

**Analysis of Age and Education of All Sitting Orphans'
Court Judges***

Current Age	Attorney Judges	Lay Judges
18-19	0	0
20-29	0	1
30-39	0	0
40-49	0	0
50-59	6	3
60-69	3	16
70-79	8	18
80-89	2	6

Analysis: A. 34 of 63 sitting judges (54%) are 70 or older. 4 more (60% total) will reach the age of 70 by the end of this term of office.

B. 19 of 63 sitting judges (30%) are attorneys; 44 sitting judges (70%) are lay judges.

C. Only 9 of 63 judges (14%) would be qualified to serve if Orphans' Court judges had the same requirements for Circuit Court Judges with respect to legal education and mandatory retirement age. 54 judges (86%) would not be qualified.

* As of 11/13/2025

Appeals from Orphan' Courts between FY2018 and FY2024*

Timeframe	Type of Court	Affirmed	Reversed	Affirmed in Part, Reversed in Part	Total Appeals Reaching Substantive Conclusion	% Affirmed	% Reversed	% Affirmed in Part, Reversed in Part
FY18-21	Circuit Court	12	2	1	15	80.0%	13.3%	6.7%
FY18-21	Attorney Court	9	9	1	19	47.4%	47.4%	5.3%
FY18-21	Lay Court	10	23	2	35	28.6%	65.7%	5.7%
FY22-24	Circuit Court	9	1	0	10	90.0%	10.0%	0.0%
FY22-24	Attorney Court	8	10	1	19	42.1%	52.6%	5.3%
FY22-24	Lay Court	9	23	3	35	25.7%	65.7%	8.6%
FY18-24	Circuit Court	21	3	1	25	84.0%	12.0%	4.0%
FY18-24	Attorney Court	17	19	2	38	44.7%	50.0%	5.3%
FY18-24	Lay Court	19	46	5	70	27.1%	65.7%	7.1%

Findings:

- A. Over the past seven fiscal years, Circuit Courts sitting as the Orphans' Courts are affirmed most frequently, in approximately 84% of cases.
- B. Over the past seven fiscal years, attorney courts are about as slightly more likely to be reversed than affirmed most frequently, being affirmed in 45% of cases and reversed in 50% of cases.
- C. Over the past seven fiscal years, lay courts are the more likely to be reversed, being affirmed in just 27% of cases and reversed in nearly 66% of cases.
- D. Of the three models, the Circuit Courts achieve the highest level of legal accuracy in their decision-making, rarely being reversed. Attorney courts are more likely to be reversed than affirmed, and lay courts are

* This data does not include all appeals, including those dismissed, settled, and withdrawn. It includes merely those that reached a substantive conclusion.

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It's time to abolish the Orphans' Court

Editorial Advisory Board // November 21, 2025 //



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The Orphans' Courts in Maryland were first established in Maryland in 1777 and in 1851 the judges of those courts became constitutional judges under Article IV, Section 40. The constitutional convention of 1867 considered the abolition of the Orphans' Court, but ultimately chose a substitute providing for three elected judges.



The last modern constitutional convention of 1967-1968, which led to the abandonment of local chancery courts, rent courts, and people's courts and the creation of our present-day District Court system, could not agree on what to do with the Orphans' Court, so it survived.

To this day, in all but Harford, Howard and Montgomery counties, probate matters are still heard by a panel of three elected judges, most of whom are not lawyers by training. Those counties moved away from this ancient system by amendments to the state constitution and have such cases heard by circuit court judges. Now is the time for the rest of the state to join them, for several reasons.

First, under the current system, in most counties, people with absolutely no training or qualifications can run for this judicial office, and can, of course, win. These positions are at the end of the ballot and many voters have no idea who the candidates are or even what the Orphans' Court does.

Second, the Orphans' Courts handle very important matters, to wit, probate and estates. They direct the conduct of personal representatives and have jurisdiction over the property of minors. Probate proceedings may involve an estate valued at a few hundred dollars or several million dollars. These judges approve administration accounts and the payment of attorneys' fees or personal representative commissions.

If there are disputes, these judges hold formal hearings, consider evidence submitted, including testimony, and must apply the appropriate Maryland law to resolve the dispute. Particularly in these circumstances, many of these elected judges may be in over their heads, to say the least.

Third, we know from the experience in the three counties where circuit court judges hear probate cases instead of Orphans' Court judges, that we have an easy solution to these inherent issues stemming from an anachronism. Just abolish the Orphans' Court once and for all and let the circuit courts in each county do what they do every day.

