

2024 SB 116 ABR favorable.pdf

Uploaded by: Alexis Burrell-Rohde

Position: FAV



ALEXIS BURRELL-ROHDE

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January 10, 2024

The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

Support (FAV) – SB 116 – Orphans' Court Judges – Restrictions on Practicing Law

Dear Chair Smith and Committee Members:

My name is Alexis Burrell-Rohde. I am the Register of Wills for Baltimore County and testifying in favor of Senate Bill 116. I am not representing the views of the Registers of Wills Association or of any other Register of Wills.

Under current law, in most jurisdictions in Maryland, the Judges of the Orphans' Court do not need to be attorneys. Also, in most jurisdictions, attorneys would need to give up their law practice should they want to serve as an Orphans' Court judge. This means that very few attorneys serve as Orphans' Court judges. Being an attorney is a great advantage when being a judge. SB 116 would enable more attorneys to serve as Orphans' Court judges and would professionalize the Orphans' Court leading to more efficient hearings and better outcomes for the people of Maryland.

I respectfully recommend a favorable report on Senate Bill 116 and appreciate the Committee's thoughtful attention.

Best regards,


Alexis Burrell Rohde

Register of Wills
Baltimore County

SB 116 Support (2024).pdf

Uploaded by: Athena Malloy Groves

Position: FAV

**WENDY A. CARTWRIGHT, ESQ.
ATHENA MALLOY GROVES, ESQ.
JASON A. DELOACH, ESQ.**

Bill No.: Senate Bill 116
Title: Orphans' Court Judges – Restriction on Practicing Law
Committee: Judicial Proceedings
Hearing Date: January 11, 2024
Position: Recommend Favorable Committee Report

COMMENTS:

Chairman Smith and Members of the Committee:

We, the Judges of the Orphans' Court for Prince George's County, collectively in our individual capacities, offer this written testimony in support of Senate Bill 116.

The bill arises from one of the five recommendations of the 2021 Task Force to Study the Maryland Orphans' Courts, of which Judge Groves was a member. They are suggestions for possible improvements to the court. Recommendation No. 4 states that "[a]n Orphans' Court judge may not act as an attorney in a civil or criminal matter during a term of office in any matter which is within the jurisdiction of any Orphans' Court of the state or in any matter related to the administration of an estate or guardianship of a minor."

Out of the twenty-four jurisdictions in Maryland, twenty-one have Orphans' Courts. Pursuant to the Annotated Code of Maryland, Estates & Trusts Article, § 2-109, only the judges of Baltimore City, Prince George's County, Baltimore County and Calvert County may practice law, provided that it is not in the areas of Estates & Trusts and Guardianship of Minors. In the remaining jurisdictions, an attorney serving as an Orphans' Court Judge may not practice law at all.

The position of Orphans' Court Judge is considered part-time, as the respective salaries for each jurisdiction so reflect. Therefore, it is unlikely that an attorney would give up the practice of law to seek the office of Orphans' Court. This limits the pool of possible candidates who would run for the position in the remaining seventeen jurisdictions. The

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passage of the bill to amend the statute would not only increase the number of possible candidates, but also establish uniformity across the State regarding the persons who may seek to serve as an Orphans' Court Judge. This would be an overall improvement for the Court.

Therefore,

We urge a Favorable Committee Report for Senate Bill 116.

Respectfully submitted,

Wendy A. Cartwright, Esq.

Athena Malloy Groves, Esq.

Jason A. DeLoach, Esq.

cheryl jacobs testimony.pdf

Uploaded by: Cheryl Jacobs

Position: FAV

Written testimony regarding SB116

Cheryl K. Jacobs, ESQ

Judge of the Orphans Court of Worcester County

I am submitting this written testimony as an individual citizen and licensed attorney, **not** as a representative of the Orphans' Court. I am in favor of the passage of this bill, which was derived from a recommendation of a task force, in an effort to standardize practices state wide within the Orphans' Court. Allowing attorneys in **all** jurisdictions to engage in the practice of law, while also serving as an Orphans' Court Judge with the appropriate restrictions contained in this bill, is a benefit to both current and future attorneys who wish to continue utilizing their legal training and expertise, while also sitting on the bench as an Orphans' Court Judge. Many practicing attorneys are discouraged from service on the Orphans' Court if required to abandon their practice of law. This prohibition deprives the community of a necessary resource and attorneys from a source of income. This change can only benefit the citizens of their respective counties. Therefore, I urge you to pass SB116.

SB 116 West FAV.pdf

Uploaded by: Christopher West

Position: FAV

CHRIS WEST
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Judicial Proceedings Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 11th, 2024

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 116: *Orphans' Court Judges – Restriction on Practicing Law*

Dear Chairman Smith and Members of the Committee,

Senate Bill 116 is identical to last year's Senate Bill 210, which passed out of the Judicial Proceedings Committee unanimously and then passed unanimously on the floor of the State Senate. Unfortunately, the bill got lost over in the House of Delegates. That is why SB 116 is before you today.

In Maryland, our Orphans Courts are the State's probate courts. They supervise the handling of estates and have jurisdiction over the guardianship of minors and their property. Under the Maryland Constitution, the voters of each county except Harford, Howard and Montgomery counties elect, for a term a four years, three Orphans Court Judges of their respective jurisdictions. In Harford, Howard and Montgomery Counties, the Orphans Courts are presided over by Circuit Court Judges.

In most of our counties, Orphans Court Judges only need to work part-time. So an attorney who gets elected to the Orphans Court is capable of continuing to practice law on those days that the attorney is not working in the Orphans Court. Orphans Court decisions frequently involve the interpretation and application of complicated statutory provisions found in the Estates and Trusts Article of the Maryland Code, and legal training is extremely helpful in these situations, so having at least one attorney on a county Orphans Court is highly recommended.

