

March 29, 2022

HB 868

Unfavorable

Chair – Senator William C. Smith, Jr.
Vice-Chair – Senator Jeffrey Waldstreicher
Members of the Senate Judicial Proceedings Committee

Our names are **Lewyn Scott Garrett, Michele E. Loewenthal and Charles Bernstein**. We are judges of the Orphans' Court for Baltimore City, but are submitting this testimony in our individual capacities.

The Orphans' Courts in Maryland are the Probate Courts and we preside over the administration of estates. We are a specialty court and we supervise the management of estates of people who have died, with or without a Will. Because we are a Court specific to probate, we are able to devote the time and attention to mastering the subject matter of estates and to provide families a more expedited process to the resolution of the distribution of the assets of their deceased family members. Many times, the surviving family members are poor or working class and desperately need access to the assets to which they are now entitled, particularly when the primary earner is the decedent. Getting these assets quickly to the appropriate heirs and legatees is a hallmark of current Orphans' Court jurisprudence.

Abolishing the Orphans' Court as a separate court and having the Circuit Court absorb this responsibility would be a mistake. Circuit Court judges are tasked with hearing civil, criminal and family law cases and would be burdened with the extra responsibility of having to hear probate matters. One of us, Charles Bernstein, served as a Judge on the Circuit Court for Baltimore City and now serves as a Judge on the Orphans' Court for Baltimore City. Based upon his experiences, he strongly believes that the Orphans' Court is much better positioned to handle this very specialized, esoteric area, than an already overworked, overburdened Circuit Court. Even though it appears that this bill is a local bill sponsored by a Howard County delegate, this bill's impact would far exceed Howard County. Relatives, creditors, personal representative and other interested person are located in multiple jurisdictions. This bill negatively affects the citizens of all the counties and Baltimore City.

Specialty Courts dealing with difficult, after arcane, esoteric matters are well recognized in both federal and state jurisprudence. Because of the specific knowledge and experience required, both sovereigns utilize specialized courts such as Tax Courts, Bankruptcy Courts, Courts of Contract Appeals, and, of course, the Orphans' Courts. These courts are correctly deemed necessary so that expertise, often beyond the experience of many, can be applied.

It will be more costly to hire additional Circuit Court judges and staff and would be less efficient for the processing of estate matters because it takes much longer to move matters through the Circuit Court than through the Orphans' Court. We encourage you to consult with the Conference of Circuit Court judges so that you can learn that the Circuit Court judges do not want to assume the role of Orphans' Court judge. In addition, we also pride ourselves that we are the People's Court. Many litigants appear without attorneys and don't understand the process. We have more available time to

listen to the individual litigants who appear before us, to answer some of their questions and to provide a more expedited ruling because this is the area of law in which we concentrate.

Legislation was passed last year creating a Task Force to study how to improve the Orphans' Court. None of the recommendations included abolishing the Howard County Orphans' court or any other Orphans' Court. This HB bill 868 was submitted at the request of the Register of Wills for Howard County who has personal issues with judges on his court. This is not a reason to strip the citizens of Maryland of the important resource of an Orphans' Court, a court devoted entirely to the efficient administration of estates.

We ask this Committee to vote UNFAVORABLY because abolishing the Howard County Orphans' Court will deny the citizens of Howard County a less costly and more efficient system for resolving their probate disputes.


Lewyn Scott Garrett



Michele E. Loewenthal



Charles Bernstein