In the past legislative session, the General Assembly formed the Task Force to Study Fiduciary Adjudication in Maryland, whose work is to be completed by June 30, 2026. Their charge is "to examine the qualifications, training, and methods of selection of judges hearing probate and other fiduciary matters in Maryland; and examine the jurisdictions of the orphans' courts and circuit

courts with respect to fiduciary matters. The Task Force will analyze: the efficiency of procedures for adjudicating fiduciary contested and uncontested matters in the orphans' courts and circuit courts; the effect of the different qualifications of orphans' court judges and related litigation procedures on the uniform application of justice in Maryland; and the laws and practices of other states relating to these matters, including the selection, qualification, and training of judges to hear fiduciary matters."

We are happy that the General Assembly saw fit to create this Task Force and look forward to their work. They will know, in advance, how we see this issue.

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Task Force to Study Fiduciary Adjudication in Maryland

Areas of Concern with Current Structure of the Orphans' Courts

By: Registers of Wills Byron Macfarlane & Mary Rolle

Overview: Registers Macfarlane and Rolle have surveyed all Registers of Wills to seek input on areas of concern with the current structure of our Orphans' Courts. The following summarizes many of those concerns, however, the foregoing findings shall be attributed to these authors alone.

- A. Burden Placed Upon and Interference with Registers' Offices by the Orphans' Courts (Pages 1-4)
- B. Orphans' Courts Routinely Exceed Limited Jurisdiction (Pages 5-7)
- C. Orphans' Courts Unique Three-Judge Panel Inherently Dysfunctional (Pages 7-9)
- D. Combined Findings and Conclusions (Pages 9-10)

A. Burden Placed Upon and Interference with Registers' Offices by the Orphans' Courts

Background: An inherent by-product of Maryland's probate system, with one elected Register of Wills and, except in Harford, Howard, and Montgomery Counties, three elected judges in each jurisdiction, is conflict between the Courts and the Registers. This conflict manifests in the courts' interpersonal interactions with the Registers and staff, predominantly the result of the courts' fundamental misunderstanding of the role of the Registers and of their own roles and jurisdiction. Depending on the jurisdiction and the composition of any given court in any given election cycle, this conflict may be consistent or intermittent, and substantially disruptive or minimally invasive.

The Registers of Wills' function is primarily to serve the public, not to provide significant support for the Orphans' Courts. The Registers are tasked with appropriately staffing our offices, maintaining permanent records of all proceedings, storing wills for safekeeping, assessing and collecting fees and inheritance tax, issuing certificates of registered domestic partnership, and transferring excess revenue to the Comptroller, among other enumerated duties under Subtitle 2 of Title 2 of Estates & Trusts. The Orphans' Courts have consistently failed to appreciate the breadth of our duties, instead relying on us constantly. Indeed, it would not be unfair to say that some judges and some courts would be wholly incapable of fulfilling their duties without continuous assistance from the Registers for everything from explaining the law to them to writing their orders. Some judges have, over time, attempted to justify their overreliance and burden on the Registers and their staff by, conveniently and erroneously, singling out Estates & Trusts §2-208(e), which states:

“The register shall make out and issue every summons, process, or order of the court and, in every respect, act under the control and direction of the court as the clerk of a court of law

acts under the direction of the court of law.”

Simply put, the courts interpret the term “clerk” as broadly as possible to inappropriately assert as much jurisdiction as possible to command and direct the conduct of the Registers and their staff. This means the courts impose an undue burden on the Registers, demand we support them far outside the scope of our statutory obligations, misidentify Registers’ staff as their own personnel rather than the Registers’, and Registers’ staff being used, in essence, as law clerks, paralegals, research assistants, and, in some instances, personal assistants and secretaries.

Below is a statutory analysis that definitively concludes which duties the Registers have to the Orphans’ Courts, thus proving, conclusively, that the Courts’ persistent overreach is a systemic legal quandary of their making which must be resolved.

Plain Meaning of Estates & Trusts §2-208(e): We first look at the plain language of the E&T §2-208(e):

“The register shall make out and issue every summons, process, or order of the court and, in every respect, act under the control and direction of the court as the clerk of a court of law. acts under the direction of the court of law.” (emphasis added)

While many courts emphasize the “control and direction of the court,” portion of this statute, that control and direction is limited to how a “clerk of a court of law acts under the direction of the court of law.” And while many Orphans’ Courts interpret this statute broadly, as though the duties of a Register, as clerk, are practically limitless, Maryland law does, in fact, define the duties of a clerk.

