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Bill Authorizing Electronic Creation of Final Will and Testament Approved in Rules Committee

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Linda Straker **January 28, 2022**

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The Committee of Rules and Judiciary on Thursday approved a bill that would allow for people in the territory to have a second option to finalize their last will and testimony. Called the "Virgin Islands Uniform Electronic Wills Act", it is an update to legislation that did not exist when the probate statute was initially enacted, and codifies an electronic option for creating one's final will.

Bill sponsor Senator Novelle Francis explained that the Covid-19 pandemic has shown that even in the darkest times, life must go on. "In the past two years, we have embraced technology and shifted to conducting many activities virtually. Having this option has protected the public's health and allowed for many critical tasks to be completed... This bill is an update to legislation allowing us to use technology in a way that did not exist when the probate statute was first enacted," Mr. Francis said in support of his legislation.

“This pandemic has shown that we have to be willing to adapt in order to navigate the rapidly changing landscape of natural disasters and crisis,” the lawmaker added while explaining that Bill 34-0156 would allow Virgin Islanders to execute, attest or revoke their wills electronically and dispense with the traditional need for the will-maker and witnesses to be physically present in the same location when signing.

Currently under traditional state and territorial laws, a person’s last will and testament is valid if it is written only on tangible material — usually paper — and signed by the testator and two witnesses.

“These traditional requirements prevent the courts from recognizing such wills, forcing the terms of electronic wills as an abnormality in the internet age when electronic legal documents with signatures are common,” said testifier Attorney Tom Bolt.

“This Legislature recognizes this issue,” Mr. Bolt said while reminding the committee that 18 years ago in 2002, the Virgin Islands adopted the Uniform Electronic Transaction Act. “However, one of the things that it [left] out was electronic wills and so now we have this electronic will Act,” he told the committee as he shared justification for the adoption of the legislation.

Senator Carla Joseph expressed concerns about those who may abuse the new system. “I spoke to local attorneys and they were concerned about how the wills are going to be attested. The concern was that fraud could occur because these wills are done electronically,” she said.

However, in reply to her question, testifier Attorney Benjamin Ozeki said, “To our knowledge, we have not seen cases of fraud involved in electronic wills. This is a new Act and so there is not a lot of history.” Mr. Ozeki added that the technology to create electronic wills and securely store them actually improves the security measures compared to traditional paper wills, “which can be forged or you could insert pages fraudulently. That is not possible with an electronic will and so we don’t expect to have any problems with fraud,” he said.

Mr. Bolt said it's very important that an attorney oversees the arrangement of an electronic will. He also believes that the electronic format of finalizing a will may increase the number of people who will put their last wish and testimony in an acceptable legal format. “The other thing is, we want Virgin Islanders to increase those numbers. In my testimony I said that about half of the people are failing to write a will, but I think for Virgin Islanders I think it's even higher,” he said.

Troy A. de Chabert-Schuster, state director of AARP Virgin Islands, praised the move to have legislation that would accept electronic wills. He said his organization has done a lot of planning centered around this through workshops.

“We have done a lot of work with the Government Employees' Retirement System... Educating the people about developing trust, wills, etc. and so by adopting the bill, Virgin Islanders will have more access to legally enacted wills through remote services, thereby ensuring their assets are maintained. This bill provides another option for Virgin Islanders,” he said.

The bill will be before the Committee of the Whole next, and if approved it will be forwarded to Governor Albert Bryan for further action.

The complete number of bills approved during the Committee on Rules and Judiciary were:

Block I:

Bill No. [34-0152](#) — An Act amending Title 27 Virgin Islands Code, chapter 7, section 261, relating to the boards of examiners for trades and crafts, to change the number of members on the boards

Invited Testifiers:

Richard Evangelista, Commissioner, Department of Licensing & Consumer Affairs

Nathalie Hodge, Asst. Commissioner Department of Licensing & Consumer Affairs

Geraldine Vaval, Esq., General Counsel Department of Licensing & Consumer Affairs

Sonia Boyce, Executive Director, VI Workforce Development Board

Julio U.B. King

Block II:

Bill No. [34-0156](#) — An Act amending title 15 Virgin Islands Code, part 1, relating to decedents estates by adding chapter 1A enacting the “Virgin Islands Uniform Electronic Wills Act”

Invited Testifiers:

Troy A. de Chabert-Schuster, State Director, AARP Virgin Islands

Alisha Udhwani, Esq. President V.I. Bar Association

Tom Bolt, Esq. BoltNagi PC

Block III:

Bill No. [34-0087](#) — An Act providing for a Complete Streets Policy and creating a Complete Streets Task Force within the Department of Public Works to aid in the development and implementation of strategies to increase the usability of all streets for all modes of travel for citizens of all ages and abilities in the Virgin Islands.

Bill No. [34-0096](#) — An Act amending title 3 Virgin Islands Code, chapter 1 by adding a section 27j, establishing the Virgin Islands Virtual Information System; and providing for other related purposes.

Block IV:

Bill No. [34-0090](#) — An Act amending title 3 Virgin Islands Code, chapter 25, subchapter V, section 570 relating to the Career Incentive Program for peace officers to extend the program to all peace officers identified in title 5 Virgin Islands Code, section 3561(a).

Bill No. [34-0146](#) — An Act acknowledging and commending the memory of Mary Thomas, Axeline Salomon, Mathilde McBean, Susanna Abramson, and other estate laborers before, during, and after the Labor Uprising of 1878 or “Fireburn” and their courageous pursuit of human rights, freedom from serfdom variant, and improvement of labor conditions in the former Danish West Indies, and condemning the excessive, cruel, and unjust punishment meted out to the laborers by the Danish government.

Bill No. [34-0157](#) — A Resolution honoring and commending Gloria H. Canegata Waterman for her outstanding years of service to the Virgin Islands community as an educator and public servant through various organizations.

Bill No. [34-0174](#) — A Resolution commending the Ivanna Eudora Kean High School on St. Thomas, Virgin Islands on the occasion of the commemoration of its 50th Year Anniversary (1971-2021) and acknowledging the many accomplishments of the administrators, teachers, and students.

Bill No. [34-0182](#) — An Act amending Title 31 Virgin Islands Code, chapter 1, section 4, relating to the naming of real and personal property of the Government of the Virgin Islands after persons, to exempt the University of the Virgin Islands from the requirement of obtaining legislative approval before naming any property of the University of the Virgin Islands for the sole purpose of allowing fundraising by the University and exchange for and recognition of significant financial bequests or endowments