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February 12, 2025

The Honorable Luke Clippinger, Chair
Judiciary Committee
House Office Building, Room 101
Annapolis, MD 21401

RE: House Bill 623 – Estates and Trusts – Estate Administration – Publication of Notice - FAVORABLE

Dear Chair Clippinger, Vice Chair Bartlett and Members of the Judiciary Committee,

My name is Byron Macfarlane, I am the Register of Wills for Howard County, and I serve as Chair of the Legislative Committee of the Maryland Register of Wills Association. On behalf of our entire Association, **I respectfully urge a favorable committee report on House Bill 623.**

OVERVIEW

This bill will discontinue the costly, time-consuming, logistically problematic, and superfluous publication of estate notices in print newspapers. It will replace this antiquated requirement with a centralized, online statewide database for all estate notices to be maintained by the Registers of Wills and made available for free. This will save over 10,000 Maryland families over \$1.3 million per year in publication costs.¹ This database is already up and running – and has been since March of 2020.² This website has nearly 12,000 hits per month, has had nearly 360,000 hits since its inception, and it is the top Google search result for “Maryland estate notices.”³

This bill was heard last session as House Bill 1258. There was no opposition in either chamber and passed unanimously. It was vetoed by the Governor, who indicated a desire for more robust debate with the newspaper industry, who, unfortunately, did not participate in the process last year, leaving us here repeating this entire exercise. We again ask the General Assembly to pass this bill. **Simply put, you passed this last year without a single dissenting vote – it did the right thing for the people of Maryland and should do so again with House Bill 623.**

¹ Attachment 1: Estimated Publication Costs by Jurisdiction for FY2023 and FY2025.

² Attachment 2: Screenshot of “Legal Notices” section of the Registers of Wills website.

³ Attachment 3: Screenshot of Google search of “Maryland estate notices”.

OVERVIEW – THE CASE FOR HOUSE BILL 623

A. NOTICE ALREADY PROVIDED DIRECTLY TO INTERESTED PERSONS

It is critical that all interested persons in an estate are both notified of the opening of the estate and advised of their rights. This notice is already provided by the Registers of Wills. A printed notice is mailed to all parties of an estate, which includes heirs and legatees – those who inherit if there is no will and those who inherit under a will, respectively – and unpaid creditors. This notice includes estate details including the name of the decedent, the name of the appointed Personal Representative, the date of the Last Will and Testament, if any, and the interested persons' rights to challenge the appointment, the probate of the will, and to file a claim against the estate.⁴ This process successfully provides notice to virtually all interested persons, with rare exceptions.

B. ESTATE NOTICES HAVE A SPECIFIC AUDIENCE NOT BEING REACHED

In addition to notices being mailed directly to interested parties, the law also requires that notices be printed in a newspaper of general circulation. The purpose of these notices is not to notify the general public, however. Its specific goal is to attempt to reach anyone who is a bona fide interested party in an estate but did not receive a mailed notice. We know from speaking with creditors that they look at our website to identify deceased debtors. We also know from experience that when interested parties did not receive a mailed notice, it is almost always by mistake, and they still learn of the estate opening by word of mouth from family and friends, not by reading the legal notices section of their local paper. In these cases, the Registers add them to our records and send the notices they were entitled to, easily remedying any omission.

We also cannot identify a single estate in which an interested party objected to the appointment of a personal representative, filed a claim against an estate, or challenged a will because they both (1) didn't receive a notice from the Register in the mail *and* (2) read about the opening of an estate by reading a notice in a newspaper. This further proves that the target audience for these notices isn't being reached, defeating a critical justification for continuing these notices.

C. FAMILIES AND REGISTERS RELIANT ON UNPREDICTABLE AND MONOPOLISTIC INDUSTRY

This antiquated requirement has left the State of Maryland at the mercy of an unpredictably changing print newspaper industry. In recent years, local newspapers have either been shuttered or consolidated by out-of-state corporate conglomerates. Maryland families going through probate and the Registers assisting them may only have one local newspaper to use for publication of notice, and the industry cannot guarantee they will continue to operate newspapers of general circulation in all of Maryland's 24 jurisdictions in perpetuity.