Plain Meaning of Courts & Judicial Proceedings §2-201: This statute provides a limited, finite list of duties of a clerk of a court. This statute applies to the Clerks of the Circuit Courts and the Clerks of the appellate courts, and would apply to a Register as clerk of an Orphans’ Court as well:

(a) The clerk of a court shall:

- (1) Have custody of the books, records, and papers of his office;
- (2) Make proper legible entries of all proceedings of the court and keep them in well-bound books or other permanent form;
- (3) When requested in writing to do so, record any paper filed with his office and required by law to be recorded in the appropriate place, whether or not the title to land is involved;
- (4) Unless prohibited by law or order of court, provide copies of records or papers in his custody to a person requesting a copy, under the seal of the court if required;
- (5) Issue all writs which may legally be issued from the court;
- (6) Deliver a full statement of the costs of a suit to a party requesting a copy;
- (7) Receive all books, documents, public letters, and packages sent to him pursuant to law, and carefully dispose of them as the law requires;
- (8) Administer an oath;
- (9) Replace worn books and records with new ones;

(10) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting both traffic cases and criminal cases involving a motor vehicle in the circuit court to the Motor Vehicle Administration; and

(11) Perform any other duty required by law or rule.

Registers' Duties as Clerk: As some of these provisions are inapplicable to a Register of Wills, these duties may be more properly consolidated and re-characterized as follows:

1. Maintain all estate records;
2. Update and maintain the docket for each estate;
3. Accept papers for filing;
4. Provide copies of papers;
5. Issue orders signed by the court;
6. Dispose of records when appropriate; and
7. Perform any other duty required by law or rule.

While there are a few other specific requirements in Estates & Trusts regarding duties of a Register to an Orphans' Court, such as bringing delinquent estates to the court's attention, a plain language reading of E&T §2-208(e) and CJP §2-201(a) make this abundantly clear: the totality of duties of a Register as clerk to an Orphans' Court are extremely limited and finite as a matter of law and generally involve autonomous and completely self-directed actions.

Additionally, because these two statutes specifically enumerate the duties of a Register as clerk, as a matter of statutory interpretation the duties enumerated are exhaustive and not open to a more expansive interpretation by an Orphans' Court. Simply put, an Orphans' Court may not demand a Register carry out any duties beyond those listed.

2013 Attorney General Opinion: We also look at the opinion of the Attorney General issued on May 13, 2013, which thoroughly analyzed the roles of the Orphans' Courts and Registers of Wills, particularly as it relates to the control the courts may exercise over Registers' staff. The Attorney General found, definitively, that the Orphans' Courts do not have any authority to direct or discipline any Register of Wills employee. Registers' deputies and staff are answerable to the Register alone. However, many judges inappropriately direct Registers and their employees in a manner that could constitute harassment and the creation of a hostile work environment.

Prohibition on Court's Exercise of Jurisdiction Not Expressly Conferred: Further, E&T §2-201(a)(2) states, "The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred." Focusing on the specifically enumerated duties of a Register to an Orphans' Court, some courts have, as previously mentioned, attempted to broaden the duties of a "clerk" to mean practically whatever they want. Based on conversations with multiple Registers, we can state that many judges ask and expect us and our staff to undertake innumerable tasks that are not within the court's jurisdiction to require and are not our responsibility to fulfill. This includes, but is in no way limited to, the following:

- Assisting members of the court with technological problems;
- Assisting members of the court with personal matters;
- Reading documents to a judge verbatim;
- Assisting locating filings in an estate docket;
- Assisting locating information within filings;
- Instructing and re-instructing members of the court on probate law;
- Requesting information re: non-probate assets, over which the court has no jurisdiction;
- Conducting myriad work-related and non-work-related research projects;
- Being asked to contact all interested persons before canceling or postponing a hearing;
- Taking copious – practically verbatim – notes during hearings;
- Initiating ex.parte communications with interested persons and attorneys;
- Making phone calls to interested persons to warn them about compliance with court orders;
- Making phone calls to attorneys to ask them to take over as personal representatives for estates when the court has removed the existing personal representative;
- Making phone calls to attorneys to inform them the court will not sign an account or fee petition because of the amount of fees, without the court issuing an order;
- Directing staff to intervene in administrations to execute the court’s directives on issues such as court-determined limitations on funeral expenses;
- Requiring staff to draft minority opinions of dissenting judges;
- Requiring staff to initiate and maintain lists of attorneys to assist the court with troubled estates;
- Assisting the court with personnel and expense issues;
- Serving as liaison between the court and other agencies and governmental bodies;
- Submitting draft orders;
- Organizing and assisting with court budgets and expenditures;
- Taking messages both professional and personal;
- Requiring provision of case files not associated with matters properly before the court;
- Requiring staff to accept faxed pleadings;
- Otherwise harassing us to perform duties that are outside the scope of the limited enumerated duties of a clerk under Maryland law.

