

Testimony-for-HB0868.pdf

Uploaded by: Carrington Simms

Position: FAV

Testimony to HB0868 – Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Date: 25-Feb-25

From: Carrington T. Simms III

As I reviewed HB0868, I find that this will be beneficial to the personal representative of a descendant of their will, which would allow for the representative to fulfill their legal obligation of the execution of the will in accordance with the deceased wishes. Although the will may have some subjectiveness to its execution, HB0868 would allow for the representative to execute the will in a manner that is keeping to the deceased wishes based on evidence of prior statements or documentation for which they may have either established a pattern or expressed among other witnesses of their purpose to support those beneficiaries documented in their Will.

I see the purpose of HB0868 to keep intact the deceased intent, as well as allow the representative some leeway to ensure the will's intent is executed in the manner supporting the deceased.

I support HB0868, as it may benefit me as well for when my remaining parent passes on, and I'm left with handling her affairs.

Thank you for reading this testimony.

Carrington T. Simms III

Fabius HB0868.pdf

Uploaded by: Chanee Fabius

Position: FAV

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Support FAV

Chanee D. Fabius, PhD, MA

Assistant Professor, Johns Hopkins Bloomberg School of Public Health

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I am an Assistant Professor of Health Policy and Management. I am writing to indicate my favorable support of HB0868. I am providing written and oral testimony.

HB0868_ Letter of Support_ Irene Henderson.pdf

Uploaded by: Irene Henderson

Position: FAV

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Support FAV

Irene Simms Henderson

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February 25, 2025

Dear Judiciary Committee Chair, Vice Chair and Members,

My name is Irene Simms Henderson and I was married to my beloved husband Dr. Roland Henderson for 56 years and 4 months. He had cancer 3 times and the 4th time he got cancer unfortunately he lost his battle. He was treated at Memorial Sloan Kettering for 21+ years.

My grandfather was a cancer survivor but lost his battle and then my mother had cancer along with each of her 4 brothers all but one passed from cancer and the last sibling who survived cancer passed from a heart attack. My only sibling, my brother, has been living with cancer for well over 5 years. I too had cancer but thankfully it was a mild case.

When I hear about the startling statistics for African Americans and Cancer, I don't need to see the numbers, as I have unfortunately experienced this personally right in my own family.

I knew Jennifer's grandmother and I know what happened to her estate and to Jennifer is not anything that she would have ever wanted. The courts treatment of Jennifer was beyond disturbing. My mother was a Reverend and as many say "But God". I thank God for protecting and keeping Jennifer in spite of the horrid court system. I support Granny's Law HB0868 and I highly suggest the Judiciary Committee do the same.

Respectfully,

Irene Simms Henderson

HB0868_ FAV_ Tetimony_ Jennifer Johnson.pdf

Uploaded by: Jennifer Johnson

Position: FAV

Required Information:

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Jennifer Johnson

Residential Address: Shielded for privacy reasons

Email address: jenniferelsiejohnson@hotmail.com

Phone number: 410-241-4331

Support FAV

February 25, 2025

Witness Testimony:

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

My name is Jennifer Johnson and I ask for your full committees favorable support for "Granny's Law" HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent.

What happened to me was a direct violation of my grandmother's will and of my human rights. I have never been through anything so horrific in my entire life and Granny's Law seeks to make sure this never happens to anyone else in our state ever again. To give you a very brief synopsis, my grandmother was leaving a charitable donation to 4 major health related charities with the goal of positively impacting African American lives as we are disproportionately affected by health disparities. While all of these organizations document that African Americans are disproportionately affected by all of these disease states, instead of allowing me to be what I am God ordained to be, my grandmother's Personal Representative, a baltimore county judge thought she knew better then me, knew better then my grandmother and forced me into jail when my best friend was dying of cancer and allowed 2 attorneys she preferred to bill a beyond excessive amount of money for work I completed. The judges order forced me to give all of my grandmother's information to these lawyers or I could not get out of the jail.

This Baltimore county orphan's court judge allowed these 2 attorneys to bill almost double the annual salary for Senate and Delegate members for Maryland General Assembly against my grandmother's estate for work I completed. Something that would have cost me around \$3,000 max and a matter of weeks to complete had the courts never gotten involved. Wound up costing my grandmother's legacy and did the exact opposite of what my grandmother wanted, which was to help African Americans who are already suffering, It cost me years of my life as it is taking me time to recover and it is the exact opposite of anything my grandmother, any of family or friends, I or anyone would have ever wanted. It broke my mother's heart and caused her unnecessary stress and per the instructions in my grandmother's will I may or may not have hired an attorney to complete the administration of her will, because the will was very simple and straightforward if followed. Instead Judge Fisher of Baltimore County's Orphan Court assigned 2 lawyers at a bill rate of \$395 an hour per attorney.

My first attorney gave me all of my fees back as I had done all of the work to bring it almost to a close before the courts decided to do the damage and destruction they did and that was around \$25,000. The court assigned attorneys billed almost 4 times as much as my first attorney and did the exact opposite of anything I or my grandmother would have ever wanted and in the end

threatened to do even more damage if I did not stop questioning or verbally protesting what they were doing. One should also note that there is a clause in my grandmother's will that is in most wills that the court forcibly ignored. The clause in question if not ignored by the courts would not have allowed the judge or her assigned attorneys to do any of the things she did to me or to my grandmother's estate. That clause is included in the House and Senate bill.

HB0868 Granny's Law seeks to CORRECT the following:

- Historical Wrongs of Health related Charities not supporting Maryland State Policy of working to eradicate Health Disparities
- Historical wrongs of the Orphans Courts ignoring people's wills and essentially allowing lawyers to make large profits off of deceased people's estates.
- Historical wrongs of the Orphans court overriding the descendants family's and trusted personal representatives
- Historical wrongs imposed on Caregivers. Caregivers are most often times the Power of Attorney and then the Personal Representative. Caregivers rights and respect are often times ignored. This bill seeks to give the power and authority back to the person who has done most if not all of the work to help the decedent in life and in death.
- This bill will help honor my Granny (Jennifer Johnson) and anyone else's loved one whose will and/ or estate was or unfortunately is currently being grossly misinterpreted by the orphan courts in Maryland

I hope that you will see the disproportionate need faced by African Americans in many areas of disease but specifically in the area of cancer, cardiovascular disease, Alzheimer's and mental illness and understand that the correct thing to do and way to help is to give your committees full favorable support for this legislation and help honor all groups suffering from health disparities, help honor all caregivers many of whom die while taking care of others and help honor my Granny. Thanks for your time and consideration.

Sincerely,

Jennifer Elsie Johnson

Founder Friends of St. Peter's Cemetery

In loving memory of my Granny

& in Honor of all of our family and friends who have lost their battles to various health disparities

TESTIMONY JHM - 022525.pdf

Uploaded by: John Morris

Position: FAV

WRITTEN TESTIMONY IN SUPPORT OF HB 0868 (FAV)

John H. Morris, Jr.
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I am John H. Morris, Jr. This testimony is submitted in support of the legislation identified as HB 0868. I have been a civil litigator. From 1985 through 1993, I have been a partner at Venable, Baetjer and Howard. Over the years, I have served as a visiting professor of law at the University of Baltimore, an instructor in Urban Planning and Community Economic Development at Sojourner Douglass College, and an instructor in Constitutional Law at Stevenson University. I have been a federal public defender in the District of Maryland, special assistant to the general counsel of the federal Department of Education, a law clerk to federal judge, Hon. Joseph H. Young, in the district of Maryland. In addition to the above, in my civic life, I have served as a member of the board of directors for such local not-for-profit organizations as the Baltimore Children and Youth Fund, Associated Black Charities, Interfaith Action for Racial Justice, the American Civil Liberties Union – Maryland, and the Public Justice Center. I secured my education in law through a law degree from Yale Law School.

