

Justice Matters

a publication from the Maryland Judiciary

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Fuller Access to Justice

Courts Take on Challenge to Help Self-represented Litigants Navigate Judicial System

This article is based on the final report of the Maryland Judiciary Work Group on Self-Representation in the Maryland Courts. See related story, p. 6.

How can the courts serve citizens who represent themselves? What is legal information and what is legal advice? How can we help when those who need guidance don't have law degrees?

When our mission is to provide fuller access to justice for all the citizens of Maryland, these are questions that need to be considered and answered. This has been the work of the Maryland Judiciary Work Group on Self-Representation in the Maryland Courts. The work group, appointed by Chief Judge Robert M. Bell in 2006 and chaired by Judge Clayton Greene, Jr., of the Court of Appeals, issued its final report in August. "Clearing the Path to Justice," includes several recommendations to help improve access for self-represented litigants, which, the work group argues, will improve access to justice for all litigants in Maryland's courts.

"We hope these recommendations will provide an integrated approach that will help all who interact with Maryland's justice system," said Judge Greene. "When the self-represented can move seamlessly through the justice system, and understand and appreciate what's expected of them and what is going on around them, opposing parties, counsel, court staff, and judges can perform their jobs more effectively and with better results."

Justice in Maryland, and the rest of the country, may be edging toward a "self-serve" approach. Circuit Court family divisions and family services programs report that, statewide, 70 percent of all domestic cases include at least one self-represented litigant at the time the answer is filed in the case. The District Court hears huge numbers of cases where litigants are rarely represented—traffic, small claims, and landlord-tenant cases.



inside



3



6



10

Paying Fines Online

District Court Unveils ePayment Program for Traffic Tickets

Traffic citations that can be paid online include:

1. Speeding tickets
2. Seat belt violations
3. Failure to display license on demand
4. Driving without current tags
5. Failure to stop at stop sign
6. Unsafe lane changing

Violations that still require court appearances include:

1. Driving on suspended license and privileges
2. Driving while under the influences of alcohol
3. Driving uninsured vehicle

While the fines themselves are still painful, the process of paying traffic tickets is now easier and more convenient.

On October 1, the District Court began a new electronic payment program, which it calls ePayment, that lets people pay their traffic fines online with a credit card. The secure online service is available from the homepage and other pages on the Judiciary's Web site, www.mdcourts.gov.

"We were hearing from the public who were coming to District Court to pay their fines that it would be nice to be able to pay their citations from the comfort of their own home," said Chief Judge Ben C. Clyburn of the District Court of Maryland. "We listened, and the Judiciary is excited to be able to provide this new service to the public."

When a person uses ePayment, his or her credit card payment is automatically recorded in the court's traffic processing system, eliminating the need for a clerk to manually process the ticket. A fee of five percent of the fine is added to the transaction by the vendor. The ePayment system records the payment, posts the citation information, and closes the traffic case the next business day. The user can print a receipt from their computer to document the payment.

To prepare for the launch of 'eCitations'—a fully automated traffic citation system—the court began receiving traffic violation data from Maryland State Police through a pilot program. During the pilot, troopers transferred traffic citation data electronically to District Court. Since August, there have been six successful test transmissions.

Both the pilot program to test data transfer and the launch of ePayment are part of the court's move toward completely automating traffic citations (eCitations). "These are pivotal steppingstones in instituting a completely electronic version for processing traffic tickets," said Judge Clyburn.

"The District Court processes more than 1.5 million traffic cases each year," Judge Clyburn said. "It's a complex process involving multiple agencies, multiple computer systems, and a host of legislative processes. As we move toward the implementation of eCitations, we are realizing many important goals achieved by many dedicated people over the past few years."

While many traffic citations can be paid online, some violations still require court appearances. Local municipality parking tickets, red light and speed monitoring citations cannot be paid through this system.

Motorists may not pay their traffic citation online if the citation indicates that the recipient "Must Appear" in court. Traffic citations may be paid online up until the trial date.

For more information on the ePayment system, go to: mdcourts.gov and click on "pay traffic citations" under "District Court."

Ken Brown, coordinator of special projects for the District Court, contributed to this article.

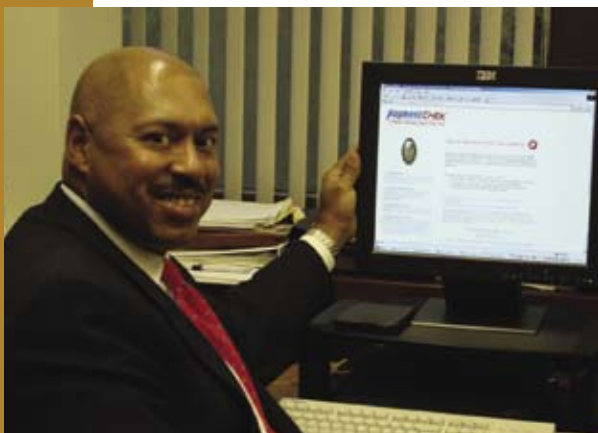


photo by Molly Kalifut

Maryland Judiciary Hosts National Mediation Training for Judges

About 30 judges from Maryland and across the country participated in the American Bar Association's Fifth Annual National Mediation for Judges Training in September at the Judicial Education and Conference Center in Annapolis.