Additionally, the legal duty to publish lies with the Registers, not the newspaper industry, and if any individual publication or all of Maryland's publications decide to stop offering this service, it would be impossible for us to fulfill our duty. Again, the unpredictable future of this industry puts the Registers, meaning the State, in an unsustainably precarious position with no long-term assurances.

⁴ Attachment 4: "Notice of Appointment, Notice to Creditors, Notice to Unknown Heirs."

Also, since many of these newspapers have no competition, they can charge unreasonably high fees. In Talbot County, for example, there is only one local paper, which charges \$306.90 for a regular estate notice, the highest in the state.

D. MARYLAND STATE GOVERNMENT FORCED TO PLAY ROLE OF COLLECTION AGENT AND COPY EDITOR

Not only are these notices unnecessary and expensive, but many newspapers in Maryland – as monopolies with a stranglehold over the Registers and families – will refuse to publish notices unless and until the Registers collect or facilitate the collection of fees for these notices for them.

It is wildly inappropriate for the Registers – meaning the Maryland State Government, funded by the taxpayers – to pay the role of collection agent for the private newspaper industry. But current law permits an industry-created hostage situation, where the Registers and the families we serve simply have no alternative but to comply with their demands. This is inappropriate, untenable, and relies on an unpredictable industry that could change those demands on a whim.

We must also scrutinize notice for accuracy and play the role of copy editor for the industry, too. While we know the information in our free online database is accurate, newspapers make chronic errors when they publish these notices. This means every day we check each jurisdiction's latest notices for the following: (1) names and address of the personal representative and any attorney, (2) name of the decedent, (3) estate number, (4) date of appointment, (5) date of death, (6) whether the decedent died with a will, (7) the date of the six-month deadline to file claims, and (8) the Register's name, jurisdiction, and address. When one or more of these items is missing or incorrect, the paper must re-print the notice. This all translates into a huge amount of staff time and resources just to make notices are printed correctly, but also an avoidable delay in the appointment of the personal representative and the closing of an estate.

It is an undue burden on the State to force us to play the roles of collection agent and copy editor for private entities. Unfortunately, this isn't just current practice, it's become an entitlement. Not only is our State completely at the mercy of industry to publish these notices, one industry representative has gone so far as to publicly deride the Registers for *not doing enough* to collect their fees for them. We wonder what new burdens will be placed on our government and the families we serve unless we change the status quo.

E. COSTLY BURDEN AND LOGISTICAL PROBLEMS CONTINUE

Some may ask whether anything has changed since the discussion of this measure last year. The simple answer is, not really. The administrative and logistical problems have not been resolved, and Maryland families are still left with the cost of publishing notices that are expensive and do not reach their intended audience.

Registers have attempted to work with some newspapers to adopt more reasonable rates and to address chronic errors in printed notices. Some have reduced rates, some remain unreasonably high, and some have actually been raised. Some have attempted to address errors, but they persist. Many still require the Registers to facilitate collection of fees, in addition to their continued reliance on us to correct their mistakes.

Some Registers have, however, exercised their discretion to direct their legal notices to be published in less expensive and more reliable newspapers. This includes several jurisdictions

moving their notices from a local paper to the Daily Record, which does not require Registers to facilitate payment of fees and is generally accurate in its printed notices. These decisions have had the effect of reducing the overall cost to the public for these notices by nearly 20%, all of which was borne by local papers. Indeed, per our calculations, “local” papers’ revenue from estate notices will decline by almost 44% between last year and this year. With an expectation that the newspaper industry will predict its complete demise as a result of passing this bill, they have already absorbed and will absorb a profound reduction in revenue – and yet are still in print. What’s changed from last year is now we know beyond any doubt that ending print estate notices will not close even one newspaper or cost even one person their job.