Conclusion: While many Orphans’ Courts deem the term “clerk” to be synonymous with assistant, aide, deputy, staff member, or subordinate, the autonomous duties of a Register of Wills as clerk of an Orphans’ Court are specifically and exhaustively enumerated under Maryland law. The plethora of other tasks these courts reflexively expect and so bitterly insist be undertaken by the Registers are, as a matter of law, not the responsibility of these offices. Rather, they are the judges’ responsibilities. The totality of duties of a Register of Wills as clerk of an Orphans’ Court, which may not be expanded or broadened by a court, are as follows:

1. Maintain all estate records;
2. Update and maintain the docket for each estate;
3. Accept papers for filing;
4. Provide copies of papers;
5. Issue orders signed by the court;
6. Dispose of records when appropriate; and
7. Perform any other duty required by law or rule.

Maryland law provides a limited and finite list of duties of a Register as clerk of an Orphans' Court, and, as a matter of law, these duties are not subject to the kind of wide-reaching, expansive, practically limitless interpretation subscribed to by many judges of the Orphans' Courts.

B. Orphans' Courts Routinely Exceed Limited Jurisdiction

Background: As we know, Maryland's Orphans' Courts have the most limited jurisdiction of any specialized probate courts in the United States. Their jurisdiction is prescribed in § 2-102 of the Estates and Trusts Article of the Maryland Code, as follows:

- (a) (1) The court may:
- (i) Conduct judicial probate;
 - (ii) Direct the conduct of a personal representative;
 - (iii) Summon witnesses; and
 - (iv) Issue orders that may be:
 - 1. Required in the course of the administration of an estate of a decedent; or
 - 2. Necessary to determine the value or sources of payment of an elective share under § 3-413 of this article.
- (8) The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred. (Emphasis added.)
- (b) The court may not establish rules of practice and procedure inconsistent with the Maryland Rules or with any statute.
- (c) An interested person may petition the court to resolve any question concerning an estate or its administration.
- (d) This section may not be construed to limit the court's authority under § 1-301(b) of this article.

The Orphans' Courts may also enforce their orders as other courts, appoint guardians of the person and property of minors, under certain circumstances, but otherwise Estates and Trusts § 2-102 describes the totality of the jurisdiction of these courts.

However, we have significant concerns, based on first-hand knowledge and permanent estate records, that these courts routinely exceed the scope of this limited jurisdiction. They also, therefore, violate subsection (a)(2) of the above statute when they assume jurisdiction and issue orders "under pretext of incidental power or constructive authority," which has not been expressly conferred by statute by the Maryland General Assembly.

This routine exercise of jurisdiction not expressly conferred by these courts should be a grave concern to lawmakers, the Bar, and the public at large. Below are just some examples – almost exclusively from just Fiscal Year 2025 alone - of Orphans' Courts brazenly violating Maryland law or otherwise conducting themselves inappropriately:

- Courts ordering evictions of individuals from estate property, despite having no jurisdiction and having been advised repeatedly by the Office of the Attorney General that they may not issue these orders.ⁱ
- Courts refusing to accept family settlement agreements, despite Maryland case law and repeated advice by the Office of the Attorney General that they do not have the legal authority to deny ratifying these agreements.ⁱⁱ
- Courts denying admission of wills to probate on the basis that the wills are undated.ⁱⁱⁱ

