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Judiciary Committee

Chair
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Subcommittee



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Re: HB 610

Estates – Execution of a Will – Witness Requirements

Position – Support

This legislation prohibits an interested party or a personal representative signing as one of the two credible witnesses of a Last Will and Testament to avoid conflicts of interest. Per MD law, a testator must be a minimum of 18-years old, have the testamentary capacity to execute a Will, and must sign it in front of two **credible independent witnesses**.

Constituents have reported incidents a conflict was created because an interested party signed a will instigating litigation over the will. In each situation people can incur substantial legal fees, reducing the value of the estate. Ultimately everyone suffers twice when conflicts of interests are generated by this improper practice. We often overlook the fact that the personal representative has a fiduciary duty to manage the assets of the estate on behalf of beneficiaries or its heirs. These duties may include the valuation of certain non-cash assets, filing appropriate estate and income taxes, and ultimately making the distribution of said assets.

Trust and Estate lawyers have admitted to me they would never consider or allow an interested party to serve as a witness to a will, however, during the covid-19 pandemic they had no choice but to do so. Yet these same attorney's post-covid policies returned to normal and their objections should be muted. The pandemic may have necessitated their allowing interested parties to serve as witnesses, however, pandemic-era practices are the exception, not the rule.

In order to protect beneficiaries or heirs from the expense of litigation due to what is a blatant violation of proper practice, witnesses (to a will) must be credible and independent.

I urge this committee to favorably report HB 610.