F. REBUTTING ANTICIPATED INDUSTRY OPPOSITION

Representatives of the publishing industry have consistently opposed efforts in the Maryland General Assembly to move on from legal notice requirements in printed newspapers that pre-date the advent of the personal computer, the internet, and the smartphone.

Does “Independent” Publication Benefit the Public? No. We’ve heard arguments that legal notices *must* be published in print newspapers by independent bodies. What we haven’t heard is *why* independent publication is so imperative. The Registers give newspapers the precise text to print – so what benefit, precisely, is there to the public? None that we can determine. Especially given that we can’t even rely on newspaper publications to print these notices correctly, we fail to understand this insistent entitlement to this public subsidy to industry. We also highlight what we all know to be true – that governmental bodies provide general public notice all of the time. From sales of surplus federal property to local zoning board hearings, our government provides notice routinely without whatever catastrophic results opponents of this measure seem to imply.

We also want to highlight the abuse of power that we witnessed last year by the supposedly “independent” press during the campaign to veto the prior iteration of this bill, 2024 House Bill 1258. Local papers across Maryland suppressed letters to the editor and guest columns in favor of the bill, promoted letters and columns that urged the governor to veto it, and after the veto, used those same column inches to claim victory and applaud the governor’s veto – and even lied about *why* he vetoed it. Governor Moore’s veto was not a full-throated defense of print legal notices for the rest of human history – but that’s how the “impartial” industry spun it for their own benefit.

Do We Need Publications to Archive Notices? No. We’ve also heard that without print newspapers, there is no way to archive estate notices. This is particularly nonsensical because, just as the newspaper industry has no legal duty to publish estate notices, they also have no legal duty to archive them. This means we have no guarantee that these private entities will archive notices at all, much less in perpetuity.

Are Newspapers Required by Law to Publish or Archive? No. The publishing industry has no legal duty to publish estate notices or archive them. It is a *choice* based on unpredictable businesses that could decide to close local papers or cease to offer to publish legal notices at any time, to which the Registers and the public would have no recourse. Under our legislation, alternatively, we create an affirmative statutory duty that the Registers maintain and operate a centralized online database of all estate notices. Unlike current law, this bill ensures that this database will be available to the public for free, forever. Since we have already created this database and it has been up and running for four years, there’s no question whether we can deliver this service. And in terms of archiving proof of notice, this database stores notices in perpetuity and as required by law, the Registers must make copies of estate notices part of the public record

in each estate that requires a notice be given and eventually transmit them to Maryland State Archives. In contrast, just as the publishing industry has no legal duty to publish estate notices, it also has no duty to archive proof of notice, nor does it have a duty to make those archival records available to the public.

Will This Legislation Doom the Publication Industry? No. Not only has the industry never proven this claim, as explained previously, they've already taken a nearly 20% reduction in revenue – nearly half of which has been borne by smaller publications – and are still in print.

Lastly, while the publishing industry has established their own database, presumably in an attempt to hinder this legislation, it does not change these facts: the industry has no legal duty to provide this information to the public, it still creates a financial burden on grieving families for no discernable purpose, these notices are still chronically error-prone, and corrections lead to delays that prejudice Maryland families and have a deleterious impact on judicial economy.

G. SUMMARY IN SUPPORT OF A FAVORABLE COMMITTEE REPORT

While myriad legal notices have been printed in newspapers since time immemorial – before the advent of the personal computer, the internet, and the smartphone – the reality is this: print newspaper estate notices do not serve their defined purpose, they are an unnecessary financial burden on grieving families – to the tune of \$1.3 million per year – and they impose an untenable burden on the State and the public. We can untether ourselves from the whims of out-of-state monopolistic media corporations, move our method of notice into the modern era with our centralized statewide notice website, continue to protect the due process rights of interested persons, and make the probate process less expensive and more efficient for our constituents.

The Registers of Wills enthusiastically endorse this measure and respectfully request a favorable report on House Bill 623.

Sincerely,

A handwritten signature in blue ink, reading "Bryan E. Marfisi". The signature is fluid and cursive, with the first name "Bryan" and last name "Marfisi" clearly legible. The middle initial "E." is smaller and less distinct.

