

HB 660 Favorable Alexis Burrell Rohde.pdf

Uploaded by: Alexis Burrell-Rohde

Position: FAV



ALEXIS BURRELL-ROHDE

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February 10, 2025

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

Support (FAV) – HB 660 – Estates and Trusts – Estate Administration – Publication of Notice

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 a favorable report from the committee on House Bill 660 on behalf of Baltimore County and the Register of Wills Association.

Under current law, an estate may not be opened administratively and instead must be ruled on by the Orphans' Court when a copy of a will is submitted for probate, even when all of the interested persons have consented. This causes needless and unnecessary delay for grieving families. The vast majority of estates are opened administratively which means that Maryland law already empowers the Register of Wills and staff to review critical testamentary documents and determine if the documents meet the legal requirements to be admitted to probate as a valid Will. There is no difference between that analysis and the one requested with HB 660. Additionally, there is ample time for anyone to object to the admission of a copy as a will to probate, just as there is when other testamentary documents are admitted to probate.

I respectfully recommend a favorable report on House Bill 660 and appreciate the Committee's thoughtful attention.

Best regards,

Alexis Burrell-Rohde

Alexis Burrell-Rohde
Register of Wills
Baltimore County

HB660 - FAVORABLE.pdf

Uploaded by: Byron Macfarlane

Position: FAV



BYRON E. MACFARLANE
REGISTER OF WILLS FOR HOWARD COUNTY

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February 12, 2025

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, **furtheres 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.**

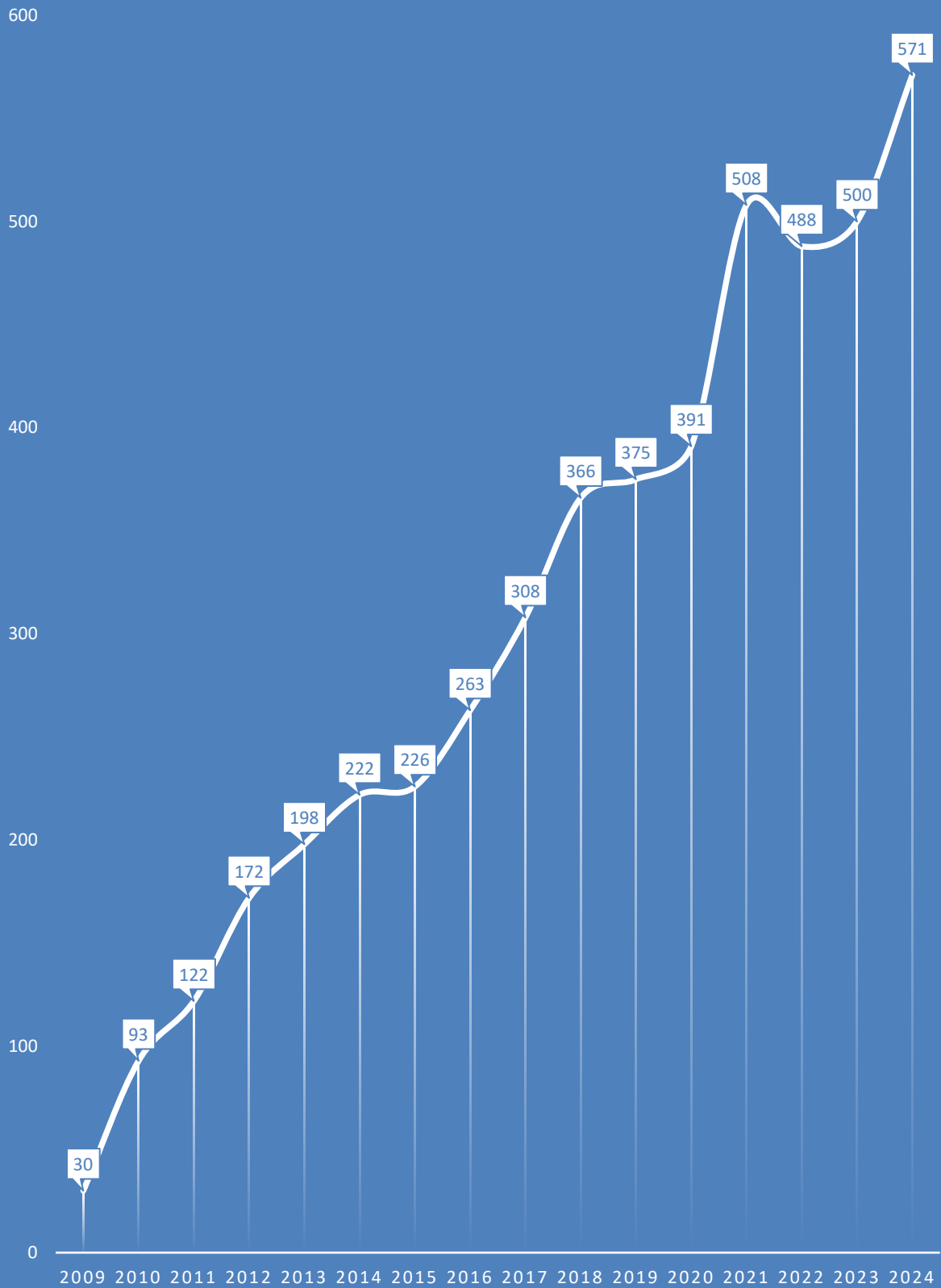
This isn't just about people of limited means, though. It's everyone. People want to get started as soon as possible so they can finish as soon as possible. People may have their rights at stake. Take the surviving widow of someone killed in a car accident or victim of a crime or medical malpractice. 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)