Through the above professional and civic associations, I have encountered direct experience with the contradictions and paradoxes of prescribed equality, as

well as both taught and written on the subject. It is in this capacity that I hereby testify as to the urgency of the pending legislation.

HB 0868 is crafted simply to facilitate a bequest to address health disparities so as to give a voice to the intention of the decedent through the admission of extrinsic evidence regarding the life's work of the decedent to clarify that intention. Such legislation is needed to respond to the readiness of institutions to continue and persist in practices that promote racial disparity in their common resistance to engage in effective self-critique. Such change too often requires an investment in insight into the problem that the institution may need to acquire or change that necessitates expense. A simple bequest to a health provider, absent more specific direction regarding its application, too often underwrites an organization's existing practices that have historically yielded the disparities whose elimination past adoptions of Maryland law have identified as the focus of public policy.

The problem presented here is that it is often difficult to align the intention underlying a will provision with the intentions of the person making a will without a deep understanding of who the person is making the will. Ordinarily, courts may not consider extrinsic evidence of a person's intentions in making a will when courts construe the will. Nevertheless, the court may consider what it calls extrinsic evidence – proof outside the wording of the will itself -- only to resolve an established ambiguity reflected in the wording of the document. The problem

this principle does not anticipate is what happens then the plain unambiguous wording of a will's bequest, if executed without due clarification by extrinsic evidence, plainly makes a mockery of the decedent's of the decedent's life in that, knowing the person, it would be simply unthinkable that the person intended the result brought about by the wording in the will without the added clarification.

Consider this hypothetical illustration of the problem.

In 1955, Rosa Parks accumulated a sizeable fortune. After refusing to give up her seat on the bus, sparking the Montgomery Bus Boycott, she has considered ways in which her fortune might be used to facilitate the desegregation of Montgomery's buses, and has met with her lawyer to revise her will to make a large bequest to the transit company to soften the transition to a new equitable arrangement for the buses. Understanding that negotiations between the City of Montgomery, the Montgomery Improvement Association to be ongoing, and expecting Dr. King to use this financial gift as an inducement to secure equity, Rosa's will be drafted with no express proviso restricting use of the funds to desegregation efforts. Before the boycott is resolved, Rosa dies unexpectedly, and her will is probated. So, Relying upon the principle that the unambiguous wording of a will should control its interpretation, the transit company insists that the probate court direct Rosa's gift be given it to support its ordinary segregated operation while it opposes the boycott. Faced with a rule like the one now in place in Maryland, Rosa's personal representative is powerless to effectuate Rosa's intentions while allowing her otherwise unambiguous will to be interpreted to assist the continued operation she went to jail to oppose.

In the above hypothetical, HB 0868 would allow Rosa Parks to speak beyond the grave, through his personal representative's recitation of her life, to clarify that the bequest to an organization was intended only to facilitate that organization's equitable impact, not just to sustain its inequitable operation. In the

case of health results, the legislation would also support an outcome that Maryland law determines to be favorable to public policy.

Moreover, HB 0868 anticipates circumstances where its prescription would have wide application. There is an emerging pool of generational wealth arising from the Civil Rights Revolution of the 1960s about to be dispersed as aging Black entrepreneurs and professionals live out their retirement years and look to dispose of the remainder of the savings that had sustained their retirement. That new wealth, hereby directed by them with due legal protection of its intended application, may reflect the most effective support of the State's articulation of public policy than any formal appropriation of public funds.

Why might anyone oppose this outcome? This testimony is not intended to offer the answer to that question, only to acknowledge that there are indeed entities opposed to that outcome. These entities may profess the best of intentions or contend that, somehow, they know better; yet, nonetheless, they somehow manage outcomes that promote the disparity they degree. These entities require the incentive structure that HB 0868 promotes to achieve success in eliminating disparity.

Ironically, it is the existence of that inexplicable opposition that speaks to the necessity for this legislation. Without the protection this legislation would afford to the clarified intention of the decedent, it is hard to imagine a future where such

disparities no longer persist. The General Assembly should therefore adopt HB 0868 as law in Maryland.

HB0868_ FAV_ Keith Auzenne_ Testimony.pdf

Uploaded by: Keith Auzenne

Position: FAV

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (**Granny's Law**)

Support **FAV**

Keith Auzenne

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February 25, 2025

Dear Judiciary Committee: Chair, Vice Chair and Members,

I am writing you today from the great "Pelican State" of Louisiana. My name is Keith Auzenne and I have known Jennifer Johnson and her family for almost 20 years. Jennifer's grandmother was a wonderful lady and I often reminisce on some of the beautiful conversations we all shared together.

What happened to Jennifer's MawMaw (Granny) is totally unacceptable. Having lost my father's brother and my father's father to cancer and then my mother's brother and her father both to heart related issues, I know all too well how bad health disparities are killing African Americans.

My heart was broken when I found out what that judge did to Jennifer and her Granny's Estate. Jennifer shared the physical copy of the will with me and I really am baffled as to how the judge did any of the things she did as the will clearly states she should have had no authority to do anything.

I was ready to fly up there and bail Jennifer out but the way the judge did what she did we couldn't even post bail for her. Jennifer's mother was a total nervous wreck as was I and all her friends and family. Lucky Jennifer is smart and got out faster than we all thought she would and was thankfully unharmed.

I'm proud of Jennifer and I know her MawMaw would be too... I ask you to pass this legislation with your full committee's support and honor the life and legacy of Jennifer's Granny. I'm full supportive of **HB0868** Estates and Trusts - Interpretation of Wills - Evidence of Intent **Granny's Law** and pray you are too. Exodus 20:12 "Honor your father and your mother, that your days may be long in the land that the Lord your God is giving you". Help Jennifer honor her MawMaw.

Be Blessed,

Keith Auzenne

HB 0868_Written Testimony_Lanise Stevenson.pdf

Uploaded by: Lanise Stevenson

Position: FAV

Written Testimony

In Support (FAV) of House Bill 0868 – "Granny's Law"
Maryland General Assembly

Lanise Stevenson
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Good afternoon, Chair, Vice Chair, and esteemed members of the committee. My name is Lanise Stevenson, and I am here today in strong support of House Bill 0868, legislation that ensures bequests intended to address health equity are used as their donors envisioned.

I come before you not only as a complementary healthcare practitioner and researcher but also as someone whose life has been profoundly shaped by cancer. I am a survivor of thyroid cancer, and I carry within me the stories, struggles, and legacies of my grandmother, mother, aunts, cousins, and close lifelong friends, all of whom lost their battles with breast cancer. Cancer is not just a diagnosis—it is a generational burden that too often weighs heaviest on marginalized communities.

