Honorable Milton E. Potter - Vice Chair, committee members, other  
3 Senators present, and the listening and viewing audiences. I am Carla Benjamin,  
4 Assistant Commissioner for the Virgin Islands Department of Human Services (VIDHS). I  
5 am pleased to be invited to provide testimony on **Bill No. 35-0174 - An Act repealing**  
6 **and reenacting Title 15, Virgin Islands Code, Article V parts 1, 2, 3, 4, enacting Part**  
7 **5 and renumbering Part 4A as Part 6, to repeal the Uniform Guardianship and**  
8 **Protective Proceedings Act and enact the Uniform Guardianship, Conservatorship,**  
9 **and Other Protective Arrangements Act with amendments and for other related**  
10 **purposes.**

11 The Department supports the intent of this very important Bill, which seeks to provide  
12 protections for our vulnerable citizens who cannot fully manage their own affairs, while  
13 simultaneously securing a measure of autonomy and self-determination for those same  
14 individuals. However, there are a few minor revisions and areas of concern from the  
15 VIDHS perspective.

16 We believe that the proposed definition of "parent" on page 3 line 21 of the Bill, captioned  
17 in section **§ 5-102 (21) "Parent" does not include an individual whose parental rights**  
18 **have been terminated.** - is too broad as it provides no definition of a parent, only  
19 references the exclusion. We recommend that the definition of "parent" captioned in **5**  
20 **V.I.C. 2502 (21) "Parent" means the father or mother of a child and includes any**  
21 **adoptive parent. It does not include a person whose parental rights in respect to**  
22 **the child have been terminated in any manner provided by law.** be utilized as it

23 provides a more comprehensive definition of who is a parent and includes the requisite  
24 exclusion.

25 Page 16 line 5, after “of” delete “Humans Services Division of Children, Youth and  
26 Families” and insert “Human Services.” The Division of Children, Youth and Families no  
27 longer exists by that name. Simply the “Department of Human Services” will encompass  
28 the child protective services and adult protective services divisions that address  
29 protection issues across the lifespan.

30 We have concerns with reference to page 24 lines 8 through 24 and page 25 lines 1  
31 through 4, which is § 5-204. *Attorney for minor or parent.* Notwithstanding the minor or  
32 parent(s)’ right to secure legal representation, we believe that legal counsel should be  
33 appointed to minors and parents even if they do not request representation or do not  
34 object to the guardianship. In light of the fact that the legislation now empowers minors  
35 from the age of 12 years old, we do not believe that they should be required to request  
36 legal representation. Similarly, as parents may not be fully aware of the repercussions of  
37 guardianship, parents who do not object should be provided with legal counsel to ensure  
38 that they are fully informed about the proceedings.

39 Page 33 lines 14 and 15 **§ 5-210 (d) a guardian for a minor may consent to the marriage**  
40 **of a minor if authorized by the court.** This provision is in direct violation of Act 8459 which  
41 struck 4 V.I.C. Chapter 11 § 172 (e) divesting the court of jurisdiction over judicial consent for  
42 marriage of a child. This provision is a violation of 16 **V.I.C. § 36 § Issuance of marriage**  
43 **license to minors prohibited – “If upon the examination prescribed by § 35 of this**  
44 **chapter, it appears that the applicant is under 18 years of age, the court shall not, under**

45 ***any circumstances issue a marriage license.***” We recommend that this paragraph be  
46 deleted.

47 Page 30 lines 10 through 16, **§5-208. *Emergency guardian for minors*** introduces  
48 appointment of an emergency guardian by the court on the grounds of preventing substantial  
49 harm to the minor’s health, safety, or welfare. The Department objects to every instance  
50 where such authority is given the court without the associated requirements to ensure that  
51 the minor is not being placed under the authority of an unsafe person or in a home with unsafe  
52 persons. The Department already has statutory responsibility to step in to ensure the health,  
53 safety or welfare of minors and has the added responsibility of conducting NCIC fingerprint  
54 criminal background checks, sex offender registry checks and child abuse registry checks in  
55 order to reasonable ensure the safety of minors. The court should be required to ensure a  
56 similar level of due diligence if intervening in lieu of the Department.

57 In closing, I thank you again for this opportunity to provide testimony. I extend thank yous  
58 to my Executive Branch colleagues, as well as the Honorable Governor Albert Bryan Jr.  
59 and the Honorable Tregenza A Roach, Esq. We at VIDHS will continue to live out our  
60 commitment to **“Working Together to Make a Difference”** for the people of the Virgin  
61 Islands. Thank you.