

Minutes of the Task Force to Study the Maryland Orphans' Court

September 30, 2021, 11:15am

Honorable Eric Wargotz, presiding

Via Zoom for Government and at Maryland Judicial Center, Room 133,

187 Harry S. Truman Pkwy, Annapolis, MD 21401

Members Present:

Judge Eric Wargotz, Chair
Senator Ron Watson
Allan Gibber, Esq.
Senator Chris West

Others Present:

Dawn Ellison, Esq., Staff
Suzanne Pelz
Heather Marchione

Minutes

The meeting was called to order and a roll call was taken. Notice was given to participants that the meeting was being recorded and livestreamed for purposes of public viewing. House Bill 681 was reviewed with members, with each of the five mandates under (2)(f) read into the record. Members agreed that the task force would identify areas of research they feel will be useful, they will discuss which matters should be researched, and the chair will direct Staff to conduct the research.

All documents distributed to the members prior to the meeting were reviewed, "Foundational Information for Task Force Mandate (1) and (2)," "National Probate Standards version 2013," "Orphans' Court Transcript Options," "History of the Orphans' Court," and "Probate Court Nationwide Information."

It was noted that one document should be edited to reflect that in Harford and Montgomery Counties, circuit court judges sit as an Orphans' Court for the respective counties.

Members discussed what might be areas of focus for the members to address the mandates. A question was raised as to whether the task force should look into guardianships, but members

agreed that specifically looking into guardianships could require more time than what is allotted, and this was not further considered. Local jurisdictional authority and legislative process over changes to the orphans' court and the potential role of state legislative authority impacting the orphans' courts was discussed. Although a number of topics for potential consideration were raised and not further considered, members focused on two potential areas for the task force in some detail: (1) operation of the Orphans' Court in the timely disposition of estates and (2) need for continuing education (CE). Clarification of Orphans' court judges CE activities was provided. These two topics were not further considered. There was further discussion among the members regarding which matters the task force should review and study, and a consensus desire was expressed to request the sponsor of the task force legislation to offer insight as to its formulation and goals.

Comment was offered in support of the manner in which the current Orphans' Court system operates and in particular in comparison to other states, and in following what is described in the "National Probate Standards" document. The members discussed the need to underpin any recommendations in the Task Force final report with research (facts, data/metrics) which would serve to support any suggested changes to the current system. Taking that approach, members agreed to review appeals of Orphans' Court cases as an attempt to examine competency of Orphans' Court judges as some jurisdictions require judges to be attorneys and a majority of the jurisdictions do not require judges to be attorneys. Specifically, group consensus was to review the number of appeals from each jurisdiction to the circuit court, number of appeals that went directly to Court of Special Appeals, the type of appeal (de novo vs. other appeal), the reason for the appeal and final outcome of the appeal. Staff was asked to obtain this appeal data from Orphans' Courts in the State.

The mask requirement was reviewed for meeting in person at the Maryland Judicial Center.

The meeting was adjourned at 12:19pm.

Next meeting: October 14, 2021 at 11:00am.