



MSBA Main Office
520 West Fayette Street
Baltimore, MD 21201
410-685-7878 | msba.org

Annapolis Office
200 Duke of Gloucester Street
Annapolis, MD 21401
410-269-6464 | msba.org

To: Maryland House of Delegates – Judiciary Committee
From: MSBA Estate & Trust Law Section
Date: February 7, 2024
Subject: **HB 326** – Estates and Trusts – Appointment of Personal Representative – Objections
Position: Support

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) supports House Bill 326 – Estates and Trusts – Appointment of Personal Representative – Objections.

Description of Current Law:

Under current law, the Estates and Trusts Form for Publication of Notice of Appointment is unclear, as pointed out by the Maryland Supreme Court in *McIntyre v. Smyth*, 857 A.2d 1235, 159 Md. App. 19 (Md. App. 2004). The ambiguity in the Estates and Trusts Form for Publication of Notice of Appointment stems from the fact that certain persons who do not fall within the statutory definition of an “interested person” of an estate do not have standing to object to the appointment of a personal representative but continue to have standing to challenge the probate of a will.

Problems Addressed by this Legislation:

In 1971, the Maryland legislature adopted the current definition of an “interested person” as:

“an heir even if decedent died testate, except that an heir of a testate decedent ceases to be an “interested person” after the register has given notice pursuant to § 2-209 or § 5-403(a).” Md. Code (1957, 1969 Repl.Vol., 1971 Cum.Supp.)...” *Id.*

The 1971 change to the definition of an “interested person,” however, is not reflected in the statutory Publication of Notice of Appointment form used by the Register of Wills Office, because § 7-103 was not changed at that time. The form does not differentiate between those persons having

standing to object to the appointment of a personal representative and those persons having standing to object to the probate of a will.

How the Legislation Solves the Problem:

House Bill 326 proposes to amend § 7-103 to differentiate between those persons who have standing to object to the appointment of a personal representative, i.e. “interested persons” and those persons who have standing to object to the probate of a will, i.e. “all persons.”

For the reasons stated above, the Estates and Trust Law Section of the MSBA **supports HB 326 and urges a favorable committee report. For further information, please contact:**

Sarah B. Kahl (410) 244-7584 sbkahl@venable.com	Christia A. Pritts (410) 828-7775 cpritts@simscampbell.law	Laura Thomas (240) 813-4885 Laura@LegacyLegalPlanningLLC.com
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