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The Honorable Delegate Luke Clippinger, Chair
House Office Building, Room 101
Annapolis, Maryland 21401

Oppose (Unfavorable) – HB 868 – Estates and Trusts – Interpretation of Wills – Evidence of Intent

Dear Chair Clippinger 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 House Bill 868 on behalf of Baltimore County and the Register of Wills Association.

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 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.
3. 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.

I respectfully recommend an unfavorable report on House Bill 868 and appreciate the Committee's thoughtful attention.

Best regards,

Alexis Burrell-Rohde

Alexis Burrell-Rohde
Register of Wills
Baltimore County