

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1345
Judiciary

(Delegates Cardin and Taylor)

Maryland Trust Act - In Terrorem Clause - Void

This bill establishes that if probable cause exists for instituting proceedings, a provision in a *trust* purporting to penalize an interested person for contesting the trust or instituting other proceedings relating to the estate is void. The bill must be construed to apply prospectively only and may not be applied or interpreted to have any effect on or application to any cause of action arising before the bill's effective date. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances.

Local Effect: The bill is not anticipated to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law:

Wills – In Terrorem Clause

Pursuant to § 4-413 of the Estates and Trusts Article, if probable cause exists for instituting proceedings, a provision in a *will* purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is void.

Maryland Trust Act

Contesting the Validity of Revocable Trust: The Maryland Trust Act specifies that a person must commence a judicial proceeding to contest the validity of a trust that was revocable at the death of the settlor within the earliest of (1) one year after the death of the settlor or

(2) six months after the trustee sends the person a copy of the trust instrument and a notice informing the person of the existence of the trust, name and address of the trustee, and the time allowed for commencing a proceeding.

Void Trusts: A trust is void to the extent that the creation of the trust was induced by fraud, duress, or undue influence.

Judicial Proceedings: On the invocation of the court's jurisdiction by an interested person, on the court's own motion, or as otherwise provided by law, the court may intervene actively in the administration of a trust, fashioning and implementing remedies as the public interest and the interest of the beneficiaries may require. A judicial proceeding involving a trust may relate to a matter involving the administration of the trust, including a request for instructions and an action to declare rights. A court having equity jurisdiction has general superintending power with respect to trusts. A trust is not subject to continuing judicial supervision unless ordered by the court.

Discretionary Powers Subject to Judicial Control: A discretionary power conferred on the trustee to determine the benefits of a beneficiary is subject to judicial control to prevent misinterpretation or abuse of the discretion of the trustee. The benefits to which a beneficiary of a discretionary distribution provision is entitled, and what may constitute abuse of discretion by the trustee, depend on the terms of the discretion, including the proper construction of accompanying standards, and on the settlor's purposes in granting the discretionary power and in creating the trust. The Act specifies conduct that constitutes a trustee's abuse of discretion in exercising or failing to exercise a discretionary power. A court may review an action by a trustee under a support provision or a mandatory distribution provision in the trust.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Orphans' Court of Baltimore County; Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2026
jg/sdk

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