SUPPORT A FAVORABLE REPORT FOR HB 623

SUMMARY

- **PROTECTING DUE PROCESS:**

- All interested persons will still receive a mailed notice from the Register of Wills.
- Ensure that the due process rights of bona fide interested persons in probate estates are protected through (1) notices mailed directly to them and (2) a free, easy to locate centralized website of all estate notices maintained by the Registers.

- **ENDING NOTICES THAT DO NOT REACH THEIR INTENDED AUDIENCE:**

- Estate notices, unlike other legal notices, have a specific audience: unknown heirs and unknown creditors, that are not being reached through print publication.

- **DISCONTINUING REDUNDANT, INEFFECTIVE, AND COSTLY SUBSIDY:**

- Interested persons already receive notices in the mail.
- Unknown heirs and unknown creditors do not read the legal notices section of print newspapers to determine if estates have been opened.
- The print newspaper industry has become unpredictable and unreliable for publishing estate notices:
 - Some publication fees are rising.
 - We have fewer newspapers to choose from.
 - The industry cannot guarantee they will print publications of general circulation in every jurisdiction in Maryland in perpetuity.
 - The industry is increasingly being consolidated by out-of-state corporations with less and less competition.
 - Publications are increasingly demanding the public pay their fees out of pocket before they're able to access estate funds, an undue burden.
 - Publications are increasingly forcing the Registers of Wills to play the role of collections agents for their fees, an inappropriate burden on the State.
 - Publications are chronically error-prone, forcing the Registers of Wills to play the role of copy editors, another inappropriate burden on the State.
 - Chronic errors require notices to be re-published, delaying the closing of estates and prolonging the process for grieving families.

- **PROMOTING USE OF RELIABLE EASY-TO-FIND ONLINE NOTICES:**

- The Registers of Wills have already established a centralized statewide database of all estate notices at no additional cost to the public.
- This database is free.
- It is the top Google search result for anyone looking for estate notices.
- Notices are published free of errors.
- Notices are archived permanently.

- **SAVING MARYLAND FAMILIES MONEY**

- Save grieving families approximately \$1.3 million per year.

- **ENSURING PROPER USE OF PUBLIC RESOURCES:**

- Alleviate the State of its precarious and unsustainable reliance on an unpredictable print newspaper industry to publish estate notices.

ATTACHMENT 1

Estimated Publication Costs by Jurisdiction in Maryland for FY2023 and FY2025

Jurisdiction	Est. Cost FY2023	Est. Cost FY2025
Allegany	\$33,665.86	\$25,862.48
Anne Arundel	\$252,188.00	\$134,390.00
Baltimore City	\$103,914.00	\$137,655.00
Baltimore	\$226,318.00	\$220,015.00
Calvert	\$8,325.00	\$9,851.00
Caroline	\$23,107.50	\$24,615.50
Carroll	\$105,714.00	\$52,535.00
Cecil	\$61,297.50	\$50,160.00
Charles	\$31,410.00	\$30,995.00
Dorchester	\$17,355.00	\$16,380.00
Frederick	\$172,590.00	\$50,635.00
Garrett	\$18,815.00	\$14,732.50
Harford	\$91,175.00	\$68,680.00
Howard	\$43,613.00	\$55,420.00
Kent	\$24,831.00	\$23,909.00
Montgomery	\$203,673.00	\$183,555.00
Prince George's	\$35,450.00	\$66,080.00
Queen Anne's	\$38,223.00	\$34,902.00
St. Mary's	\$21,300.00	\$22,089.00
Somerset	\$5,280.00	\$7,858.56
Talbot	\$47,410.30	\$45,262.00
Washington	\$26,945.00	\$20,230.00
Wicomico	\$22,939.00	\$21,933.00
Worcester	\$45,726.00	\$44,268.00
STATEWIDE TOTAL	\$1,661,265.16	\$1,368,362.04

ATTACHMENT 2

Screenshot of “Legal Notices” section of the Register of Wills website.