“As sitting judges, we get involved with dispute resolution all the time and we should know the art of actually handling these types of cases.”

- Judge Missouri

The training included 24 Maryland judges and six judges from neighboring mid-Atlantic states who participated in the 40-hour basic mediation training for jurists.

“It’s the first time that we’ve provided a mediation course specifically

designed for judges in Maryland,” said Pamela Cardullo Ortiz, executive director of Family Administration, which co-sponsored the weeklong event with the Mediation and Conflict Resolution Office (MACRO), the ABA and others.

The training included lectures on the dynamics of conflict, the traditional means of conflict resolution, the stages of the mediation process, and creative problem solving and decision-making. Judges also were given a demonstration on mediation.

The judges then participated in a session on mock mediations, which included role-playing exercises where judges were videotaped as they practiced serving as mediators. The judges then reviewed the taped sessions with a coach who critiqued their work, Ortiz said.

This type of training is important for judges because alternative

dispute resolution is the next level of judicial involvement in disputes, said Judge William D. Missouri, circuit and administrative judge for the Seventh Judicial Circuit, and chief judge of the Seventh Circuit for Prince George’s County. Judge Missouri, who is the former chairman of the National Conference of State Trial Judges, helped to bring the program to Maryland. The instruction the judges received is vital because they almost have to “unlearn” some things when they serve as mediators, because the roles are much different, Judge Missouri said.

“As sitting judges, we get involved with dispute resolution all the time and we should know the art of actually handling these types of cases,” he said.

“For example, the mediator allows the parties to settle a case, as opposed to the judicial model of listening to both sides and then making a decision. You have to take off your Solomon’s hat and allow the parties to reach an accommodation that they are satisfied with.”

Judge Missouri praised the weeklong program for its high-quality content and outstanding trainers. It was worthwhile for the participants and the Judiciary, he said.

“It was a plus for the state of Maryland, it was beneficial to our judges, and the Judiciary had a chance to show off (to the other states),” he said.

Judge William D. Missouri, Circuit Court administrative judge for Prince George’s County, and Pamela Cardullo Ortiz, executive director of the Department of Family Administration, contributed to this report.



Howard County Circuit Judge Dennis Sweeney and Prince George’s County District Judge Krystal Q. Alves take part in a role-playing session during mediation training.

New Board Will Aid Investigations

The Commission on Judicial Disabilities has created a board to help improve its charging and investigative processes. The new seven-member Judicial Inquiry Board will screen Commission investigations and make determinations that will then be approved or rejected by the Commission. In cases where the Inquiry Board recommends that a judge be charged with a violation of the Canons of Judicial Conduct, the Commission will then conduct the hearing.

“It may be easiest to say that the Judicial Inquiry Board will serve in the role of a grand jury, and the Commission on Judicial Disabilities will continue in its role as the petite jury or fact-finder,” said Court of Special Appeals Judge Patrick L. Woodward, who chairs the Commission.



The Maryland Judicial Inquiry Board includes (left to right): Doreen Rexroad; Aileen Oliver, Esq.; Steven L. Tiedemann, Esq.; Calvert County Circuit Judge Marjorie L. Clagett; Howard County District Judge Neil E. Axel; Kevin Daniels; and Dr. Brian H. Avin.

“I believe that the Judicial Inquiry Board will allow for an improvement in the fairness and integrity of the Commission’s process,” Judge Woodward said. “The Commission made the request to form the Judicial Inquiry Board in response to concerns raised in recent years regarding the Commission’s charging process. Although the Commission believes that a single panel system is both lawful and fair, in an effort to improve the charging process the Commission requested that the Rules Committee and the Court of Appeals permit a bifurcation of the Commission’s investigatory process.”

The Court of Appeals adopted a change to Maryland Rule 16-804 that allowed the Commission to split the investigative process. The rules change, which went into effect July 1, paved the way for the 11 members of the Commission to create the Judicial Inquiry Board and elect its seven members.

By unanimous vote, Calvert County Circuit Judge Marjorie L. Clagett will serve a four-year term as the first chair of the Inquiry Board. The other members of the Inquiry Board are: Howard County District Judge Neil E. Axel, judicial member; Aileen Oliver of Silver Spring, attorney member; Steve Tiedemann of Carroll County, attorney member; and public members Doreen Rexroad, Dr. Brian Avin, and Dr. Kevin Daniels.

“I appreciate the willingness of Judge Clagett and all of the members of the new Judicial Inquiry Board to serve in this capacity and assist the Commission,” Judge Woodward said. The new process allows the Inquiry Board to meet with judges and obtain information informally before making its recommendation to the Commission.

Steven T. Lemmey, investigative counsel, contributed to this article.