- Judge denying admission of a will to probate on the basis that the dates of the testator and witnesses' signatures were different. Maryland law does not require the testator and witnesses to sign on the same date.^{iv}
- Court appointing "custodians" of financial accounts for minors.^v
- Court approving a petition to quiet title related to real property.^{vi}
- Court ordering a third party to deliver tangible personal property to a personal representative. The court may only govern the conduct of a personal representative, not third parties. District Court is the proper venue to recover tangible personal property.^{vii}
- Court ordering competing parties to settle dispute.^{viii}
- Court ordering third parties to file petitions for guardianship of property for heirs inheriting from an estate.^{ix}
- Courts denying fees and commissions at the statutory maximum with a first but not final account. Courts state they do this so that there would be fees and commissions for any successor personal representatives or their counsel, however the only applicable standard of review for fees and commissions is whether they are "reasonable."^x
- Judge ordering the mother of a minor heir to be made an interested person in an estate when, as a matter of law, she was not.^{xi}
- Judges refusing to admit copies of wills when all interested persons have not consented, but petitioner has properly proceeded with judicial probate with no objections. The lack of unanimous consent is not a valid legal basis for denying admitting a copy of a will to probate.^{xii}
- Judge ordering money judgments against third parties and former personal representatives.^{xiii}
- Court ordering Register to return petitions filed by petitioners to them, contravening the Register's duties as custodian of records.^{xiv}
- Judge ordering a medical facility to release DNA sample of decedent and for a testing facility to conduct a DNA test.^{xv}
- Judge ordering sheriff to sequester, take charge of, lock up, or otherwise safeguard real property.^{xvi}
- Court ordering specific number of letters of administration to be issued to a personal representative.^{xvii}
- Courts refusing to appoint personal representatives based on criminal convictions for crimes that are not honesty-related crimes.^{xviii}
- Courts ordering entire estate record or specific docket entries sealed merely out of personal preference that they be made private, not based on an application of the appropriate legal standard, which presumes all public records remain public absent a compelling interest.^{xix}
- Judges personally physically visiting estate property to inspect for claims of renovations, that the property is for sale, etc.^{xx}
- Judges personally investigating decedent's affairs, including deed searches, judiciary case search queries, and more, which influences their judgment in matters pending before them.^{xxi}
- Judge ordering human remains being cremated.^{xxii}
- Judges interpreting or construing disclaimers and assignments.^{xxiii}
- Court issuing a Show Cause Order to the Register of Wills demanding the Register compile and produce data related to estate records.^{xxiv}
- Court holding a Show Cause hearing at which the court closed the hearing to the Register's chief deputy and, therefore, the public.^{xxv}
- Judges attempting to assert jurisdiction over collection of inheritance tax.^{xxvi}

- A single judge issuing orders when one or both of the other positions is neither vacant nor absent due to a prolonged illness. Maryland law is clear on when only one judge may act. (E&T §2-106(a)(4))^{xxvii}
- Numerous issues related to courtroom conduct and decorum, including, but not limited to, inability to render evidentiary rulings, failure to keep hearings on topic, judges talking over and interrupting one another, providing legal advice, talking down to members of the public and attorneys, questioning individuals' competence, misstating law, entertaining issues and issuing direction outside the limited scope of the court's jurisdiction.^{xxviii}
- Court appointing trustee.^{xxix}
- Court holding a hearing to determine whether criminal charges should be filed against an individual allegedly in possession of estate property.^{xxx}
- Court ordering estates be opened in other states.^{xxxi}

C. Orphans' Courts Unique Three-Judge Panel Inherently Dysfunctional

Background: Maryland is the only state in America that uses a three-member panel of judges to adjudicate probate matters. All 49 other states and the District of Columbia, whether they have a dedicated probate court or use a court of general jurisdiction for probate estates, have a single judge designated to review petitions and motions and conduct hearings.

This begs the obvious question: Why do we need three judges to fulfill this function when every other jurisdiction in the nation does it with one?

The authors of this document have asked Judges of the Orphans' Court this question and never received a response resembling anything comprehensible, much less convincing, to justify the status quo. Register Macfarlane once asked the last Chief Judge of the Orphans' Court for Howard County this question, to which she responded, "I forget things sometimes, so it helps to have two others." We hardly think it appropriate or fair to the taxpayers to elect and pay salaries for three judges instead of one because no one judge is capable of discharging their duties without constant propping up, and by this logic why shouldn't Maryland's District and Circuit Courts rely on three-judge panels to hear every case that comes before them? Surely, no reasonable person would support such an arrangement. Similarly, given our outlier status among every other jurisdiction in America, given the relative simplicity and uncontested nature of the proceedings before it and given – as we will describe – the inherently conflict-prone institutional composition of a three-member panel of elected judges, no reasonable person can justify the Orphans' Courts as they are currently constituted. Simply put, there is no justification for three-member panels of judges to adjudicate probate matters in Maryland, especially given the fraught nature of these panels.