House Bill 0868 is a necessary safeguard to ensure that the resources meant to fight health disparities are not diverted away from their intended purpose. Too often, funding designated to advance health equity is lost in bureaucratic redirection, leaving patients, survivors, and families without the support they desperately need. For families like mine, and so many others in communities disproportionately impacted by cancer, these funds could mean access to critical screenings, life-saving treatments, culturally competent care, and survivorship programs.

When my mother was diagnosed with breast cancer, she fought to access the best care, yet she faced systemic barriers that made an already difficult battle even harder. She, like many women of color, deserved equitable treatment and resources that would have given her a better fighting chance. Health equity is not a luxury—it is a right. House Bill 0868 honors the intent of those who bequeath funds for this purpose, ensuring that their legacy is not diluted or misused but instead fulfills its highest potential: saving lives.

As a cancer survivor and someone who has lost far too many loved ones to this disease, I urge you to pass this bill. It is not just a matter of legal clarity; it is a matter of justice. We must honor the wishes of those who seek to eliminate health disparities, just as we honor the lives of those who have been lost too soon.

Thank you for your time and for your commitment to health equity in Maryland.



written testimony for hb0868.pdf

Uploaded by: Lawrence Grandpre

Position: FAV

Written Testimony

HB0868- Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)
Recommendation: Favorable

Submitted By:
Lawrence Grandpre
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Hello,
My name is Lawrence Grandpre.

I'm writing to urge the judiciary committee to issue a favorable review of Granny's Law, [HB0868](#) which would allow for extrinsic evidence to be introduced to support the right of personal representative to clarify intent in the instance of donations related to health equity.

As one of the issues I have worked extensively on is policing reform, hearing the story of Ms. Jennifer Johnson was extremely disturbing. No individual should face the possibility of police action and incarceration solely for standing up for what you believe is the sincere wishes of a loved one. Racial bias in the court system has been long-established, and the possibility of future Black residents of Maryland facing such a terrifying result seems to require legislative intervention. Beyond the technical and legalistic concerns around extrinsic evidence, I believe that the fundamental need to rectify the possibility of anything like this happening again makes this bill necessary.

Moreover, as my professional work touches on issues of wealth and health inequity, this issue of health disparities is of substantial importance to me. The Office of Minority Health and Health Disparities reported in 2024 that health gaps in preventable mortality are increasing in the state of Maryland for common causes of mortality such as stroke, diabetes, and infant mortality.¹ Even in so-called "affluent" counties like Howard County, Black people have the highest rates of heart disease and are hospitalized for high blood pressure at three times the rate of white residents.² This goes to show the need for investments in health equity in Maryland.

¹ The Office of Minority Health and Health Disparities. *Office of Minority Health and Health Disparities Report Annual Report 2023*, Maryland Health Department, 1 Mar. 2024, [health.maryland.gov/mhhd/Documents/MHHD_FY2023_Annual_Report_Final_\(1\).pdf](https://health.maryland.gov/mhhd/Documents/MHHD_FY2023_Annual_Report_Final_(1).pdf).

² Kurtz, Josh. "Report: Even in Md.'s Wealthiest County, Health Disparities Persist." *Maryland Matters*, 31 Jan. 2020, marylandmatters.org/2020/01/31/report-even-in-md-s-wealthiest-county-health-disparities-persist/.

This need to respect the ability of personal representatives is made more important when the role of racial income and wealth inequity is considered. Nationwide, post pandemic the Black-White wealth gap has continued to widen, creating almost a quarter of a million dollars on average in 2022.³ In Maryland, Black individuals make only .70 cents to every dollar white individuals make.⁴ Areas of the state that have the highest percentages of minorities (Baltimore City, Baltimore County, and Prince George's County) have the highest rates of incarceration, which studies have shown has had an extreme negative effect on every metric of health and wealth in these communities^{5 6}. In the face of targeted racial systemic violence, the idea that Black families who were lucky enough to be able to accumulate wealth would not have the ability to decide where this wealth after death goes after death is profoundly concerning.

This concern is magnified when it comes to the issue of investments in health equity. Unlike any other donation, investments in health equity are literally an issue of life and death. America's long history of medical racism means even well-meaning investments frame "health equity" can have devastating health consequences for communities. For example, in the 1990s the Abell Foundation invested in contraceptive implants and funded their use in Baltimore City public schools, causing a nationwide debate about informed consent and concerns over racial bias.⁷ Some of these implants had long-term negative health outcomes for the individuals who received them, leading to a lawsuit against the manufacturer.⁸

This is not to single out the Abell foundation, but to make the point that, from their perspective, cutting teen pregnancy was a desirable health equity goal, and, for another, the way in which they pursued that end violated their notions of racial justice. This is precisely why health equity investment requires the maximum amount of input and control on behalf of a personal representative. Not only are we dealing with the possibility of funding interventions that can lead to real physical harm, or even legal liability, but, most importantly, depending on what the interpretation of the individual is, they may end up funding interventions that may do the opposite of the donor's intent.

³ Alyasah Ali Sewell, Keon L. Gilbert, and Camille Busette Gabriel R. Sanchez. "Black Wealth Is Increasing, but so Is the Racial Wealth Gap." *Brookings*, 18 Jan. 2024, www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap/.

⁴ Kent, Ana Hernandez. "Examining U.S. Economic Racial Inequality by State: St. Louis Fed." *Federal Reserve Bank of St. Louis*, Federal Reserve Bank of St. Louis, 10 Jan. 2023, www.stlouisfed.org/publications/bridges/volume-3-2020/examining-us-economic-racial-inequality-by-state.

⁵ McKay, Tasseli. *Stolen Wealth, Hidden Power: The Case for Reparations for Mass Incarceration*. University of California Press, 2022.

⁶ Office of Social Equity. "Community Reinvestment and Repair Fund Survey Results Report." *Office of Social Equity*, Dec. 2023, ose.maryland.gov/Documents/CRRF_Report_-_OSEv3.pdf.

⁷ Licata, Justina Carmela. "The Politics of Norplant: Feminism, Civil Rights, and Social Policy in the 1990s." *NC Docks*, 2020, libres.uncg.edu/ir/uncg/f/Licata_uncg_0154D_12994.pdf.

⁸ *ibid*

The reality is one person's legitimate health equity investment is another person's example of illegitimate overreach, and it should not be up to the donor institution and judge alone to make this determination when the money to pursue these interventions comes from the hard-earned wealth of the residents of Maryland. This is especially true when the investment comes from Black and Brown Marylander's intending for the fruits of their life's work to reflect their specific vision of health equity. This is not merely a question of confusion on donor intent akin to confusion over the name of a relative; it's a fundamental distinction when donor money may be used to fund the opposite of donor intent with serious consequences.

I hope you take these comments in the spirit they are given. I understand there are legal precedents which have determined how these processes have functioned in the past. However, given that civil rights laws only passed in the 50s and 60s, we are dealing with one of the first generations of Black wealth being passed down intergenerationally from baby boomers to future generations. Thus, the legal system may not have had to consider these unique concerns when it comes to bequests focused on racial equity and the power imbalance between Black and Brown personal representatives and the legal system. Despite wealth inequity, Maryland, as home to two of the wealthiest majority Black communities in the country, and with increased ability to target their resources toward health equity, I believe these investments will have a substantial impact on health equity.

