

P. O. Box 11
Allen, MD. 21810
November 28th, 2025

Task Force on Fiduciary Adjudication
Sen. Nick Charles, Chairman

Dear Senator Charles and the Members of the Task Force,

First, thank you for the work you have undertaken. As was said in the bill that created this task force, probate law has changed and evolved with the times. There are non-probate assets that have to be managed, and under the current system, some of that has to be taken to a different court for simultaneous but separate adjudication. Changing any court system, especially in regard to matters that have been constitutionally designated to specific courts, is not something to be done lightly or in a hurry, because, as was also said (by Mr. Macfarlane, as I recall) it is a project that should carry the needs of the citizens of Maryland forward for generations. It has to be right, right from the gate. So the responsibility you have for your recommendations, carrying as they do the expectation that you have examined the subject and studied the alternatives up, down, and sideways, is a heavy one, indeed. Thank you for being willing to do the hard work to undertake this study.

The intent of the legislation, as Ms. Preteroti and Mr. Lasley have explained more than once, was to find the best way to make the settlement of estate matters and related non-probate matters more efficient. One would have expected a great deal of brainstorming as to what that process, what a proposed new or modified court, would look like. One would expect to take the best parts of the current bifurcated parts, and brainstorm how to meld them into a new, or an expanded, court. To actually *study* the current courts, it would have been helpful, perhaps, to go into the field and actually observe the way they function. Along with that, some consideration of the time it takes to get on the docket, in various jurisdictions, how the matters are handled, what sort of solution is being sought, and many other parts of the different processes, keeping always foremost in mind what best serves the people of Maryland.

That is not what happened. As Senator West said in the last meeting in November, this work was not what he had in mind when he sponsored the bill. What you have spent the last six weeks doing in holding a trial with the defendant being the Orphans' Court. The defendant's chief crime that is being alleged is that most of the judges who sit on that court are lay people, not attorneys.

That is exactly what the founders intended when the court was created. They are lay people because they are administering and sometimes interpreting the law as it applies to the settlement of the worldly affairs of deceased citizens. The court was created to be user-friendly, fast, and accessible to local people so they could get the help they need at one of the most difficult times

of their lives. For that reason, some of Maryland's Rules are written expressly for procedures in Orphans' Court; others specifically exclude the Orphans' Court. To suggest - nay, say outright as was done in one of your meetings - that lay people are not able to understand the law is not only preposterous, it's slanderous and when reported, or given in an interview which is then printed by the press, as some have done, it is libelous. Among the lay judges are many with advanced degrees, even MDs and PhDs, that happen to be other than Juris Doctorates. Even those with less formal education have fine minds and plenty of common sense. There are good judges, great judges, mediocre judges, and bad judges in the Orphans' Court system, just as there are in any court system at any and all levels. Every one of these categories consist of both lay and attorney judges. In fact, currently the ones getting all the negative press are attorneys.

Did you know that holding a J. D. is not required for ANY federal bench, up to and including the Supreme Court of the United States? Appointments are typically made from among the Bar, but there is no legal requirement. Twenty-two states in this nation have specialty courts with lay judges; some of whom even rule and on criminal matters and set sentences. It doesn't seem to bother the Task Force that Registers are not required to be attorneys, even though, as they have told you again and again, they are doing most of the administrative estate work.

[An aside here - the Registers have a big job to do and it is important. They are trained to do it from the prospective of their jobs, which they should. Judges have a different job to do, also very important, and are trained to do it from a judicial perspective. The perspectives are different, but in tandem these differing perspectives are designed to produce excellent, well-rounded outcomes. They would, if the teamwork was not being poisoned.]

To return to the subject of lay or attorney, there is no requirement for members of the Legislature to be attorneys - but they write the laws, or at least create them, often after evaluating the texts as written by attorneys. Lay judges, ALL Orphans' Court judges, receive intense, concentrated, and comprehensive education on probate law. It is not beyond most reasonable people's ability to understand and master. Come to a class or two and see for yourself. Come visit our courts.

If the question is how to solve the perceived problems with the intertwined matters, then the resultant questions are naturally, do we move all of it to an existing court that has always handled the non-probate matters, but has very little general experience with probate; or, do we create a new court division and find a way to thoroughly educate a new class of judges in all the issues at once and how they are intertwined; or, do we expand the jurisdiction of an already existing court, with structure, framework, education pathways that can be easily expanded, and offices/ courtrooms already in place? Would the latter be a good place to start, at low-cost start-up, as a pilot program?

I request that you consider recommending to the Legislature that you be given more time to study the subject you have undertaken to master. First, the law under which your committee was created gave you six months for the study, half of which was gone before you started. In the six weeks or so you have been working, you have had less than eight hours of discussion. Quite a bit of the "data" that has been supplied to you has been incorrect or incomplete, or otherwise flawed. When called out on the discrepancies, the source has come back with either different

numbers or different definitions of terminology. Even the staff, who have done excellent work, have found that some of the data is hard to come by, and even harder to verify, because the records are not kept with the specificity that has been needed. That data can be collected, but it will take more time. Only a cursory look has been given at how it works in other states (as required by the bill), with just numbers of this or that and no study of the hows and wherefores. No brainstorming has taken place within the meetings as to how the ultimate goal should look and function, so how can you be expected to recommend the roadmap to get there? And public input has to be registered in the middle of our national four day weekend and presented at six p.m. on the first day back to work, a time frame that is guaranteed to minimize the actual public participation, even from people who care. If there has been any actual public invitation beyond the Task Force meetings and Legislative website - which has been out of service for most of this week - it has been insufficiently wide-spread so as to be rendered effectively invisible.

The solution you are seeking is a very big deal and will require a good bit of constitutional adjustment. The matters are those that will touch nearly **every citizen in Maryland at some time in their lives**. It deserves your absolute best efforts, not something that, through no fault of the members, has had to be done in a hurry, with compressed schedules and too little time to delve deeply, and with the presentation of unreliable and sometimes unavailable data. You have the ability and the opportunity to do a magnificent job, which can be a model for other states. Please don't sign your names to something slap-dashed together for political reasons, something that is unworthy to carry your good names into history. Please give this matter the time, the attention, and the depth of thought and true study of which you are capable and can be proud.

Thank you,

Melissa Pollitt Bright

Chief Judge of the Wicomico County Orphans' Court

Immediate Past President of the Maryland Association of Judges of the Orphans' Court

Member of the Conference of Orphans' Court Judges

Former State Representative to the National College of Probate Judges

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Testimony offered in my individual capacity, not on behalf of the Judiciary or any of its parts.