Description:

- Users can search notices by jurisdiction, date of publication, date of death of the decedent, the name of the decedent, or the name of the personal representative.
- Users can read the entire text of any published notice.
- Users can click the “Print” button to generate a print-friendly version of any notice.

Benefits of Online Legal Notices:

- ✓ Free of charge.
- ✓ Archived permanently.
- ✓ Auto-generated to eliminate errors.
- ✓ Changes may be made instantly.

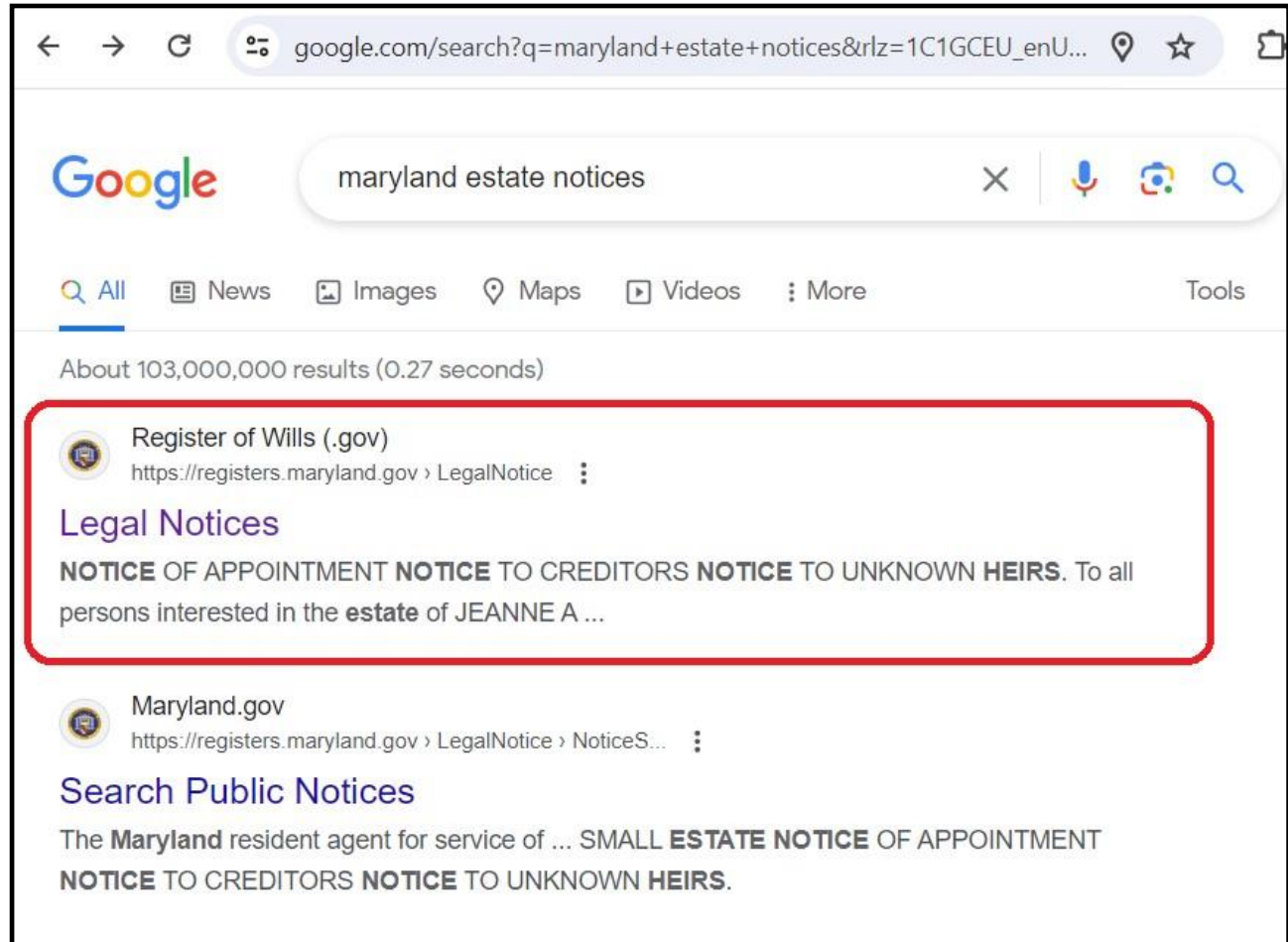
The screenshot shows the 'Legal Notices' section of the Register of Wills website. The header includes the Maryland state seal and the text 'THE OFFICE OF THE REGISTER OF WILLS' and 'LEGAL NOTICES'. Below the header is a 'Search Public Notices' section with a blue banner stating: 'Public notices published in the last 30 days will appear on the list by default. Use additional search filters below to narrow your results.' The search filters include: 'COUNTY' (a dropdown menu), 'PARTY TYPE' (radio buttons for 'Decedent' and 'Personal Representative'), 'DATE OF PUBLICATION' (Range (from-to): 01/09/2024 - 02/08/2024), 'DATE OF DEATH' (MM/DD/YYYY: / /), and 'Last Name', 'First Name', and 'Middle Name' (text input fields). There are 'Search', 'Clear', and a menu icon button. Below the search filters, it says 'Viewing Page 1 of 95 (1893 RECORDS TOTAL)' and 'Sort By Publication: Latest to Earliest'. The main content area displays a notice from 'Baltimore City' published on 02/08/2024. The notice text reads: 'IN THE ORPHANS' COURT FOR (OR) BEFORE THE REGISTER OF WILLS FOR Baltimore City, MARYLAND IN THE ESTATE OF GENEVA TAJADA Estate No. 206107 NOTICE OF JUDICIAL PROBATE To all Persons Interested in the above estate: You are hereby notified that a petition has been filed by PARKER SIMON & KOKOLIS LLC for judicial probate of the will dated and for the appointment of a personal representative. A hearing will be held at 111 N. CALVERT STREET ROOM 303 BALTIMORE, MD 21202 on March 07, 2024 at 10:30 AM. This hearing may be transferred or postponed to a subsequent time. Further information may be obtained by reviewing the estate file in the office of the Register of Wills. BELINDA K. CONAWAY, Register of Wills for Baltimore City 111 N CALVERT STREET COURTHOUSE EAST BALTIMORE, MD 21202'. There is a 'Print' button at the bottom right of the notice. Below this notice, another notice from 'St. Mary's County' is partially visible, also published on 02/08/2024.

