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The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

Oppose (Unfavorable) – SB 1029 – Estates and Trusts - Interpretation of Wills - Extrinsic Evidence of Intent (Granny's Law)

Dear Chair Smith and Committee Members:

My name is Alexis Burrell-Rohde. I am the Register of Wills for Baltimore County and President of the Register of Wills Association. I am submitting this written testimony and urge an unfavorable report from the committee on Senate Bill 1029 on behalf of Baltimore County and the Register of Wills Association.

Disparities in health outcomes based on race are real and well documented as I am sure you will hear from the bill sponsors. Passing this bill will not address these issues but instead will only serve to address the grievances of a single individual and upend centuries of settled case law dealing with the administration of estates. This would create chaos and uncertainty with estate administration and the interpretation of wills.

Instead, the issue raised with this estate which is at the heart of this constituent's motivation for this legislation, stems with an issue I believe, resulted from a drafting attorney who may not have fully explained the estate administration process to his client. I believe the real issue here is the racial disparities in access to effective legal services. I have worked on this issue for my entire time in office through outreach efforts and policy changes.

In this estate, the will could have been drafted to ensure that the gifts to charity were earmarked for programs focused on eliminating health disparities based on race. Instead, the will (attached) were general gifts to charity. Ms. Johnson, the personal representative, refused to make distributions according to the will and the orphans' court was contacted by the charities. The drafting of the will and lack of effective counsel was the real cause of this family's heartache.

This bill is highly problematic for many reasons, including:

1. Section (a)(2) is incorrect as a matter of law. The authority to act as someone's power of attorney ends at death as a matter of law. Thus, there can be no "personal representative who has power of attorney." Also, a personal representative does not "administer a will," instead, a personal representative administers an estate. Section (a)(2)(III).

2. The law permits a personal representative to deviate from a testator's express instructions in a will. In other words, it would permit a personal representative's judgment to supersede the terms of a valid will. This is highly problematic – people draft wills precisely because they want their wishes to be carried out after their death. This law would permit the personal representative notations of what a testator may have wanted in place of what the testator actually stated in a valid will. If a testator wanted to alter his or her will, they could write a new will with new provisions or instructions.

3. The law is extremely specific and aims to address the grievances of a single individual and upend centuries of settled case law dealing with the administration of estates. This would create chaos and uncertainty with estate administration and the interpretation of wills.

The State should address issues in health disparities, but this legislation is not an effective way to do this. I respectfully recommend an unfavorable report on Senate Bill 1029 and appreciate the Committee's thoughtful attention.

Best regards,

Alexis Burrell-Rohde

Alexis Burrell-Rohde
Register of Wills
Baltimore County