

**FINAL RECOMMENDATIONS FOR CONSIDERATION BY THE TASK FORCE TO STUDY  
FIDUCIARY ADJUDICATION  
May 2026**

**1. Recommendations Based on Preliminary Progress Report Dated Dec. 8, 2025**

- a. **RECOMMENDATION 1A:** Require all judges hearing fiduciary matters be Maryland attorneys in good standing.
- b. **RECOMMENDATION 1B:** Provide for a single court – whether it be the Circuit Court sitting as the Orphans’ Court or a specialty division like a Fiduciary Division of the Circuit Court – to have jurisdiction over all fiduciary matters.
- c. **RECOMMENDATION 1C:** Mandate improved education and training for all judges hearing fiduciary matters, including oversight and enforcement that ensures judges either comply with mandated orientation and continuing education requirements or are subject to disciplinary action.

**2. Recommendation Based on Other States’ Approaches to Fiduciary Adjudication**

- a. **RECOMMENDATION 2A:** Require that a single judge preside over fiduciary matters, ending Maryland’s distinction as the only jurisdiction in America to use three-judge panels. The number of individual judges presiding should be determined by each jurisdiction based on caseload and administrative decisions rendered by the local Circuit Court Administrative Judge.

**3. Recommendation Based on Other Courts in Maryland**

- a. **RECOMMENDATION 3A:** Require the same process for becoming a judge hearing fiduciary matters as all other trial-level judges in Maryland.
  - i. **RECOMMENDATION 3A(i):** Require that every prospective judge meet the legal qualifications of being an attorney in good standing, at least 30 years old, have been a resident of Maryland at least 5 years and a resident of their jurisdiction or circuit for at least 6 months, and be a registered voter. Each prospective judge must submit an application for a vacancy, submit a Confidential Personal Data Questionnaire to the Administrative Office of the Courts, interview with a Trial Courts Judicial Nominating Commission or similar body, and either be appointed by the Governor or be elected in a contested election. In a manner consistent with Circuit Court elections.
  - ii. **RECOMMENDATION 3A(ii):** By necessity, ending partisan quadrennial elections of judges hearing fiduciary matters.
  - iii. **RECOMMENDATION 3A(iii):** Any plan to reform fiduciary adjudication in Maryland shall require a Trial Courts Judicial Nominating Commission to evaluate an applicant for a judgeship that would have jurisdiction over fiduciary adjudication in the same manner as it would for an applicant for a judgeship of the District, Circuit, and Appellate

Courts, and for a justice of the Supreme Court. Consistent with longstanding and existing practice, this evaluation shall be based on individual merit and without preference given to applicants currently or previously serving as a judge in Maryland. Further, the Commission shall use measures including personal history, education, experience in the practice of law, business and civic involvement, personal and professional conduct, conflicts of interest, affiliation with discriminatory organizations, personal motivation for becoming a judge, and explanation of how an applicant would be fit to serve as a judge. The Commission shall then make recommendations to the Governor, who would make the final determination over which applicant is appointed, if any.

- b. **RECOMMENDATION 3B:** Require all judges hearing fiduciary matters to retire at the same age as all other judges, currently the age of 70.

#### **4. Recommendations Based on Public Debate Over Underlying Policy Concerns**

- a. **RECOMMENDATION 4A: Go-Ahead to Pursue Legislative Initiatives Prior to Any Potential Final Statewide Resolution:** Advise legislators, many of whom have been waiting for a final report by this Task Force, that no comprehensive reform package will be recommended, there is no certainty any final statewide resolution will be reached by this or a potential future task force, and, therefore, they need not await further findings. These initiatives may include the limited recommendations the task force has made, may include jurisdiction-specific reforms such as those implemented in six jurisdictions – either requiring three elected judges who must be Maryland attorneys in good standing or that the Circuit Court sit as the Orphans’ Court – or may include a statewide resolution discussed, but not recommended, by this task force.
- b. **RECOMMENDATION 4B: Introduction of Legislation in the 2027 Legislative Session for a Second Task Force:** Introduce legislation to establish a second task force with modifications as needed. These include broadening membership to include stakeholders like the Clerks of Courts and academics, and any other members deem necessary or appropriate, and expanding the jurisdiction of the task force beyond fiduciary matters to include matters that are administrative or litigatory in nature, were not contemplated in the design of this task force, but would be prudent to include as it would be in the interests of the public, judicial economy, and common sense to have one court that would have jurisdiction over all death-related legal matters.