Thank You,
Lawrence Grandpre

HB0868Granny'sLaw.pdf

Uploaded by: Lekesha McClammy

Position: FAV

HB0868 Estates and Trust- Interpretation of Wills- Evidence of Intent (Granny's Law)

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Support FAV

Hello, my name is Lekesha D. McClammy, and I am in favor of HB0868 Granny's Law. I have been certified as a Nursing Assistant for the last 25 years. Although, I do not work in the field full-time any longer, I have been in contact with multiple people and experienced health disparities over my years in healthcare. This issue is affected by a number of health disparities such as, the physical strain on the body when taking caring of a sick individual or someone with a disability and the lack of healthcare workers in nursing facilities.

In the 2011 I was responsible caring for 6 patients in a memory care unit at a nursing facility. The care that was given consist of bathing, dressing, and transporting to the social area for daily activities. On my last patient, I was in process of positioning the wheelchair when my patient kicked me in my lower back, and I fell forward. This is just 1 of multiple injuries I received, but this injury took me out of work for 2 months before I could return on light duty. I had to continue physical therapy for another 6 months before being able to do my job fully. This was financially hard, and most of all my body will never be the same. This is one of the reasons I made a career change because the physical lifting and assisting the sick has a way to put a strain on your body over time.

Another disparity in healthcare is the lack of healthcare workers to assist and maintain healthy conditions in the nursing facilities. My aunt has been in about of the hospital with aspirating pneumonia due to not being monitored when she eat or drink. This has been an ongoing issue because of the lack of Nurse Aides and the ratio of patients they need to provide care. It has caused my cousin some mental strain because she is worried about her mother and the care she is receiving in the nursing facility. She cannot afford to bring her home and care for her because of the lack of homecare aides and the limited number of hours they are given to work.

These reasons listed above are the reason I am in favor of "Granny's Law" We need resources for the African American community in the state of Maryland who suffer from more than just these health disparities. My recommendation is you vote yes for the "HB0868 Granny's Law"

HB0868_ FAV_ Michael Bowen Mitchell Sr.pdf

Uploaded by: Michael Bowen Mitchell

Position: FAV

Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law) HB0868
Retired Senator Michael Bowen Mitchell, Sr.
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4103630330
Support FAV

February 25, 2025

Dear Judiciary Committee Chair, Vice Chair and Members,

I am a retired member of the Maryland State Senate, former Member of Baltimore City Council Representative to City Planning Commission.

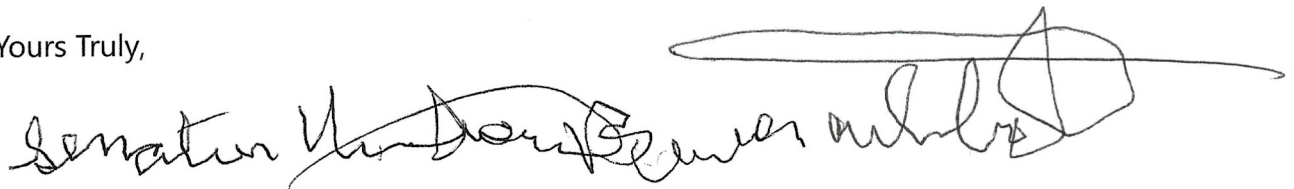
I support HB0868 Granny's Law and urge it's passage by the Maryland Legislator to protect African Americans and all people and their intentions for distributions of their estates. I knew Jennifer Johnson's grandmother in my youth. She was a pillar of the Anne Arundel County community and was an active member of the NAACP.

I have had the pleasure of meeting and learning of Jennifer's efforts to honor her family's legacy in the last year. This legislation would restore honor to her and her grandmother. It is important that the committee pass this legislation.

My late mother Juanita Jackson Mitchell was the first African American women to practice Law in the state of Maryland and she was the first Black editor of the University Maryland School of law review which was an honor society.

Please accept this letter as my support of House Bill 0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent "Granny's Law"

Yours Truly,

A handwritten signature in black ink, appearing to read "Senator Michael Bowen Mitchell Sr.", with a long horizontal line extending to the right.

Senator Retired Michael Bowen Mitchell Sr.

HB0868 Granny's Law Written Testimony by Dr. Miria

Uploaded by: Miriam Purnell

Position: FAV

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Dr. Miriam Purnell (Pharmacist, Professor, Health Disparities Expert)

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Support FAV

Written Testimony for the Maryland State Legislature

Date: February 24, 2025

Delegate Clippinger, Delegate Bartlett, and Members of the Committee,

I appreciate the opportunity to submit testimony in strong support of HB0868, known as "Granny's Law." This bill was inspired by a woman who designated in her will that funds should be used by beneficiaries to support initiatives that help improve health disparities in Black populations. As a pharmacist and expert in health disparities, I am providing evidence-based analysis on the critical need for this legislation and the existence of health disparities in Black Populations.

HB0868 -Granny's Law

Granny's Law allows a personal representative to ask the orphans' court to clarify a deceased person's will based on outside evidence of their true intentions. It also creates a legal assumption about what the deceased likely intended, which can be challenged. Additionally, it gives the representative the power to ask a beneficiary to show how they are using their inheritance. If specific wording is included in the will, the court must interpret it in a particular way.

Key Points Supporting HB0868

Black Adults have a lower life expectancy than non-Hispanic Whites. In 2022, life expectancy for Black Americans was almost 5 years less than non-Hispanic Whites (72.8 vs. 77.5, respectively). Heart disease, cancer, accidents, stroke, and COVID-19 were the top causes of death among Black Americans. (<https://minorityhealth.hhs.gov/blackafrican-american-health>)

- **Black Adults Experience Higher Rates of Chronic Disease**
 - Black Adults were 20% more likely to have diagnosed hypertension than non-Hispanic white adults. (<https://minorityhealth.hhs.gov/heart-disease-and-blackafrican-americans>)
 - In 2023, non-Hispanic Black adults were 30% more likely to have asthma and 2.5 times more likely to die from asthma-related causes compared to non-Hispanic white adults in 2023. (<https://minorityhealth.hhs.gov/asthma-and-blackafrican-americans>)
 - In 2023, non-Hispanic Black or African American adults were 1.4 times more likely than non-Hispanic white adults to be diagnosed with diabetes. In 2021, non-Hispanic Black or African Americans were 40% more likely than non-Hispanic whites to die from diabetes. (<https://minorityhealth.hhs.gov/diabetes-and-blackafrican-americans>)
 - Black/African Americans have lower 5-year cancer survival rates for most cancer sites than non-Hispanic whites. Black/African American females have similar rates of breast cancer incidence as non-Hispanic white females, but from 2018–2022 they were 40% more likely to die from breast cancer than non-Hispanic white females. (<https://minorityhealth.hhs.gov/cancer-and-blackafrican-americans>)

- Compared with non-Hispanic whites, AA with mental illness:
(<https://www.psychiatry.org/psychiatrists/diversity/education/mental-health-facts>)
 - Have lower rates of any mental health service (e.g. prescription meds, outpatient services)
 - Are more likely to go to emergency rooms or primary care than to a mental health specialists
 - Are less likely to be included in research
 - Are less likely to receive guideline consistent care
 - Black people are more likely than White people to face social and economic inequities that negatively impact health (<https://www.kff.org/policy-watch/how-recognizing-health-disparities-for-black-people-is-important-for-change/>)

Black Adults Face Economic Barriers

Proper estate planning and will interpretation can mitigate financial strain on Black families (<https://www.epi.org/blog/heirs-property/>), who are more likely to face economic hardship due to unexpected medical and long-term care costs (<https://www.nclc.org/resources/the-racial-health-and-wealth-gap/>).

