



**BYRON E. MACFARLANE**  
**REGISTER OF WILLS FOR HOWARD COUNTY**  
9250 JUDICIAL WAY, SUITE 1100  
ELLCOTT CITY, MARYLAND 21043  
bmacfarlane@registers.maryland.gov – 410.313.2133

March 20, 2025

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

**RE: HB1420 – Registers of Wills – Appointment of Personal Representatives – Noncitizens – FAVORABLE**

Dear Chair Smith, Vice-Chair Waldstreicher, and Members of the Committee,

I write to express my strong support for House Bill 1420, which will repeal Maryland's unique prohibition on noncitizens serving as personal representatives of probate estates. Please note that the views I express here are mine alone and that I am not writing on behalf of any other Register of Wills or the Maryland Register of Wills Association, which has taken no position on this legislation.

**CURRENT LAW:** To serve as a personal representative, the fiduciary charged with administering a probate estate, an individual must be named as the personal representative in a valid Last Will and Testament of a decedent, have priority to serve under the laws of intestacy, or be appointed at the conclusion of a judicial probate proceeding. That individual must be an adult, competent, and not convicted of a serious crime. These three restrictions are common state to state, but Maryland is unique in our geographic region by prohibiting anyone who is not either a citizen of the United States or a permanent resident – meaning a green card holder – and be a surviving spouse, descendant, ancestor, or sibling of the decedent. None of our surrounding jurisdictions – Delaware, the District of Columbia, Pennsylvania, West Virginia, and Virginia – has a similar restriction.

**ISSUE ADDRESSED BY HB1420:** This restriction creates an impediment for permanent residents, who may not be closely related to the decedent, and noncitizens, both documented and undocumented, to be appointed by a Register of Wills or Orphans' Court to manage a decedent's estate. This includes individuals who are in the United States for work, education, medical treatment, or are family members of U.S. citizens, among scores of lawful immigrant categories. Some decedents who were domiciled in Maryland at the time of their death may *only* have family

or others they trust to manage their affairs who are disqualified because of this unique restriction. Their only recourse, then, is to hire an attorney to serve as personal representative. This can be cost-prohibitive in many cases. To illustrate this point, I note that in Howard County, reportedly one of the wealthiest jurisdictions in the United States, the median value of a probate estate is under \$10,000, with many containing assets worth only a few hundred or few thousand dollars. The prospect of spending thousands on legal fees can and does create a financial impediment for those estates. My concern is that if our system creates too many obstacles to disposing of probate assets properly, someone residents may be forced to dispose of them improperly, and we do not want to encourage that kind of behavior.

**SUMMARY:** I want to summarize what is and would be required to serve as a personal representative in Maryland if this legislation becomes law. You must be an adult, competent, and not convicted of a serious crime. You must have been named as a personal representative in a will, have priority to serve under intestacy law, or have been appointed by a court. And for estates that are solvent, you must also obtain a nominal or full bond of personal representative. This final requirement will prohibit some noncitizens from serving. I have spoken with several insurance underwriters who have stated they will not bond non-citizens. This means that they may only be able to serve in estates that are low in value or actually insolvent. For example, if a decedent dies and their only asset is a checking account worth \$2,000, and he has a surviving noncitizen spouse, the surviving spouse is entitled to a \$10,000 family allowance, so she could be appointed and serve without a bond because the estate is insolvent.

These cases come up consistently and I think as a matter of common sense and basic fairness, we should repeal this restriction, and allow a named personal representative in a will, a close family member, or someone appointed by a court, to handle someone's assets, follow proper procedures, and move on.

Thank you for your time and attention and I urge a **favorable report**.

Sincerely,

A handwritten signature in blue ink, reading "Bryan E. Marfack". The signature is fluid and cursive, with the first name "Bryan" and last name "Marfack" clearly legible, and "E." as a middle initial.