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Bill No.: House Bill 681

Title: Task Force to Study the Maryland Orphans' Courts

Committee: House Judiciary Committee

Hearing Date: February 10, 2021

Position: Recommended Unfavorable Committee Report

Pages: 2

Honorable Chairman and members of the Committee, my name is Anne Dodd and I am the Chief Judge of the Howard County Orphans' Court and President of the Maryland Association of Judges of the Orphans' Court (MAJOC). On behalf of MAJOC, I submit this written testimony in opposition to House Bill 0681, an act concerning Task Force to Study the Maryland Orphans' Courts.

The MAJOC By-laws include purposes of the organization that call us to improve and promote the service of the office of the Judges of the Orphans' Courts throughout the State of Maryland and to establish standard procedures. In furtherance of these purposes we have formed an Ad Hoc Evaluation Committee. This Evaluation Committee is made up of 12 judges representing diverse jurisdictions across the State, and two co-chairs, one of which is an attorney judge and one of which is a lay judge. The Committee will be staffed and costs will be borne by MAJOC. The Committee's work begins this month and will conclude no later than March 1, 2022. A final Report will be generated.

We believe we are best equipped to investigate our differences and similarities in order to enhance the effectiveness of all Orphans' Courts and meet our purposes as outlined in our by-laws. **We have no preconceived notions as to how the evaluation will conclude and**

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which avenues will be proposed to improve the courts but are willing to put in the work necessary to determine just what, if any, changes should be proposed.

Our concerns with the proposed Task Force are two-fold: first and foremost, they have to do with stated objectives of the Sponsor of the Bill. The Sponsor has expressed to me his concerns with the lack of uniformity among jurisdictions, partisan elections of judges, the low pay of some judges that precludes attracting the best candidates for the job, and the fact that there are lay judges. **We believe the Sponsor has envisioned an outcome and expects the Task Force to conform the Orphans' Courts to a preconceived conclusion.**

Our second objection rests with the composition of the proposed Task Force. It makes no sense to include on the Task Force only two judges, or parties who would not be expected to be intimately familiar with the Orphans' Courts, or a representative from the Registers of Wills Association. The Register is defined in statute as our clerk and we believe that inclusion would be inappropriate. In addition, we agree with the judiciary's opposition last year regarding their participation in and staffing of the Task Force.

In last year's testimony on an earlier version of this Bill, we outlined the make-up of the various Orphans' Courts pointing out that the Orphans' Court is defined in the Maryland Constitution and that there are many differences among jurisdictions due to their size, location, composition and culture. We pointed out that while there are differences in the make-up of the courts, all are united by the requirement to follow state-wide statutes and rules allowing for equal justice across the State. All litigants have the same opportunity to appeal the rulings of Orphans' Courts and a look at the very low number of appeals overturned by a higher court will tell you a successful story.

Each county (and Baltimore City) has its own system in place. The Orphans' Courts have "special limited jurisdiction and are confined to the letter of their authority" [E&T 2-102, general considerations]. While the Maryland Constitution set up the structure of the Orphans' Courts, and the statutes and rules determine how judges behave, it is the local jurisdictions that employ and compensate the judges; as a matter of fact, local jurisdictions pick-up the tab for all Orphans' Courts' expenses. And, while each jurisdiction is responsible for all costs associated with this court, including payroll, the amount of compensation for only a minority of the judges is determined by the State through statute; the majority of the jurisdictions make their own determination regarding judges' compensation. Control of the Orphans' Courts is shared by 24 very different and individual jurisdictions and the State of Maryland.

We urge you to oppose this Bill. Don't approve the expenditure of funds to staff a task force that is not necessary and is misguided in intent. The Orphans' Courts have already embarked on self-evaluation and will make full and transparent accounting of our work. Any proposed changes to the courts that require legislative action will be sent to you as a request for their implementation.