

The Virgin Islands Consortium

Expungement Bill Described As 'Liberally Crafted' Fails After Vehement Opposition From A.G. Walker

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ST. THOMAS -- An [expungement bill](#) sponsored by Senator Janelle Sarauw was held in the Committee on Homeland Security, Justice and Public Safety Thursday after it was called into question by Attorney General Claude Walker, seen above, who said the measure was the most liberally crafted of its kind in all of the U.S.

"First, before discussing this issue in more detail, I want the members of this committee to understand that I vehemently oppose this measure," Mr. Walker began. "As written, this proposed legislation is the most liberally-crafted language when compared with the department's survey of other jurisdictions' expungement statutes. Today's proposed measure will allow child molesters, rapists, and depraved murderers to apply for

expungement after a period of only five years—and with no limit as to the number of expungements an individual may receive—contrary to other states' statutes."

He added, "This legislation, at a minimum, needs to explicitly list which types of felonies should be expungable and which are prohibited."

Kirsten K. Greenaway, who has a criminal conviction on her record, testified in support of the bill, stating that 18 years ago she found herself around the wrong crowd and got into some trouble. "But I served my time and decided to better my life," Ms. Greenaway said, adding that prior to her conviction, she was employed as a graduate practical nurse, which all came to a halt following her the 18-year-old incident.

H. Hannibal O'Bryan, deputy chief territorial public defender, testified in support of the bill as well. Among other things, he spoke of a young man he said had taken a wrong plea deal that has to this day hindered this young man's progress.

"We as a society are charged with the responsibility of getting the most out of all our citizens irrespective of where they start out on the socioeconomic ladder," Mr. O'Bryan said. "It has been shown on many occasions that the pursuit of happiness is at most an illusion if unaccompanied by realistic opportunity for upward mobility."

But lawmakers -- and even the bill's sponsor, Ms. Sarauw -- agreed with Mr. Walker's concerns.

"The department cannot stress enough the gravity of what a felony crime may encompass—murder, rape, kidnapping, and domestic violence are but a few. As attorney general, I would not support any legislation that would allow all felonies carte blanche to be eligible for expungement—as this proposed measure does," Mr. Walker said.

"There must be as much deterrence as possible for the most wicked or violent crimes. While the department understands that offenders convicted of a felony are entitled to a new start in life following their sentence, it is also cognizant of the fact that some of these individuals will re-offend in the future—oftentimes by committing crimes that are more serious than the ones they were previously convicted of—or have committed such a heinous felony that expungement is not warranted to begin with," the attorney general added.

He said that language in the bill setting to five years the time before offenders can apply for expungement would adversely affect the Department of Justice's ability to charge someone as a habitual offender. "In other words, if someone commits a felony within ten years of completing a sentence for a previous felony, then the department would be able to apply for habitual offender status for that individual. However, if that person has applied for and received an expungement within that ten-year period, then the habitual offender statute would be undermined. What would be the point of having a ten-year habitual offender statute if after five years a felon can apply for expungement," Mr. Walker said.

Also of concern to D.O.J. was that the measure gave no guideline aside from passage of time to expungement one's criminal record, and it sets no limit, either.

"There is no suggested guidelines or factors for a judge to follow when considering if the felon is rehabilitated—such as age, severity of the crime, and freedom from other criminal convictions," the A.G. said. "In some jurisdictions, a court may grant expungement once, but this proposed legislation appears to allow convicted felons to apply multiple times—leading to an abuse and manipulation of the process."

The bill was voted to be held in committee by all senators present at the hearing -- Senator Bryan Smith, chairman of the committee, Jean Forde and Ms. Sarauw.

In other action, lawmakers voted favorably for Bill No. 32-0241 – An Act amending title 23 Virgin Islands Code, Chapter 10, sections 1006 and 1007, relating to the Virgin Islands Emergency Management Plan and Virgin Islands Territorial Management and Homeland Security Council.

It will be forwarded to the Committee on Rules and Judiciary.