

HB 868 (crossover)

Melissa Pollitt Bright and the Maryland Association of Orphans' Court Judges (MAJOC)

Unfavorable

To the Senate Judicial Proceedings Committee

Senator Smith, Senator Waldstreicher, and distinguished Members of the Committee,

Greetings. I am the Chief Judge of the Orphans' Court for Wicomico County, but I submit this testimony in my individual capacity **and** on behalf of the Board of the Maryland Association of Orphans' Court Judges (MAJOC), of which I am president, but not on behalf of the Maryland Judiciary or any of its parts.

This bill to abolish the Orphans' Court of Howard County was presented to and approved by the House Judiciary Committee and then by the full House as a local bill. While we all understand and appreciate the courtesy generally extended to local bills, it is imperative that everyone understand this is NOT a local bill in either intent or actuality.

First, local bills arise out of local needs. There is no actual demonstrated need for this measure. The information presented on the record to the Howard County Delegation, given to them by trusted individuals, is a compilation of incomplete, often inaccurate, and thoroughly misrepresented "facts," including some outright untruths. Most alarmingly, some of the testimony to the Delegation and to the House Committee shows clearly that those testifying had not done their fact checking and were in actuality not as familiar with the Orphans' Court as they purported to be. That is particularly alarming, given that aside from the sponsor, the star witness in both situations, and likely here as well, is the Register of Wills for Howard County. His testimony referred to the Howard County court as a "lay" court, which it is not – two of the three judges are attorneys, a majority that can carry every decision made by the court. It is appalling to see that an elected official who is Constitutionally mandated to serve as Clerk of Court to the Orphans' Court is so unfamiliar with his court that he doesn't know his judges. The rest of his testimony, which appears to be the bulk of the "information" given to the sponsor, is filled with similar inaccuracies and some that are much worse. This begs the question of what is the purpose here and how much is it actually based on local needs...or even truth.

Further, the testimony of both the sponsor and the Register indicate clearly that this is the opening gambit in a larger plan that affects the entire state. The Register brings up the appeals records of many, but not all, of the Orphans' Courts, apparently trying to make a point about lay courts. He includes Howard and Anne Arundel counties in his list of "lay" courts, but both of them are composed of two-thirds attorneys. He omits from the data five jurisdictions, nearly 20% of the state-wide court. Is this because he makes an assumption that attorney judges' decisions are never appealed? Or because inclusion of that data would skew the picture he is trying to paint? He draws the rest of the state into the discussion by claiming that only 19 Maryland counties out of the entire nation use lay courts for probate. This is untrue. Lay judges serve probate courts in several states; Georgia alone has lay judges in 67 of its 159 probate courts. "Despite what the controversy of today might suggest, laymen chosen from the general community have presided over the administration of wills and estates for thousands of years." (The Debate Over Nonlawyer Probate Judges: A Historical Perspective, by James Findley, 2010, taken from law.ua.edu)

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By the way, did you know that 22 states have non-attorney judges in other courts, including criminal matters, and that a law degree is **not** required to serve as a Justice on the Supreme Court of the United States?

The Register also recites a list of bodies and committees that have discussed, over the last two centuries, getting rid of the orphans' court. He omits that though that discussion has taken place so often, **not once has it progressed beyond discussion.** The most recent study, completed by the Maryland Legislature's Task Force to Study the Orphans' Court (2021), did not even take up that issue as a discussion beyond one members' mention of it. That Task Force did make five recommendations to the Legislature, two of which are embodied in legislation currently making its way through this session. Abolishing the Orphans' Court, or any individual Orphans' Court, was NOT a recommendation of the Task Force.

Most importantly, in her testimony before the House Judiciary Committee – specifically at 1:47:50 in the recording – the sponsor indicates that her goal is Howard County this year and that next year she wants the legislature to “look into” the rest of the state. She co-sponsored and served on the Task Force that just “looked into” the Orphans' Court, but went to the Howard County Delegation without the support of the Task Force to request this bill.

This bill, and any bill that is proposed to become the law of the State of Maryland, especially when it requires a Constitutional Amendment, deserves careful study and scrutiny. This is much more than a local bill. Sadly, it is also a personal vendetta that one or more individuals are asking the Legislature to execute for them. Space and time do not allow for full rebuttal of the allegations brought to you, but MAJOC stands ready to supply accurate, documented, and verified truth about every issue that has been raised. Please set this bill aside for now and investigate the truth after the session concludes, when you will not be rushed. Please vote “Unfavorable.”

Thank you,
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