Addressing Opponent Arguments

1. **Concern: "This bill increases the risk of will disputes and legal complications."**
 - FACT: The bill provides a structured process for interpreting wills based on demonstrable intent, reducing ambiguity and costly litigation.
2. **Concern: "There is no clear evidence that this law will improve estate outcomes for vulnerable populations."**
 - FACT: Data shows that Black families are disproportionately impacted by intestate succession laws, leading to loss of generational wealth and increased financial strain.
3. **Concern: "It will increase administrative burden on courts and personal representatives."**
 - FACT: Clear legal frameworks for will interpretation ensure smoother probate processes, reducing long-term legal costs for families.

Conclusion

Granny's Law is essential to ensuring that the original intent of estate donations is honored, particularly when designated to address critical health disparities. When funds meant to help marginalized communities are misused or redirected, the existing inequities in healthcare access and outcomes worsen. HB0868 is a necessary step in addressing the significant disparities affecting Black and underserved Marylanders. Ensuring equitable will interpretation will improve financial stability, reduce healthcare costs, and protect generational wealth. I urge the legislature to pass Granny's Law and support Maryland's most vulnerable residents.

Thank you for your time and consideration.

Sincerely,



Miriam C. Purnell, Pharm.D.
University of Maryland Eastern Shore
School of Pharmacy and Health Professions
Department of Pharmacy Practice and Administration
Chair and Professor
Program Director, PBC Rural Health Disparities and Social Inequities

Grannys Law.pdf

Uploaded by: Nicole Freeman

Position: FAV

This bill creates the needed conversation to make changes to the issues that affect individuals with medical conditions that are unserved, underprivileged, underrepresented, and under cared for. Health disparities in the low-income populations alone divide Maryland and the country, providing those who may lack capital with limited resources to the basic needs of mankind. For instance, Breast Cancer is a leading cause of death in African American women. Although prevention and treatment plans have evolved and progressed, there remain pockets of women who go without annual mammograms, education on breast cancer, up to date treatment plans, and follow up surgeries and therapies. Granny's Law is the start to breaking down institutional, cultural, and education biases to provide basic and needed healthcare throughout Maryland.

Granny's Law HO0868[final].pdf

Uploaded by: Paula Langford

Position: FAV

February 25, 2025

Judiciary Committee

Bill Number: HB0868

Granny's Law

Vote: Fav

Dr. Paula Langford, LICSW

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4219 Red Haven Road

Pikesville, Maryland 21208

Written and Oral Testimony In Support of Granny's Law HB0868

In Support of Legislation to Increase Funding for Addressing Health Disparities Among African Americans and Other Minorities, with a Special Focus on Children in Foster Care, Individuals Living with Cancer, and Their Families

Honorable Chairperson, Vice Chair, and Esteemed Members of the Committee,

Thank you for the opportunity to speak before you today in strong support of this critical legislation aimed at securing more funding to address the devastating health disparities that disproportionately impact African Americans and other minority communities. This issue is not abstract for me—it is deeply personal. My name is Dr. Paula S. Langford, and I come before you as a dedicated clinical social worker, neuroscience coach, and advocate for holistic mental health interventions. With over three decades of experience in child welfare, social work, and community healing, I am here to offer my full support for this critical legislation that seeks increased funding to combat health disparities affecting African Americans and other minority communities.

I stand before you not just as an advocate but as a witness to the unrelenting loss and suffering caused by systemic healthcare inequities in the Black community.

My maternal grandparents, James and Pauline Joyner Lyles, both succumbed to lung cancer.

My niece, Kimberly Merrill, passed away from breast cancer, leaving behind four children, all under the age of twelve.

My brother, a proud United States Army veteran, lost his battle with lung and brain cancer in 2023.

And on April 11, 2024, after years of fighting ovarian cancer—only to later develop breast cancer—my mother ultimately succumbed to lung cancer.

These are just a few of my immediate family members whom I have had to bury within the past five years. The weight of this loss is compounded by the reality that these deaths—like so many in the Black community—were not inevitable. They were worsened by a medical system that undervalues Black bodies, delays diagnoses and fails to provide equitable preventative care, financial compensation, and culturally appropriate research and treatment options.

The Disproportionate Impact on Foster Children and Families

Health disparities do not only affect individuals—they tear families apart, leaving behind vulnerable children who often end up in the child welfare system.

Jennifer's grandmother dedicated years working in the juvenile justice system and directly witnessed how children in foster care are often there because their parents could not access adequate healthcare—either due to financial barriers, racial bias, or medical neglect.

Too many Black and minority parents and grandparents have died prematurely, leaving behind children who now navigate a system that was never designed to meet their emotional, psychological, and physical health needs.

Even when foster children receive medical care, it is often delayed, substandard, or lacking in trauma-informed and culturally competent approaches.

The Struggles of Black Cancer Patients and Families

The disparities extend beyond access to treatment—they manifest in misdiagnoses, delayed interventions, and a lack of culturally relevant patient education.

Black patients are more likely to be diagnosed at later stages of cancer due to medical biases and disparities in preventative screenings.

They often receive less aggressive treatment recommendations, leading to higher mortality rates.

Financial devastation follows as families deplete savings, lose employment, and fall into medical debt, all while grieving their loved ones.

This is to say nothing of the many Black Deaf patients I have personally witnessed struggling to communicate with doctors, left to rely on written notes from medical staff or interpretation by their children (CODAs—Children of Deaf Adults). Imagine receiving a life-altering diagnosis in a language you struggle to understand without the dignity of proper communication support fully.

A Call for Legislative Action

We cannot afford to look away from these crises. This legislation is a necessary and urgent step toward equity. Increased funding would allow for:

1. Culturally competent cancer care programs that focus on early detection, preventative screenings, and tailored treatment plans for African Americans and minorities.
2. Expanded mental health and healthcare services for foster children, ensuring they receive trauma-informed, holistic care.
3. Targeted financial relief and assistance programs for families burdened by medical expenses.
4. Investment in Black-centered medical research and data analysis, ensuring studies address our community's specific needs rather than relying on outdated or Eurocentric models.
5. Stronger protections and accessibility measures for Black Deaf patients and other marginalized groups in healthcare settings.

We Must Act Now

The mental, emotional, and financial toll of these disparities is unsustainable. The cycle of neglect, loss, and inadequate care must be broken. Passing this legislation is a step toward justice, healing, and survival for communities that have been overlooked for far too long.

I urge this committee to stand on the right side of history by supporting this bill. Thank you for your time and dedication to this vital issue.

