

House Bill 868

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Unfavorable

House Judiciary Committee

Delegate Clippinger, Delegate Moon and Members of the Committee

While we are the judges of the Orphans' Court for Talbot County, we come to you today in our individual capacities and not on behalf of the Maryland Judiciary or any of its parts.

The Orphans' Court, as presently constituted, has proven to be an expedient tool for the prompt oversight of the administration of estates of decedents. When the need for a hearing arises, it can be scheduled in as little time as required for notice to be given, and for the convenience of the parties. In contrast, were this change made to Talbot County, a non-criminal court date in the Circuit Court (other than an emergency) cannot be obtained in less than nine months. One reason for delay in any court with jurisdiction over criminal matters is the need to provide a speedy trial for those charged with a crime. Non-criminal matters must stand aside so as not to interfere with the right to a speedy trial. At present, the demands of the Talbot County Circuit Court calendar are such that they can only be met by extensive reliance upon the services of retired judges. One must assume that the Circuit Court Judges of Howard County are facing a similar docket.

The Orphans' Court in rural counties offers access to the judicial system at a level of expense to the public greatly below that of the Circuit Court. Such courts do not need and do not have law clerks and staff separate from the office of the Register of Wills. Collectively, throughout the Second Judicial Circuit, our compensation and benefits are inconsequential when compared to the salary and benefits of a single Circuit Court judge. Given the generally over-burdened schedules of the Circuit Court, adding oversight of estate administration to its duties would necessitate at least one other Circuit Court judge in each of Judicial Circuits One and Two (Maryland's Eastern Shore). This expense would far exceed the current financial outlay for the Orphans' Court and likely would not expediate or improve the current situation as it operates today.

In the vast majority of our cases, the persons appearing before us do not have an attorney. The less formal atmosphere of the Orphans' Court is more welcoming and less intimidating to what are typically opposing members of a family, than the Circuit Court is. The Orphans' Court often acts as a forum for family members to express their grievances and come to a resolution of their own accord without having the Court mandate a solution. This, at a time when many families are struggling with the loss of a loved one, is most certainly a more amicable, humane solution.

Our experience has been that the Orphans' Court has been proven to be sufficiently flexible to meet the needs of our ever-changing society. Simply put, there is nothing broken about the system that needs to be fixed. We urge that the Bill not receive your approval.