#### **5. PREFERENCE OR PRELIMINARY VOTES: Recommendations Based on Existing Structure and Proposed Judicial Reforms**

The duties of the Orphans’ Courts and Circuit Courts should remain as-is, or a substantive reform proposal should be adopted, including one of two

proposed options, designated as Scenarios 3 and 4 in a presentation<sup>1</sup> provided to the Task Force on November 24, 2025:

- a. **RECOMMENDATION 5A: Retain Existing Constitutional and Statutory Structure for Fiduciary Adjudication.**
  - i. **Retain the existing Orphans' Courts structure and existing procedures for fiduciary adjudication in the Circuit Courts.**
    1. In 21 jurisdictions, a court of three judges, who are at least 18 and have resided in the jurisdiction in which they are seeking office for at least six months, are chosen in quadrennial partisan elections. In three jurisdictions, judges must be Maryland attorneys in good standing.
    2. In three counties, the Circuit Court sits as the Orphans' Court.
    3. Appeals from the Orphans' Courts are heard de novo.
    4. All fiduciary matters outside of probate must be adjudicated by separate actions brought in Circuit Court.
- b. **RECOMMENDATION 5B: Scenario #3: "Circuit Court Judges handling fiduciary matters within existing Circuit Court structure."**
  - i. This would effectively expand the Harford, Howard, and Montgomery Model already in use and then expand those courts' jurisdiction.
  - ii. This option has proven to be the most effective, is best supported by data produced and obtained by the Task Force, and would bring Maryland in line with most other states. The Task Force has no data to justify the need for eight (8) new full-time Circuit Court judges to handle the agreed-upon proportionately lower caseload of the Orphans' Courts. Therefore, even the "Lower-cost example" overestimates the projected fiscal impact on the state.
  - iii. This option would have the smallest fiscal impact on the State of Maryland (\$3.9 million) and be easiest to accomplish from an organizational perspective.
- c. **RECOMMENDATION 5C: Scenario #4: "Fiduciary Division within each Judicial Circuit of the Circuit Courts and Magistrate Judges in each county working for the Fiduciary Divisions."**
  - i. This option would have the largest fiscal impact on the State of Maryland (\$6.5-13 million) and be hardest to accomplish from an organizational perspective.
  - ii. We reiterate that no member of the Task Force has produced data that justifies this proposal. There is no evidence that there would be enough work for full-time judges, even when fiduciary matters such as trusts, adult guardianships, and others are added to the probate caseload.

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<sup>1</sup> PowerPoint Presentation labeled "Rev.Fiduciary.Adjudication.Scenarios.pptx"

- d. **RECOMMENDATION 5D: NEW Scenario #5 – “Circuit Court Judges and Magistrates handling fiduciary and administrative matters within existing Circuit Court structure.”**
- i. This option borrows from several offered options to comprehensively resolve matters arising from the death of a decedent.
  - ii. This would expand the Circuit Court Model already in use and then expand the courts’ jurisdiction, and streamline appeals procedures.
    - 1. This expanded jurisdiction into non-probate fiduciary matters should remedy areas of concern presented by the MSBA members of the Task Force, including redundant appeals and the need to initiate multiple causes of actions in different courts to resolve matters arising from the death of a decedent.
    - 2. There is simply insufficient evidence that the volume of de novo appeals and fiduciary matters warrants the cost or upheaval to our state judiciary envisioned by Scenario #4 above.
    - 3. However, we could bolster the case for Scenario #4 and also address administrative matters that arise from the death of a decedent – that, like fiduciary matters, must be initiated in other courts, by further expanding the courts’ jurisdiction.
    - 4. This expanded jurisdiction into administrative matters should include District Court matters like eviction proceedings, which often coincide with a decedent’s death and delay probate, and Circuit Court matters like DNA testing and parentage determinations, equitable interpretation of pre-death contractual agreements and determinations of legal title, disposition of bodily remains, and equitable resolution of multi-generational transfers of property.
    - 5. While administrative matters related to someone’s death are not within the scope of the work of this Task Force, as Registers we know that these matters arise at least as often as the fiduciary matters previously mentioned.
    - 6. It would not be sensible to undertake such significant reform to our judiciary if the result is a court that could resolve myriad fiduciary matters but could not adjudicate evict a holdover tenant or clear title to real property, or even resolve a dispute over the disposition of bodily remains.
    - 7. Establishing a court with general jurisdiction overall post-death fiduciary *and* administrative matters would be in the interest of judicial economy and the public interest.
    - 8. Appropriately rename this court the “Probate Court.”
  - iii. We expect the fiscal impact and operational complexity of implementing this reform option to be akin to the lowest, or even lower, estimated under Scenario #3.