Scan QR code to be directed to the Register of Wills Legal Notices Website:



ATTACHMENT 3

Screenshot of Google search results for “Maryland estate notices” which shows the Register of Wills’ Notice website as the top search result.



ATTACHMENT 4

(FILE IN DUPLICATE)

(name and address of attorney)

**NOTICE OF APPOINTMENT
NOTICE TO CREDITORS
NOTICE TO UNKNOWN HEIRS**

To all persons interested in the estate of

ESTATE NO. _____

Notice is given that: (name and address)

was on _____ appointed Personal Representative of the estate of: _____
(date)

who died on _____ (with) (without) a will. There (was) (wasn't) a prior small estate proceeding.
(date)

Further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney.

All persons having any objection to the appointment (or to the probate of the decedent's will) shall file their objections with the Register of Wills on or before the _____ day of _____,
(6 months from date of appointment)

Any person having a claim against the decedent must present the claim to the undersigned personal representative or file it with the Register of Wills with a copy to the undersigned on or before the earlier of the following dates:

- (1) Six months from the date of the decedent's death; or
- (2) Two months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claims within two months from the mailing or other delivery of the notice. A claim not presented or filed on or before that date, or any extension provided by law, is unenforceable thereafter. Claim forms may be obtained from the Register of Wills.

Name of newspaper designated by personal representative: _____

Date of publication: _____

True Test Copy

Name and Address of Register of Wills for