Thank you

HB868.Tmy.final.pdf

Uploaded by: Samuel Rosenberg

Position: FAV

SAMUEL I. "SANDY" ROSENBERG
Legislative District 41
Baltimore City

Health and Government Operations
Committee

Chair

Health Occupations and
Long-Term Care Subcommittee

House Chair

Joint Committee on Administrative,
Executive, and Legislative Review



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Respond to Office Indicated

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Testimony of Delegate Samuel I. Rosenberg

Before the House Judiciary Committee

In Support of

House Bill 868

Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

Chair Clippinger and Members of the Committee:

My constituent, Jennifer Johnson, is the lead advocate on House Bill 868, also known as 'Granny's Law.' Ms. Johnson has worked extensively on this bill, to help rectify wrongdoings perpetrated against her late grandmother and their family. The Johnson family, like many others, continues to suffer long after their loved one passed away.

Too often, Maryland's Orphans Court misinterpret the wills of people like Ms. Johnson's grandmother while ignoring the pleas from the deceased's family and other trusted representatives. Those who have done the most for people like Ms. Johnson's grandmother, the caregivers, also continue to receive little to no respect. HB 868 seeks to return the authority on family estates to the family and caregiver.

These injustices, like most others, disproportionately burden our residents of color. HB 868 seeks to conform the resolution of wills to better reflect the state policy eliminating health-based disparities.

I urge this Committee to issue a favorable report on HB 868.

February 27, 2025

HB868 testimony FINAL.pdf

Uploaded by: Sara Eisenberg

Position: FAV

HB 868 FAV

Sara Eisenberg, MS
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Chairman Clippinger and Distinguished Members of the Judiciary Committee, I submit this testimony in strong support of HB 868 as a founding member of the Board of the Maryland Association of Non-Profit Organizations, a former non-profit Executive Director, a self-employed health professional, and an eighty-year-old white resident of Baltimore City who has been a full-time caretaker since 2020.

HB 868 ensures that Maryland law upholds the intent of individuals who wish to direct their legacy toward addressing racial disparities in health outcomes. A loophole in current law allowed a deeply troubling case—"Granny's" case—to unfold in the Baltimore County Orphans' Court, where the right of a Black family's personal representative to guide the distribution of "Granny's" legacy was disregarded. This is more than a legal oversight; it is a moral transgression.

The impact of such rulings cannot be overstated. According to the Maryland Office of the State Comptroller, the median household wealth for Black families is approximately \$25,000, compared to \$188,000 for white families. Given these stark disparities, the loss of agency in directing even a single Black family's carefully accumulated legacy is not just unfortunate—it is an injustice that compounds historical inequities.

As a former non-profit professional in Maryland, I am well aware of the obligation of non-profit organizations to honor donor conditions. These conditions are not suggestions; they are binding commitments. Until I learned of "Granny's" case, I (mis)understood this compliance to be a matter of law. HB 868 corrects that misconception by closing a pernicious loophole—one that allowed a non-profit beneficiary - and the Orphan's Court - to act in bad faith, disregarding donor intent, personal representative knowledge, ethical responsibility, and a stated Maryland Health Policy priority.

The specific conditions of "Granny's" gift were clear in the family's mind, which the court treated as insufficient grounds: the funds were to be used to address racial health disparities— an issue extensively documented. Since 2020 alone, the National Library of Medicine has cataloged over 16,000 studies on racial health disparities. Since 2004, the Maryland Office of Minority Health and Health Disparities has been required to report on these issues to the General Assembly. The 2025 report notes some progress but acknowledges that significant disparities remain, particularly in areas such as preventable healthcare utilization and HIV/AIDS treatment.

Given this persistent need, the family's desire, and the decedent's commitment, what justification could possibly exist for a Maryland non-profit—or an Orphans' Court judge, for that matter—to ignore both the conditions of "Granny's" gift and the ongoing disparities affecting Black communities?

HB 868 not only prevents future transgressions but also provides a path to rectify past injustices, including those in “Granny’s” case. By ensuring that donor intent is honored, particularly when it seeks to address racial inequities, this bill strengthens the integrity of Maryland’s legal and non-profit sectors alike.

I urge you to pass HB 868 to affirm Maryland’s commitment to justice, equity, and the rule of law. Thank you for your time and consideration.

SDJE Written Testimony HB0868.pdf

Uploaded by: Sharon Duncan Jones-Eversley

Position: FAV

Sharon Duncan Jones-Eversley, DrPH, MA
Professor Emeritus -Social Epidemiologist
HB0868 General Assembly Written Testimony
Judiciary Committee

Scheduled February 27, 2025

Hello, I am Dr. Sharon Duncan Jones-Eversley. First and foremost, thank you for the opportunity to express my favorable endorsement of HB 868, Granny's Law. I am a lifelong Marylander who was born, raised, and educated in public schools in Baltimore City. My three higher education degrees are from Maryland institutions: Morgan State University and the University of Baltimore.

I am a Professor Emeritus and Social Epidemiologist in the Family Science Department at Towson University. Please note that my testimony today does not represent Towson University. Rather, it reflects my over 40 years in human services and public health.

As a health disparities scholar in the early 2000s, under the leadership of Dr. Carlessia Hussein, I conducted analytical data and research and authored four (4) reports for the Maryland Department of Health, Office of Minority Health and Health Disparities. Those reports guided the Maryland Plan to Eliminate Minority Health Disparities in our great state.

While Granny's Law primarily addresses the interpretation of wills, it has significant implications in Maryland and the nation as we are on the dawn of the largest intergenerational transfer of wealth (an estimated \$125 trillion) from older generations to their intended beneficiaries. Granny's Law provides essential safeguards to protect the true intentions of Maryland's elderly residents as they pass their wealth, assets, and legacies to future generations. Granny's Law also complements the Maryland Department of Aging's *Longevity Ready Maryland* initiatives to ensure a better quality of life and aging for all Marylanders, regardless of zip code, race, ethnicity, or other social demographics that contribute to variances in health care, health outcomes, and overall quality of life.

But more importantly, HB 868 aligns with the MD Code that addresses identifying and eliminating health disparities in Maryland. Persistent health disparities exist and remain among marginalized Marylanders ages 60 and older.

In Maryland, African Americans are 84% more likely than whites to be diabetic. They are also about 25% more likely to die from heart disease or stroke. Similar to national data, Maryland Black Americans die sicker and younger than any other race or ethnicity. Resulting in higher rates of chronic diseases (heart disease, cancer, stroke, diabetes, etc.), adverse health outcomes, and mortality. However, when we stratify the data to Black aging Marylanders' low life expectancy (72.8) and poverty rate (16%) their quality of health and life data are even more disturbing.

While Maryland has made progress in addressing social determinants of health, we must elevate our efforts to target social determinants of death among our aging population, particularly those marginalized and the older Black population 60 and older.

Sharon Duncan Jones-Eversley, DrPH, MA
Professor Emeritus -Social Epidemiologist
HB0868 General Assembly Written Testimony
Judiciary Committee
Scheduled February 27, 2025

HB 868, "Granny's Law," is a much-needed, common-sense, equitable, and necessary update to Maryland's probate laws. It reflects our moral responsibility to honor the lives and legacies of Maryland's elderly and protect their final wishes from misinterpretation or exploitation.

I urge the committee to pass House Bill 868 to ensure Maryland's families can navigate the largest wealth transfer in history with dignity and justice.

Thank you for your time and consideration.