Replacement testimony

Uploaded by: Jen Terrasa

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 10, 2025

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Delegate Jen Terrasa
District 13, Howard County

Re: Sponsor Testimony in Support of HB 660, Estates and Trusts - Register of
Wills - Admission of Copy of Executed Will

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

Thank you for the opportunity to present HB 660, which aims to streamline the process of opening an estate in Maryland and remove barriers that families often face when settling a decedent's estate through probate.

Currently, under Maryland law, when a decedent's Last Will & Testament cannot be located, a copy of the will may be admitted to probate only under judicial probate, which requires a formal hearing and adds unnecessary delays and expenses. In other words, where there is a valid copy of a will, a petition, and consents from all interested persons (who all swear under the penalties of perjury that they cannot find an original and they have no reason to believe that the original was ever destroyed or revoked), the family has to wait for a court order to proceed with opening an estate. Which means they cannot access the decedent's assets, pay debts, and distribute inheritance.

HB 660 seeks to address this challenge by permitting either the Orphans' Court or the Register of Wills to admit a copy of the will when the original cannot be located. By doing so, my bill would simplify and expedite the probate process, reducing the financial burden on families and eliminating the delays that are common in every jurisdiction (except Baltimore City) due to the part-time nature of the Orphans' Court system.

This bill builds on legislation enacted in 2009 under SB 154, which allowed the judicial probate process for admitting copies of wills. However, the process still requires families to go through a lengthy and costly procedure, including attending a hearing and publishing notice of that hearing, which can be a significant burden. Constituents

across Maryland have voiced frustration with the current system, with many describing how they have been “stuck in limbo for months” without knowing how to proceed. It also means they have to take another trip to the courthouse, another day off work, and added time for bills to pile up. This uncertainty leads to additional stress during an already difficult time. HB 660 ensures that the process is as smooth and affordable as possible, removing barriers that many families face in settling an estate.

Moreover, HB 660 aligns with the broader goals of streamlining government processes and making access to justice easier for all Marylanders. As we've seen in previous legislative sessions, there is a growing need for improved efficiency and access in the handling of estate matters. For example, in the 2023 session, we passed HB 0244, which required the Register of Wills to accept electronic filings and signatures, making the process of filing documents easier and more modern. This bill received widespread support because it helped eliminate outdated bureaucratic barriers. Similarly, this year, we have HB 1420, which is designed to help individuals who lack government-issued identification by offering a method for proving identity when claiming their rights as heirs or beneficiaries of a will. Just like those bills, HB 660 is another important step forward in modernizing and streamlining probate procedures, ensuring that Marylanders have the access and support they need during what can be a challenging time.

This bill ensures that families do not face unnecessary roadblocks when settling estates, and that access to justice is not hindered by outdated or cumbersome procedures. In addition, it allows Maryland to continue making progress toward a more efficient, accessible, and equitable system for all.

I respectfully urge a favorable report of HB 660.

House Bill 660 2-12-25.pdf

Uploaded by: Kimberly Cascia

Position: UNF

House Bill 660

Kimberly Cascia

Unfavorable

House Judiciary Committee

Delegate Clippinger, Delegate Bartlett and Members of the Committee

I have had the privilege and honor to serve the citizens of Queen Anne's County since 2010 as an Orphans' Court Judge and have been a Board Member of the Conference of Orphans' Court Judges appointed by the Chief Justices each year since 2011 and elected by my fellow judges to the MAJOC Board since 2011 as well, I come to you today in my individual capacity and not on behalf of the Maryland Judiciary or any of its parts.

My job as an Orphans' Court Judge is to see that the decedent wishes are met, if there is a will, and if not, to administer Maryland law.

All Judges in Maryland are required to attend continuing education classes each year and, in particular at the Judicial Institute, I have received instruction and training on multiple aspects and intricacies of a "Will."

