

CHRIS WEST  
Legislative District 42  
Baltimore and Carroll Counties

Judicial Proceedings Committee



Annapolis Office  
James Senate Office Building  
11 Bladen Street, Room 322  
Annapolis, Maryland 21401  
410-841-3648 · 301-858-3648  
800-492-7122 Ext. 3648  
Chris.West@senate.state.md.us

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

January 23, 2025

The Maryland State Senate Judicial Proceedings Committee  
The Honorable William C. Smith, Jr.  
2 East Miller Senate Building  
Annapolis, Maryland 21401

**Re: Senate Bill 12: *Estates and Trusts – Spousal Lifetime Access Trusts***

Dear Chairman Smith and Members of the Committee,

Under current Maryland law, an individual who creates a trust may not be considered the settlor of that trust with regard to the individual's interests in the trust if that interest is the authority of the trustee under the trust instrument to pay or reimburse the individual; or the individual creates the trust for the benefit of the individual's spouse, and the trust is treated as qualified terminable interest property, and the individual's interest in the trust income, trust principal, or both follows the termination of the spouse's prior interest in the trust. This protects the individual's interest from the individual's creditors in these situations.

However, because of the potential for a reduction in the federal estate tax exemption, Marylanders have created trusts transferring a significant portion of their assets to their spouse. But if the spouse dies before the creator of the trust, the spouse loses access to those assets indefinitely. Through a power of appointment, the spouse can designate the individual as one of a class of beneficiaries who can benefit from the trust after the spouse's death or give an independent person the ability to distribute trust assets to the individual, preserving those assets for the individual if those assets are needed. However, in Maryland those assets would be accessible to the individual's creditors.

By adding this type of trust, if the individual's spouse dies before the individual, and the spouse decides to appoint the remaining trust assets to the individual, the individual's creditors will not be able to access their assets and instead preserved by the individual.

I appreciate the Committee's consideration of Senate Bill 12 and will be happy to answer any questions the Committee may have.