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Maryland House of Delegates
Judiciary Committee

Re: Testimony in Opposition to House Bill 339 Task Force to Study the Maryland Orphans' Court Judges

Good Afternoon Chairman Clippinger and members of the Committee.

Thank you so much for allowing me to speak to you today about House Bill 339. As you may be aware, I am Juliet Fisher, a Judge of the Baltimore County Orphans' Court, which oversees the probate and administration of all estates in Baltimore County as well as handling guardianships of minors' property. I am here on behalf of myself personally and on behalf of my fellow Judges: Judges Evans and Frank, both of whom oppose the passage of HB 339.

As an Orphans' Court Judge, I have served on the Conference of Orphans' Court Judges for the last four years and have been the Chair of the Legislative Sub-committee of that Conference for the last two years and currently serve in that capacity.

When I first saw House Bill 339, I immediately had a number of concerns about this proposed Task Force. My first concern stemmed from the fact that this Bill was introduced last year on the heels of a letter sent from the Register of Wills from Howard County who has had a number of personal issues with the judges on his bench over the time that he has served as Register of Wills.

I believe that there is a potential conflict of interests with the bringing of this bill. Orphans' Court Judges are members of the Judiciary and should be separate from the legislative branch. If the Judiciary had concerns about the Orphans' Courts in Maryland, they are able to recommend legislation to address any concerns that they have about our courts. It is to be noted that this legislation did not come from the Judiciary but from legislators who have no background or direct knowledge of our court.

I can tell you that I am well aware of the importance of a separate probate court for the jurisdictions of our state. Although there are substantial differences between the judges and courts in different jurisdictions, I am here to tell you about what my Court and also the courts in Baltimore City and Prince George's County experience in terms of case load. Combined the "big three" jurisdictions last year had 10,843 estates opened that we had jurisdiction over, we combined had 6,009 scheduled hearings before our courts, and reviewed and ruled on over 20,000 combined pleadings, motions, and accounts.

I know that some of the smaller jurisdictions have a significantly lower case load, but our three courts sit five days a week and are extremely busy. We hear cases that range from pro se

litigants who are fighting over decedent's personal property, to three and four day caveat (will challenge) cases involving extremely complex legal issues. The benefit that our courts provide to the residents of our jurisdictions is necessary and vital. Many of the litigants in our courtrooms are overwhelmed by the loss of a family member and are able to have their concerns and issues raised in a court that is experienced in these matters.

In Baltimore County, the judiciary requested an additional three Circuit Court judges recently. If in reality, the purpose of this legislation is to backhandedly attempt to dismantle the Orphans' Court as a whole, there is no way that our Circuit Court could ever absorb the caseload currently handled by our Orphans' Court.

Although I do believe that there could be some changes made to the courts in certain jurisdictions, I believe that the Bill as presented is over reaching and without a defined purpose. If changes need to be made to meet the specific needs of certain counties, they can best be done on a local basis. This Task Force has no specific purpose other than to "modernize" the court. I can tell you that the courts in the larger jurisdictions have been modernized over the last decade and the bench in our jurisdiction has not voiced any complaints over the make-up of our courts or how we conduct our courts. In fact, I have had numerous attorneys reach out to me concerned about the broadness of this bill, the composition of this Bill, and the fact that they are extremely satisfied with our courts.

I additionally have a number of concerns about the proposed make up of this Task Force. The Orphans' Court is a very specific court and only those who have had direct experience with the courts and the jurisdictions that we represent could begin to understand the complexities. The Judiciary has issued a Memorandum in Opposition to this Bill and has stated that a member of the general Judiciary will not be involved in any such Task Force. That would leave appointed members from legislators, a member of the Register of Wills, which serves as our clerk, and only one member of the Bar Association. Respectfully, the creation of such a Task Force could only be successful if the stakeholders: the members of the bench of the Orphans' Court and members of the Estates and Trusts Section of the Bar Association were the primary members of such a Task Force as they are the ones familiar with the Courts' workings and will be impacted by any changes.

The Judiciary has however has not stated that the Orphans' Court judges cannot be included if a Task Force if a task force was to be created and any Task Force without our knowledge would be lacking of a substantive basis. If a Task Force moves forward, we would also ask that as the other members on the Task Force would be appointed by their organizations, any appointments of Orphans' Court judges to the Task Force should be made by the Maryland Association of Judges of the Orphans' Court (MAJOC) and not by the Governor so that the appointment process would not be political in nature.

To summarize, I believe that the vagueness of the purpose of the Bill along with the makeup of the proposed Task Force give rise to significant concerns which I believe mandates an unfavorable report on this Bill.

Any such proposed Task Force that does not additionally include a review of the office of Register of Wills, who serve as our court clerks would be woefully incomplete. The two offices work in conjunction with each other and a review of the Orphans' Court without adding review of the Registers of Wills would not meet the proposed purpose of any such Task Force.