I am not aware of any training requirements for the Register of Wills or their staff. I believe it would be a mistake to allow an interested person to file with the register of wills in a county, rather than the Orphans' Court, a petition for admission of "a copy" of an executed will. This is a very critical document that should be decided on by a Judge with training and not a clerk. I believe that it could lead to acceptance of fraudulent wills.

Please remember the Orphans' Court has very limited jurisdiction, but we do have the training essential to determine the legitimacy of a "Will" and probate matters.

I humbly request that House Bill 660 not receive your approval.

Kimberly Jean Cascia
1200 Thompson Creek Road
Stevensville, MD 21666

ILate testimony

Uploaded by: Russell Yates

Position: UNF

MAJOC



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Hon. Russell A. Yates
Charles County
Member-at-Large

MARYLAND ASSOCIATION OF THE JUDGES OF THE ORPHANS' COURTS

To: House Judiciary Committee

Dear Chairman Clippinger and Members of the Committee:

I write in **opposition to House Bill 660**, which proposes significant changes to the process of admitting a copy of an executed will in probate proceedings. While the intent behind the bill may be to streamline the probate process, there are several important concerns that must be addressed before this bill is enacted.

1. **Erosion of Judicial Oversight:** The proposal to transfer the authority of admitting a copy of a will from the orphans' court to the register of wills significantly reduces judicial oversight in an area that often involves complex and sensitive matters. The orphans' court, as a judicial body, is better suited to assess the legitimacy of a will and the intentions of the decedent. Removing judicial review from this process and giving the register of wills more discretion to accept a copy of a will without a court order could lead to abuses, errors, or inadvertent acceptance of fraudulent or invalid wills.
2. **Potential for Disputes and Lack of Safeguards:** The bill allows the register of wills to admit a copy of a will based on the signatures of the decedent and witnesses, but without requiring full judicial review. This is concerning because the possibility of a will being lost or destroyed could also indicate potential disputes about its authenticity or the decedent's intentions. A court, with its experience in dealing with such matters, provides a neutral forum to resolve any such disputes. Allowing the register of wills to make decisions without judicial intervention could result in increased litigation as heirs and legatees challenge the validity of the will after it has been admitted.
3. **Overburdening Registers of Wills:** While the bill intends to streamline the probate process, there is a risk that registers of wills will become overburdened with complex decisions regarding the validity of copies of executed wills. Registers are not judicial officers, and while they play an important administrative role, they lack the expertise and authority to handle matters that could involve questions of fraud, undue influence, or mental capacity. By expanding their responsibilities in this manner, we may be placing a heavy burden on registers without giving them the proper tools to make nuanced decisions that could impact the distribution of an estate.
4. **Lack of Adequate Safeguards for Heirs and Legatees:** Under the proposed legislation, the heirs and legatees named in the will must consent to the admission of the copy, but this does not provide sufficient protection for individuals who may be unaware of the existence of a copy, or those who may be coerced into providing consent. Judicial review offers a better safeguard against potential manipulation of the process, ensuring that the decedent's true intentions are upheld.

5. **Unintended Consequences:** By simplifying the process, the bill may unintentionally encourage the use of incomplete or questionable will copies in probate proceedings. Without the oversight of the orphans' court, the potential for errors in the probate process may increase, leading to delays, confusion, and disputes that could have been avoided through a more thorough review by the court.

Conclusion:

While the desire to expedite probate proceedings is understandable, the shift of authority from the orphans' court to the register of wills in the acceptance of a copy of a will undermines important safeguards in the probate process. Judicial review and oversight are necessary to ensure that the decedent's wishes are accurately represented and that all interested parties are protected from potential fraud or mistake. We urge the General Assembly to reconsider House Bill 660 and preserve the essential role of the orphans' court in overseeing the admission of wills in probate proceedings.

Respectfully submitted,

Maryland Association of Judges of the Orphans' Court (MAJOC)

By: Russell A. Yates

Member-at-Large

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hb660.pdf

Uploaded by: Will Vormelker

Position: UNF

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 660
Estates and Trusts – Register of Wills – Admission of Copy of
Executed Will
DATE: January 29, 2025
(2/12)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 660. This legislation amends §5-802 of the Estates and Trusts Article to authorize an interested person to file with the register of wills in a county, rather than the orphans' court, a petition for admission of a copy of an executed will in a probate proceeding. The bill also amends §5-804 of the article to permit the register to accept a copy of an executed will for administrative probate without an order from the orphan's court.

The Judiciary opposes this bill as it circumvents the authority of the orphans' court. Even in cases where there is consent, it would be inappropriate to remove jurisdiction from the orphans' court as there are statutory factors that require a judicial determination as to what constitutes a will that should be admitted into probate. The proposed bill inappropriately confers judicial authority to the register of wills.

cc. Hon. Jen Terrasa
Judicial Council
Legislative Committee

Kelley O'Connor