HB0868 Granny's Law.pdf

Uploaded by: Teye Nelson

Position: FAV

Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)

HB0868

Toye Nelson

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(443)956-4202

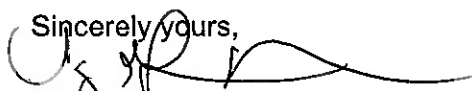
Support FAV

It is my esteemed pleasure to write a letter and share my testimony in support of HB0868 Granny's Law. In 2008 to 2009 I was living with agonizing pain. I would regularly see my primary care physician seeking answers and relief: I was sent to take a stress test. The results were normal. I continued to beg the doctor that the intensity of the pain was worsening. After months of no answers or diagnosis, the doctor gave me a bag of Cymbalta and suggested I take 30 mg and increase it to 60 mg if needed. He also wrote in his notes [that I later obtained] that I was psychosomatic. My pain was dismissed; I was listened to but not heard. I then elected to stop seeing him or any doctor for over a month, until I couldn't live a normal life. I found a new primary care in May and a week later I was in the Hematology Building at Baltimore Washington Medical Center then shortly thereafter I was diagnosed with stage 3B Hodgkin's Lymphoma. Here I am 16 years later and I am in the fight to advocate for my parents who are experiencing cognitive decline. Monthly I am trying to coordinate their medical care and assemble resources and I often struggle to get a return phone call from physicians.

It is my understanding that the Office of Minority Health and Health Disparities seeks to do the following, and more - Address social determinants of health, reduce health disparities and advance health equity by leveraging the resources of the Maryland Department of Health; Foster robust community public/private partnerships to advance health equity advocacy and education.

I believe that Jennifer Johnson's grandmother's estate (funds) were bequeathed to support these specific outcomes that directly impact minority health and health disparities. According to a NIH article, "Maryland has led the nation in policy solutions to identify and address health disparities." I ask for the Judiciary Committee's full favorable support for HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law).

Sincerely yours,



Toye Nelson

Written testimony

Uploaded by: Yvette Lankford

Position: FAV

HB0868 Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law)
Support FAV
Yvette Lankford
Address: 301 North Payson Street Apt. 2 Baltimore Maryland 21223
Email: divalankford@gmail.com
Phone: 410 831 4953
February 25, 2025

Dear Judiciary Committee Chair, Vice Chair and Members,

In January of 2024 my one and only child, Patrice was diagnosed with cancer. On May 22nd 2024 I woke up to the horror of losing my one and only child, my baby girl was only 43 years old and passed in her sleep. Jennifer Johnson and my daughter have been friends since high school, both graduates of one of the only all girl public schools left in our country Western Senior High School in Baltimore city.

Patrice passing away at 43 is not the way things were planned. She leaves behind my precious grandson. We lost Patrice's grandmother at the age of 53 to the same cancer. However, with technological advances, early screening etc. we did not expect to lose Patrice especially not so soon. In fact what happened to my child is the exact opposite of what any of us had ever hoped or imagined.

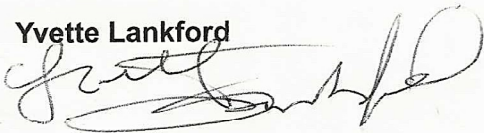
I would never ever have imagined that I would have to bury my only child. It is not the natural order of life. I am still grieving and trying to put the pieces of my life back together and trying to create a new normal for my grandchild.

HB0868 "Granny's Law" should be passed into Law and Jennifer's Grandmother, my child and all those caregivers and those suffering with health disparities should be honored and more targeted programming should be provided especially to our youth to hopefully prevent death in future generations in our communities.

I ask the Judiciary committee to unanimously favorably support Estates and Trusts - Interpretation of Wills - Evidence of Intent (Granny's Law). Honor Jennifer's grandmother, my daughter and all of our caregivers and loved ones affected by health disparities.

Sincerely,

Yvette Lankford

A handwritten signature in black ink, appearing to read 'Yvette Lankford', written over a horizontal line.

HB 868 AB Rohde UNfavorable.pdf

Uploaded by: Alexis Burrell-Rohde

Position: UNF



ALEXIS BURRELL-ROHDE

REGISTER OF WILLS, BALTIMORE COUNTY
COUNTY COURTS BUILDING
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TOWSON, MARYLAND 21204

410-887-6680

registers.maryland.gov
FAX 410-583-2517

February 25, 2025

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

House Bill 868 my letter 2-25-25.pdf

Uploaded by: Kimberly Cascia

Position: UNF

House Bill 868

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.

As an Orphans' Court Judge, my job is to see that the decedent's wishes are met in accordance with their will. Testamentary intent is deduced from the four corners of "the will" itself. Orphans' Court Judges have very limited jurisdiction, but we do have the authority to interpret a will in accordance with the testator's intentions.

This bill deprives the testator of their specifically written instructions.

I humbly request that House Bill 868 not receive your approval.

Kimberly Jean Cascia
1200 Thompson Creek Road
Stevensville, MD 21666

HB0868 - Estates and Trusts - Interpretation of Wi

Uploaded by: Laura Thomas

Position: UNF



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410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

To: Maryland House of Delegates – Judiciary Committee

From: MSBA Estate & Trust Law Section

Date: February 27, 2025

Subject: **HB0868** – Estates and Trusts – Interpretation of Wills – Evidence of Intent

Position: **Oppose**

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) **opposes House Bill 868 – Estates and Trusts – Interpretation of Wills – Evidence of Intent.**

A thorough analysis of HB 868 raises a number of concerns, and shows that the bill would do more damage than good. Firstly, the scope of this bill is so narrow that it is not likely to reduce health disparities in Maryland (the intended purpose of the bill). There likely are other approaches to alleviating health disparities in Maryland that will have a much larger impact than any possible change to probate law.

Secondly, Maryland has a longstanding commitment to testamentary freedom with only minimal restrictions. For instance, under Maryland law a person creating a Will (“testator”) can provide a restricted gift to a charity in their Will. A restricted gift to charity includes a statement that the gift to the charity must be used by the charity to support a specific program or goal that the testator supports. For example, “I give five thousand dollars (\$5,000) to Health Charity, to be used to support cancer treatments.”¹ If such a restricted bequest is made, the recipient charity is required to use the restricted gift for the stated purpose. Therefore, Maryland law already allows testators to direct their charitable donations toward a specific cause or program. HB 868 infringes on the testator’s right of testamentary freedom by granting another person the ability to change the testator’s stated intent in a Will, seemingly without protection for the charitable beneficiaries named in a Will.²

Thirdly, under Maryland law (and the law of many other jurisdictions), the admission of extrinsic (outside) evidence to interpret a Will or other contract is limited to situations where there is an ambiguity within the Will or contract. The courts follow the

¹ In contrast, an unrestricted gift to charity would use language like “I give five thousand dollars (\$5,000) to Health Charity” thereby allowing the charity to use the bequest for any reason.