One need only conduct a cursory Google search for "Orphans' Court" and "Maryland" to find headline after headline related to the Orphans' Court for Anne Arundel County. Since the beginning of this term of office, issues surrounding intense interpersonal conflict between two judges and alleged misconduct by a third judge have made their way not just into the news media, but into that county's District Court, the Supreme Court of Maryland, and disciplinary proceedings initiated by complaints filed with the Commission on Judicial Disabilities against not one, not two, but all three judges of the Court. Speaking with attorneys who practice estate planning in Anne Arundel County, Register Macfarlane has been told repeatedly that clients have increasingly asked them to create trusts so their families can avoid probate entirely. This expensive and often unnecessary kind of

planning, due entirely to a lack of trust in the Court's ability to fulfill its duties, demonstrates how this system can easily – after one election – fail, and genuinely harm the public.

It is fair to say that the hostility between two of these judges – both behind closed doors and in open court for the public to witness first-hand – making headlines is rare for an Orphans' Court. It is also fair to say that this kind of hostility has existed and exists today in courts elsewhere in Maryland, having simply never escalated to the point of phone calls to the press, the police, or other authorities. In any given term, a court is comprised of three elected judges or a combination of judges elected and appointed. Let us explore why this system is, by design, certain to fail:

Systemic Inherent Interpersonal Conflict: To begin with, judicial panels involve three individuals forced into consensus to reduce matters to one discrete opinion. Some courts develop hierarchies, alliances, and factions between and among the judges dependent on the preferences and prejudices of the component judges. A group of three, in particular, is prone to situations in which two gang up on one, one is forced to mediate between the other two, or worst-case scenario, none of them can agree. This means that a fundamental and indispensable aspect of the role of a Judge of an Orphans' Court is not finding the appropriate or just resolution to an issue they are presented with but strategizing over how they achieve that necessary second signature.

We must also consider the many inherent differences these three individuals will have, by virtue of the fact that practically anyone can serve in these roles. Each court can contain judges who are re-elected incumbents, newly elected to open seats, newly elected by unseating incumbents, or appointed, having avoided the electoral slog that their colleagues had to endure. The court can have judges with different professional backgrounds, different political parties, different genders, and different ages. Courts may have conflicts between lay and attorney judges. And only one judge is appointed chief by the governor. Each of these distinctions and differences can, do, and will give way to interpersonal conflict, one-upmanship, and institutional dysfunction. And this conflict can, does, and will impact others, most significantly, the attorneys and families who come before these courts, but also the offices of the Registers of Wills and other occupants of our courthouses.

Routine Types of Conflict: To summarize some issues that generate conflict on these courts generally, some of the following have applied to more than one jurisdiction over time:

- Conflict arising from the appointment of one of three to serve as Chief Judge;
- Conflict over scheduling of days or dates upon which the court will be in session;
- The issuance of dissenting opinions;
- Prolonged and repeated vacancies and chronic absences;
- Conflict arising from the filling of vacancies with judges from the opposite political party of the judge who resigned, was removed, or died in office;
- Routine arguments over how to resolve matters before the court;
- Infighting among judges in open court;
- Conflict arising over use of court staff;

- Conflict arising from perceived educational superiority/fitness for office;
- Hostility toward judges elected by defeating incumbents;
- Two judges coming to consensus, ignoring the third completely;
- Threats to report one another to the Commission on Judicial Disabilities;
- Judges attempting to involve Registers and Registers' staff in disputes;

To provide a small glimpse into how this interpersonal conflict impacts the public, during a brief period of time during the 2014-2018 term of the former Orphans' Court for Howard County, the following were comments made by litigants, documented by a Register's deputy:

- One attorney asked, "Do those judges always disagree that way?"; commenting on judges rolling their eyes when the others were speaking, "sniping" at each other in open court.
- One attorney stated, "Wow, those judges really don't get along."
- Following one hearing, another stated, "We will never take anything before this court again."
- One attorney stated, "I don't understand how this court thinks."
- One attorney who had petitioned to be appointed personal representative of an estate stated, "I have never been talked to by a judge like that," adding that if it weren't for his desire to help the family "wrap this up quickly," he wouldn't have taken the case.

