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Hon. Luke Clippinger, Chair
Judiciary Committee
101 Taylor House Office Building
Annapolis, Maryland 21401

RE: House Bill 660 – Estates and Trusts – Register of Wills – Admission of Copy of Executed Will – FAVORABLE

Dear Chairman Clippinger, Vice-Chair Bartlett, and Honorable Members of the Committee,

I write on behalf of the Maryland Register of Wills Association to urge a favorable report on House Bill 660, a commonsense bill to **streamline the opening of estates in Maryland.**

In 1970, the General Assembly gave the Registers of Wills the duty to probate wills and appoint personal representatives to oversee decedents' estates. Prior to this, probate could only commence after a hearing before an Orphans' Court. With a growing caseload, the part-time nature of these courts, and the delay of waiting for judicial intervention, the full-time Registers of Wills have been able to efficiently oversee what is called "administrative probate," where families can open their loved ones' estates in a single day with a single trip to the courthouse. However, a glaring legal impediment exists when we're presented with a copy of a Last Will and Testament, rather than an original.

Current law permits the probate, or validation, of a copy of a Last Will and Testament, rather than an original, under two circumstances: (1) when a petition is filed with consents from all parties, an Orphans' Court may permit the will to be admitted by the Register of Wills administratively, and (2) when a petition for judicial probate is filed, requiring publication of notice and a public hearing. The first method was authorized by the legislature in 2009 to allow for the more expeditious probate of copies of wills and avoid the cost and inconvenience of a court hearing. The second is based on old common law.

We've seen use of this new provision steadily grow since its inception, with an annual breakdown included with this letter. Since 2016, when a standardized form petition was adopted and made available to the public, this number more than doubled. Seeing this trend and re-evaluating existing law leads us to propose that we now **build on successful reforms of the past.**

With the shift of our probate system to an administrative process, the 2009 reform, and conclusive data showing the stark increase in the public's use of this method, this bill simply permits the Registers to probate copies of wills, just as we do with original wills. It, therefore, **further the legislature's goal of creating as efficient a system as possible for grieving families.** It also cures a worry with current law, which allows a court to reject a will behind closed doors, without a hearing or any justification. It would match the process for both original wills and copies so that if there is any reason to question the validity of a will, the Register can require a public hearing. All parties would receive notice, there would be opportunity for testimony, and it would **bring transparency to a courts' decisions.**

In 2022, we had 433 copies of wills where the will was valid, and all parties consented. Every single one of them were approved by the courts. However, with part-time courts, **Maryland families wait two weeks on average just to get these estates opened.** While that was the average, 86% of people had to wait at least another day – so, yet another trip to the courthouse or waiting for paperwork in the mail. Over 50% waited over a week, over 25% waited over two weeks, over 10% waited over a month, and in one case, waited an incredible 28 weeks, or 6 ½ months.

Why the wait, though, if all parties have come to an agreement? **Consensus among parties is something our courts should encourage,** not deter. As a matter of law, agreements like these are effectively partial settlement agreements – contracts – that, arguably, a court cannot reject. So, these families are just waiting for a signature. Since we know the courts sign 100% of these petitions, this extra procedural hurdle is merely an imposition. And given the legislature's desire to promote efficiency and its decision to empower the full-time Registers of Wills with the probate of wills, this legislation undoubtedly replaces a well-intentioned but stifling status quo.

In discussions over this bill, opponents have said that two weeks isn't that long, and that "people can just wait." This body disagrees with this dismissive perspective, stating in the Code that "estate of decedents law" should be carried out "as expeditiously," as possible.

When we die, our assets are effectively frozen until our family opens our estate. But our bills pile up and expenses related to our death accumulate. Not everyone can pay for them out of pocket. As an example, the average cost of a funeral in Maryland is over \$7,000. And people who don't have an estate plan and end up in probate are more likely to be people at the lower end of the economic ladder to begin with. **Not everyone has the luxury of time.**

This isn't just about people of limited means, though. It's everyone. People want to get started as soon as possible so they can finish as soon as possible. People may have their rights at stake. Take the surviving widow of someone killed in a car accident or victim of a crime or medical malpractice. They have a finite window to file lawsuits. And even if there is no financial distress or urgency, don't our heirs still deserve to inherit what they're entitled to in a timely manner? **We all have an interest in promoting the efficiency of this system,** without unnecessary delay.

Most people aren't lawyers. They're just people on a terrible emotional rollercoaster, compounded by the hurdles of our legal system. **This bill moves the needle to a better system for grieving Marylanders.** I thank the committee for its consideration and urge a favorable report.

Sincerely,



PETITIONS TO ADMIT COPIES OF EXECUTED WILLS (PER CALENDAR YEAR)

