

Protect the Government or the People? Senators Debate Limits on Victim Compensation in Liability Bill

Sen. Alma Francis Heyliger attempted to raise the limit from \$25,000 to \$150,000 for damages awarded against the government, but the bill was held again as lawmakers and the attorney general pushed for amendments that could limit victim compensation.

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Senator Alma Francis Heyliger, sponsor of Bill 36-0042, which seeks to raise the government liability cap from \$25,000 to \$150,000. By. V.I. LEGISLATURE

As lawmakers again voted to hold legislation that would raise the maximum amount individuals can recover in judgments against the Government of the Virgin Islands, a larger debate is emerging—whether fiscal caution should take priority over fair compensation for victims. What

began as a bill to increase the \$25,000 cap to \$150,000 has now been met with growing calls to include additional limitations, such as aggregate caps and sovereign immunity, prompting concerns from some senators about who the measure ultimately serves.

For the [second time in as many months](#), Bill 36-0042, an act increasing the maximum judgement amount for the award of damages against the Government of the Virgin Islands from \$25,000 to \$150,000, has been held in committee.

Sponsored by Senator Alma Francis Heyliger, the bill was first held pending comment from the territory's attorney general. A further amendment was expected to change Senator Francis Heyliger's proposed cap downward to \$100,000 following dialogue among legislators.

Now that Attorney General Gordon Rhea has weighed in, lawmakers have again voted to hold the bill until amendments are made based on his suggestions. Mr. Rhea appeared before the Committee on Budget, Appropriations, and Finance on Thursday and largely agreed with Senator Francis Heyliger's efforts to increase the liability cap. However, as he informed lawmakers, "courts within the territory have construed that cap in a manner that's greatly expanded the government's liability." Specifically, the courts allow "multiple judgments in one lawsuit to persons with independent causes of action as a result of a single tortious incident."

Therefore, the government may end up paying out much more than the current \$25,000 cap as long as there are "persons with independent causes of action." As an example, he asked lawmakers to consider a scenario where multiple people on a bus are injured in an accident.

It is based on this reality that Mr. Rhea suggested further amending the Code to include language creating "statutory caps, either aggregate or per incident, and sovereign immunity." An aggregate, he explained, makes the government globally liable only up to a certain amount no matter the number of claimants involved. Without it, the government could potentially have to pay out massive sums.

"The Department of Justice would propose limiting any increase in the cap to somewhere between \$50,000 and \$100,000 but only if the law is amended to make this an aggregate cap on all claims and causes of action," Mr. Rhea proposed. "It may be appropriate to follow the lead of some other jurisdictions and increase the cap to \$50,000 for plaintiff and \$100,000 in the aggregate, for all claims arising from the same act, occurrence or series of events."

Another proposed amendment involves tweaking the Torts Claim Act. "When the employee is sued under the Tort Claims Act, as it's written now, the government becomes a defendant. But we're a co-defendant with that employee, and this cap doesn't speak to that employee's liability," said Christopher Timmons, Civil Chief for the VI Department of Justice.

Throughout the meeting, nearly every committee member signaled an intention to take AG Rhea's recommendations under serious consideration. However, the bill's sponsor found them ill-timed. "I appreciate your potential ideas to change other parts of the code, sometimes it concerns me because it gives the impression that this bill is doing something that it actually isn't," said Senator Francis Heyliger.

Mr. Rhea felt differently, encouraging that the bill be approached within "a larger context" particularly with the courts' ability to interpret the law in the manner that they have historically done. "If there's 10 people who are involved because of a truck collision...suddenly there are 10 people that can make claims, and this is really a \$1.5 million case," he illustrated.

There appears to be a strong push among several key figures to limit the government's exposure to higher payouts, even if that means capping what individuals can recover in legitimate claims. Chief among them is Rhea, who advocated for either an aggregate cap or per-incident limits, suggesting a maximum of \$50,000 per plaintiff and \$100,000 overall. He was joined in principle by Senator Marvin Blyden, who said the cap “will make the bill even stronger,” Senator Marise James, who welcomed the idea of protecting the government, and Senator Kurt Vialet, who cautioned that such increases “come at a cost” and must be funded appropriately. Together, their positions signal a legislative appetite for liability control, even as others warn this approach could shortchange victims seeking justice through the courts.

“I appreciate your perspective in terms of looking at it holistically,” Senator Marvin Blyden stated. He felt that an aggregate cap “will make the bill even stronger.” Senator Marise James concurred. “I actually appreciate the fact that you've raised these concerns, because we can make the legislation even better to protect individuals as well as to protect the public and the government,” she told Mr. Rhea.

Committee chair Senator Novelle Francis was also supportive of the DOJ's recommendations, but he was concerned that where there are multiple claimants involved in an event, they may end up collecting less than the current \$25,000 cap. “When you have a restrictive cap, or aggregate cap of \$100,000, then that could be problematic to ensure that every claimant is then treated adequately and fairly,” he stated.

Mr. Rhea admitted that he did not have a “solid answer” but promised to return to the drawing board where that nuance is concerned.

“I do not agree that \$150,000 should be the aggregate,” stated Senator Alma Francis Heyliger when she chimed in once more. Though she had warmed up to the idea of an aggregate, she shared similar concerns as Sen. Francis. “If 10 people got hurt in an accident, and you get to negotiate each one of them, potentially, some of them might walk away with \$7,000 because they got a leg cut off.”

Senator Kurt Vialet was concerned with money matters. Though supportive of the liability cap increase, he reminded his colleagues that “it comes at a cost to the government of the Virgin Islands, and if it's not appropriated, then it can't be paid.” In April, Office of Management and Budget director Julio Rhymer said that it would be difficult to fund the increase.

Senator Hubert Frederick was less interested in the availability of cash, instead focusing on whether “we're more protecting the government's position and not the public's position for liability. As he reminded his colleagues, “we represent the people, and we have to make sure that they're treated fairly as well in a situation like this, we can't let them go to court and keep coming out of there with \$25,000.”

Invited to close out the discussion, Senator Francis Heyliger again rubbished some of the DOJ's recommendations. “In doing all my research, is \$100,000 that's the lowest, but apparently we deserve \$50,000,” she stated. “At what point do we put the people first?” “I question a lot of times, when we get elected that we forget who we came in here to represent; the government, or actually the people.”

“I don't agree that the whole kitchen sink has to be dumped into this bill,” she said, reiterating the sentiment that amendments to Bill 36-0042 should be limited to the liability cap.

Notwithstanding, her colleagues voted to hold the bill for now.