Currently, the Orphans Court Judges in Baltimore City and in Baltimore, Calvert and Prince George's Counties who are attorneys are allowed to continue to practice law part-time so long as that practice does not involve any subject matter that could be heard under the jurisdiction of the Orphans' Court, to prevent conflict of interest. But in all the other counties in the State, the current law provides that during the term of office of an Orphans Court Judge, the Judge cannot act as an attorney at law in a civil or criminal matter. In other words, in most Maryland counties, if a lawyer gets elected to a part-time Orphans Court Judgeship, which only pays a modest salary, the lawyer must cease practicing law during the lawyer's term of office.

For this reason, in most counties, attorneys are not willing to run to be part-time Orphans' Court Judges because they're required to give up their law practices.

In 2022, the *Task Force to Study the Orphans' Courts* was established. I was appointed as a member of the Task Force. One of the recommendations of the Task Force was to encourage more attorneys to run to be Orphans' Court Judges. Senate Bill 116 will allow attorneys to do so.

Senate Bill 116 creates a uniform statewide rule for attorneys who become Orphans' Court judges. Under Senate Bill 116, lawyers who are elected to Orphans Court will merely have to refrain from practicing estates and trusts and guardianship law. In all other respects, attorneys will be able to practice civil law, criminal law, family law, real estate law, commercial lending and all of the other legal specialties. This bill will thus effectuate the recommendation of the Task Force that the law be changed so as to encourage more attorneys to run to be Orphans Court judges.

I appreciate the Committee's consideration of Senate Bill 116 and will be happy to answer any questions the Committee may have.

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Uploaded by: juliet fisher

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January 9, 2024

Maryland Senate

Judicial Proceedings Committee

Re: Testimony in Support of SB 116
Orphans' Court Judges – Restriction of Practicing Law

Good Afternoon Chairman Smith and members of the Committee,

Thank you so much for allowing me to speak to you today about Senate Bill 116. 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 and Judge Frank, as well as our register, Alexis Burrell-Rohde all of whom support the passage of SB 116.

Last year a Task Force to Study the Orphans' Courts was created and one of the recommendations of the Task Force was to allow more attorneys to run to be Orphans' Court Judges, which is a part-time position, which is exactly what this proposed Bill would do.

Currently, the Judges in Baltimore City, County, Prince George's County, and Calvert County who are attorneys are allowed to continue to practice law part-time as long as that practice does not encompass any subject matter that could be heard under the jurisdiction of the Orphans' Court so that there would not be any conflict of interest. This is exactly what myself and other judges in these jurisdictions are currently doing and it has been working extremely well for us.

In all of those jurisdictions except for Calvert, the Judges are required to be attorneys. Currently in Calvert County, their Orphans' Court consists of two attorney judges and one lay judge. In most of the other jurisdictions, attorneys are not willing to run to be part-time Orphans' Court Judges as it requires them to give up their entire law practice.

There has been a push to have more attorney judges in these jurisdictions, but the willingness of attorneys to serve as Orphans' Court Judges will not be known unless this bill is successful.

In addition, this Bill creates statewide uniformity in the ability of attorneys to become Orphans' Court judges while only having to refrain from practicing estates and trusts and guardianship law.

I personally believe that the passage of this Bill will create more opportunities to have legal professionals acting as part-time Orphans' Court Judges and will address the recommendations of the Task Force to Study the Orphans' Court.

Juliet Fisher, Esq.

Arthur Frank, Esq.

senate bill 0116 testimony.pdf

Uploaded by: Michele Loewenthal

Position: FAV

**LEWYN SCOTT GARRETT, ESQ.
MICHELE E. LOEWENTHAL, ESQ
CHARLES BERNSTEIN, ESQ**

Bill No.: Senate Bill 0116

Title: Orphans' Court Judges – Restriction on Practicing Law

Committee: Judicial Proceedings

Hearing Date: January 11, 2024

Position: Recommend Favorable Committee Report

Chairman Smith and members of the Judicial Proceedings Committee

We are the Judges of the Orphans' Court for Baltimore City and together, as well as in our individual capacities, are providing this written testimony in support of Senate Bill 0116. We are a specialty court and hear cases involving the administration of an estates as well matters involving guardianship of a minor.

This bill will allow attorneys in all jurisdictions throughout the state, which have an Orphans' Court, to serve as Orphans' Court judges. Currently, judges in Baltimore City, Baltimore County, Prince George's County and Calvert County are permitted to practice law in matters other than those heard in the Orphans' Court. The lawyer judges in these jurisdictions have law practices that do not interfere with their duties as Orphans' Court judges since their practices are not in the Orphans' Court. We have law practices and are able to properly serve as part time Orphans' Court judges while maintaining a law practice. Lawyers in other jurisdictions who may be interested in running to be an Orphans' Court judge may be reluctant to serve because they would have to give up their law practice entirely. The passage of this bill will improve the Orphans' Court by creating the opportunity for more lawyers to serve as Orphans' Court judges. This bill will also provide uniformity in the state regarding who can serve as an Orphans' Court judge.

The legislature created a Task Force to Study the Orphans' Court. The Task Force met two years ago. Allowing more attorneys to serve as Orphans' Court judges was one of the recommendations of the Task Force.

For the above stated reasons, we favorably support the passage of Senate Bill 0116.

Lewyn Scott Garrett, Esq.

Michele E. Loewenthal, Esq.

Charles Bernstein, Esq.

Chief Judge

Associate Judge

Associate Judge