² If passed, HB 868 would allow the personal representative to petition change a restricted bequest if the personal representative believed that the decedent’s life reflected an active interest in health equity issues. Take, for instance, the example restricted bequest used above. The personal representative would be able to petition to redirect those funds from cancer treatments to health disparities, even though it was the testator’s intent – perhaps expressed in an agreement with the charity – to support cancer treatments. Both are worthy causes. However, the testator’s intent should prevail when interpreting a Will.

objective theory of contract interpretation, which means that the courts' primary focus is on the four corners of the document to determine the intent of the parties based on the plain, ordinary, and usual meaning of the language in the document. When determining whether to admit extrinsic evidence in the case of a Will, the court first determines whether the language of the Will applies equally to two or more subjects or objects (i.e., the testator leaves a bequest in her Will to "my cousin, Michael", but the testator has two cousins named Michael). If the language of the Will does not apply equally to two or more subjects, extrinsic evidence is not admissible. The court's primary goal is to ascertain and effectuate the testator's expressed intent as written in the Will, and extrinsic evidence is only used to clarify ambiguities, not to alter the express terms or speculate on what the testator might have intended to say.³ HB 848 would open a Pandora's box of speculation about a testator's intent even in the face of otherwise clear language. This could produce extended litigation thereby delaying the settlement of decedents' estates. In addition, this bill would upend a longstanding, commonly understood legal theory that could have drastic ramifications across many areas of the law in Maryland, not just in the context of Wills and estates.

Fourthly, the Will provision included in the statute under (a)(III) has been interpreted in Maryland to grant the personal representative broad authority to manage and settle the estate, ensuring that the testator's intentions are fulfilled, and the estate is managed effectively, but not to change the intention of the testator. Directing the court to defer to the personal representative's actions when a Will contains this clause prevents the court from fulfilling its statutory duty to direct the conduct of the personal representative and places the personal representative's judgment before that of the testator.⁴

Lastly, there are legal inaccuracies contained within the language of HB 848. For instance, the authority given to an agent in a power of attorney document ends upon a principal's death. Therefore, a personal representative, who is appointed after a principal's death, cannot also have power of attorney because the rights granted to the agent have ceased. Second, there is no legal document that states who serves as a person's caregiver. The court would need to hold a hearing to determine whether the individual petitioning the court was the decedent's caregiver.

For the reasons outlined above, The Estate and Trust Law Section of the MSBA opposes HB 868. We believe that HB 868 would impair Maryland's longstanding tradition of testamentary freedom, upend centuries of law regarding document interpretation, and would have little, if any, impact on improving health disparities in Maryland. Accordingly, we urge an **unfavorable** report.

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Laura Lynn Thomas
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Thomas Grace
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³ See *Vito v. Grueff*, 453 Md. 88; *Fersinger v. Martin*, 183 Md. 135; *Schapiro v. Howard*, 113 Md. 360; *Cassilly v. Devenny*, 168 Md. 443

⁴ Md. Estates and Trusts Code Ann. § 2-102.

MAJOC testimony opposing HB 868 for submissiodocx.

Uploaded by: Melissa Bright

Position: UNF

MAJOC



MARYLAND ASSOCIATION OF THE JUDGES OF THE ORPHANS' COURTS

HB 0868
UNF

Dear Delegate Clippinger and Members of the House Judiciary Committee,

I am writing today to convey the opposition of the Board of Directors of the Maryland Association of Orphans' Court Judges to the passage, or even favorable report from Committee, on this bill. We offer the following support for our position:

1. This bill is the product of a single Personal Representative's dissatisfaction with the distribution of her grandmother's estate as directed by the Decedent's Will. She sought in the course of probate of that Estate to impose conditions on legacies that were not expressed in the Will and to alter the actual beneficiaries of her grandmother's will. The way this bill is written, with its retroactive application, is purely self-serving and an attempt by this Personal Representative to change existing law to mirror her personal desires.
2. To be retroactive to apply to wills probated on or after October 1, 2021, is to impose new legal conditions on estates which were probated before such conditions were law, on wills that were written when no such third-party implication of conditions was contemplated, and on testators who are no longer available to testify as to their intent beyond what they have written.
3. The point of a will is to allow each of us to exercise our right of disposition over our own property. Courts have held for centuries that "Mom told me..." and equivalent arguments could not affect distribution under a will unless the allegation of what the decedent may have said in life was actually part of the written will. This venerated practice has helped to derail many attempts at fraud and has preserved the sanctity of the testator's specifically written directives.
4. Allowing a PR to testify and use extrinsic evidence under this Bill is in violation of the MD Rules of Evidence and opens a Pandora's box for unsubstantiated and even fraudulent information to be allowed in a court in which evidence must be able to be verified as factual, which is why for the most part a decedent's verbal statements may not be used in probate proceedings under the Deadman's Statute.

(continued on next page)

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Hon. Athena Malloy Groves
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Hon. Russell Yates
Charles County
Member-at-Large

5. To posthumously impose conditions on any testamentary legacy that are not part of the written will is to deprive the testator, after death, of the rights of disposition that were unequivocally theirs during life. If this can be done by a third party to suit their own ends, what, then, is the purpose or use of a will?
6. The specificity of this bill regarding “health equity issues” is a precedent that would open the gates to a potentially infinite number of qualifications to be applied to every legacy stated in a will.
7. Holding recipients under the will accountable for any added conditions imposed by the Personal Representative for an extended time after the estate is closed unreasonably limits the gift devised and requires charitable legatees to hold the gift in limbo pending the Personal Representative’s approval. It also would mean that the estate could not be truly closed OR that the Personal Representative would be exercising authority that has already terminated with the closing of the estate. This bill would upend probate and not allow for a final accounting and distribution to be the end of the estate process, thereby creating uncertainty.
8. The requirement that “**THE COURT SHALL DEFER TO THE JUDGMENT OF THE PERSONAL REPRESENTATIVE REGARDING THE ADMINISTRATION OF THE WILL UNDER THIS PARAGRAPH IF THE WILL INCLUDES THE FOLLOWING LANGUAGE: ..**” is directly contrary to Estates and Trusts 2-102, which provides that the court may “direct the conduct of a personal representative.” At no time should any court be deferring to the judgment of a Personal Representative, particularly when the PR may have a pecuniary interest in the Estate.
9. The further descriptions of instances when the court would be required to defer to the Personal Representative put the burden of proof on the court to prove that the conditions imposed by the Personal Representative are *not* the intent of the testator. This is contrary to foundational law and practice that the testator’s intent is best determined by what the testator wrote down.

Thank you for considering our opposition and reasons.

Respectfully,
Melissa Pollitt Bright
Chief Judge, Orphans’ Court for Wicomico County
President, Maryland Association of Judges of the Orphans’ Court
Member, Conference of Orphans’ Court Judges
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq., Staff
410-260-1523
RE: House Bill 868
Estates and Trusts – Interpretation of Wills – Extrinsic Evidence of Intent
(Granny's Law)
DATE: February 5, 2025
(2/27)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 868. This bill proposes to allow a personal representative (PR) to petition the court for the court to interpret a will in accordance with the intent of the decedent; if the will has a legacy provision for a health provider or charitable organization and contains no express provision relative to health equity issues. The PR would be allowed to introduce evidence of the intent of the decedent which would create a rebuttable presumption.

First, the courts currently possess the authority to interpret a will in accordance with the intention of the testator. Further, it is unclear how the bill would operate where the estate is closed and the personal representative has been discharged, which raises practical and procedural concerns. The bill is also contrary to the principle that testamentary intent is gathered from the four corners of the will itself, not extrinsic evidence. *See Castruccio v. Est. of Castruccio*, 456 Md.1 (2017). In addition, the bill would create a rebuttable presumption as to the decedent's intention in certain cases (p. 2, lines 21-25), which may present practical difficulties.

cc. Hon. Samuel Rosenberg
Judicial Council
Legislative Committee
Kelley O'Connor