Conclusion: Maryland's nationally unique system of having three elected or appointed judges preside over probate matters provides no benefit to the public, is more intimidating to the average citizen than appearing before a single judge, and creates inevitable interpersonal conflict that can, does, and will both reflect poorly on the judiciary and have a direct negative impact on the people of Maryland forced to interact with these courts.

D. COMBINED FINDINGS AND CONCLUSIONS

1. Conflict Between Courts and Registers: As long as probate matters are considered under our current statutory structure, the combination of Orphans' Court judges' over-reliance on the Registers and Registers' staff for business and personal matters will persist. This is true whether it is a matter of courts' misunderstanding of the role of the Register or their inability to discharge their duties due to insufficient knowledge or training or infirmity. We know In Harford, Howard, and Montgomery Counties, where a Circuit Court judge who has a legal education, experience practicing law, has undergone a formal vetting process, and who is provided far more robust training on their role as a judge compared to Judges of the Orphans' Courts, who have their own personal staff, and have unanimously praised the Registers of Wills and treated them and their staff with the utmost courtesy and respect, this source of tension simply does not exist. This issue must be resolved and we have seen three jurisdictions which have successfully resolved it through this one simple method of reform.
2. Courts Exceeding Scope of Limited Jurisdiction: These extralegal actions by the Orphans' Courts – sometimes in direct contravention of the advice of legal counsel – are a grave concern for the future of these courts. Again, this issue simply does not exist in Harford,

Howard, and Montgomery Counties, so that system of reform is one method of resolving courts violating the law and acting in a manner inconsistent with their special and limited jurisdiction. This could also be resolved by the creation of a Fiduciary Division within the Circuit Courts, like the Family Law Divisions, among others. This is an issue, that for the protection and benefit of the public, their confidence in a judiciary that understands and values the concept of restraint, must be resolved.

3. Three-Judge Panels Inherently Fraught: Maryland is the only state that requires not one, not two, but three judges to resolve what are ordinarily administrative orders and minor disputes in probate. No rational justification has been provided for this system to continue, it provides no benefit to the public, and it inevitably leads to conflict that harms the public. Whether it is one elected Orphans' Court Judge per jurisdiction, one Circuit Court Judge, or one magistrate, we have a plethora of options at our disposal to resolve the routine and shocking conflict among judges that would be less intimidating for the public and bring Maryland into harmony with all other 49 states and the District of Columbia.

ⁱ Numerous Examples.

ⁱⁱ Numerous Examples, Baltimore, Calvert, and Prince George's Counties.

ⁱⁱⁱ Numerous Examples, Baltimore and Cecil Counties.

^{iv} Est. No. 134672, Prince George's County.

^v Numerous Examples.

^{vi} Est. No. 8636, Dorchester County.

^{vii} Numerous Examples, including Est. No. 111351, Anne Arundel County, Est. No. 25067, Cecil County.

^{viii} Est. No. 97019, Anne Arundel County.

^{ix} Est. No. 189959, Baltimore County.

^x Numerous Examples, including Est. No. 105576, Anne Arundel County.

^{xi} Est. No. 233600, Baltimore County.

^{xii} Numerous Examples, including Est. 232607, Baltimore County.

^{xiii} Numerous Examples, including Est. 223223, Baltimore County, Est. No., Est. Nos. 120459 and 124864, Prince George's County.

^{xiv} Est. No. 228014, Baltimore County.

^{xv} Est. No. 233486, Baltimore County; Est. No. 194717, Baltimore City.

^{xvi} Est. No. 134459, Prince George's County.

^{xvii} Est. Nos. 27584 and 26280, Wicomico County.

^{xviii} Numerous Examples, including Est. No. 15238. Garrett County, Est. 22463, St. Mary's County.

^{xix} Numerous Examples, including Est. No. 106325, Anne Arundel County.

^{xx} Numerous Examples.

^{xxi} Numerous Examples.

^{xxii} Baltimore County, Est. No. 232450.

^{xxiii} Numerous Examples.

^{xxiv} March 9, 2023, Prince George's County.

^{xxv} May 2023, Prince George's County.

^{xxvi} Numerous Examples; Baltimore County, Howard County..

^{xxvii} Numerous Examples; Allegany, Anne Arundel, Cecil, Frederick, Garrett, Washington Counties.

^{xxviii} Numerous Examples.

^{xxix} Est. No. 40229, Allegany County.

^{xxx} Est. No. 24884, Wicomico County.

^{xxxi} Numerous Examples.