Improving Courthouse Security

As part of its ongoing program to upgrade security systems, the District Court has been installing X-ray machines in many facilities. Bailiff Charles “Chuck” Scharmann, Jr., scans a visitor’s briefcase in Harford County, which recently became the District Court’s 22nd X-ray scanner installation.

X-ray machines, similar to those in airport security systems, allow bailiffs to scan pocketbooks, purses, briefcases, and other belongings for prohibited items. Every District Court courthouse has metal detectors—the last was installed in Elkton in November 2006.



photo by Ken Brown

Courts and Self-represented Litigants

continued from page 1

Maryland courts have responded to the growing number of self-represented litigants in a variety of ways. District Court provides a variety of forms litigants can use to file petitions and move their cases forward. The Department of Family Administration maintains forms for family cases. The Judiciary has developed a Web site that provides basic information about the court system. Circuit Courts run Family Law Self-Help Centers to provide self-represented citizens with walk-in assistance from an attorney or paralegal. Some Circuit Courts provide orientation courses, written materials, and videos so self-represented litigants can learn what to expect and how to proceed. The Judiciary also supports many other programs to increase access to legal representation and other legal assistance.

Integrated, Strategic Response

The work group, which included judges, clerks, District and Circuit Court administrators, and the state court administrator, decided that the needs of the self-represented would be best met through an integrated, strategic response. To do this, the work group's recommendations include the following:

1. Develop a Web-enabled document assembly interface for court forms that uses technology to ask questions of users and provide prompts to help users complete forms.
2. Provide more resources and services for self-represented litigants in languages others than English.
3. Develop Live Chat technology to improve Web support services for forms and information.
4. Evaluate the Eastern Shore Regional Library's self-help pilot (see related article on page 6) to determine if the program can be expanded elsewhere in the state.
5. Investigate the need and feasibility of developing District Court self-help centers.
6. Consider expanding the Circuit Courts' Family Law Self-Help Centers to serve a broader range of litigants and case types.
7. Develop videos or a video library that can be shown to people appearing on their own in Maryland courts.

Training Recommendations

The work group also recommended that the Judiciary adopt a policy to help non-judicial court staff distinguish between legal advice, which cannot be given, and information that should be provided by law. It has prepared a detailed training

document titled "What Can I Do to Help You?" and a shorter guide that court staff can use to educate the public about what they can and cannot do to assist them. "For example, if a person's question to court staff begins with 'how' or 'can,' it is probably OK to answer that question. If the question begins with 'should'—more of an opinion—it's probably not an appropriate question to answer," Judge Greene said.

"Court staff have significantly more daily interaction with the public and self-represented litigants in particular than judges," said Judge Greene. "Litigants who have a positive experience dealing with clerks' office staff, file room clerks, assignment clerks, custody evaluators, and judicial secretaries are more likely to feel that the process they are engaged in is accessible and fair," he added. "Public trust and confidence in the judicial system depend upon these impressions."

The report also includes recommendations to enhance judicial response to self-represented litigants, as well as a call to support improvements in the legal services delivery system. "Regardless of resources, programs, and aid, there will still be some cases and persons for whom there is no good substitute for representation," Judge Greene said.

Access to Justice Commission

Overall, to support ongoing efforts to improve services to self-represented litigants, the work group recommends that the Judiciary establish an Access to Justice Commission to implement the recommendations in the report and to coordinate the Judiciary's efforts to improve access for the self-represented and those of limited means. As the umbrella organization, this commission would serve as the focal point for a number of initiatives, including access rules, self-help centers, and pro bono centers.

The Judicial Cabinet and the Maryland Judicial Council have approved the report. The next step, Judge Greene said, would be to establish the commission, which would prioritize and implement any approved recommendations. Judge Greene anticipates that training programs for Judiciary staff and Judicial Institute courses for judges may be the first projects this commission would undertake.

To see the report, the training guide, and other supporting materials, go to:

mdcourts.gov/publications.html#reports and click on "Clearing a Path to Justice."

Reaching Out Into the Community:

Eastern Shore Libraries Help People Prepare to Represent Themselves in Civil Court

The Eastern Shore Regional Library (ESRL) is training library staff to handle legal questions and provide information about legal resources to the general public.

Funded by a federal grant, the “Get Ready for Your Day in Court at Your Library” project is a partnership between ESRL, the Maryland Judiciary, Maryland Legal Assistance Network (MLAN), and other legal associations. Through the grant, income-eligible adults who are interested in representing themselves in civil proceedings can receive free legal advice from the Legal Aid Bureau or pro bono attorneys, an electronic and hard copy resource guide, materials on landlord-tenant law, and other resources from ESRL’s eight county member libraries.

The Maryland Judiciary supports the partnership because it can help the public be better prepared when they enter the courtroom, said Judge John L. Norton, III, administrative judge for District 2



photos courtesy of Raineyl Coiro

(Dorchester, Somerset, Wicomico, and Worcester counties). “As judges, we understand how important it is to for people who represent themselves in court to make the most effective use of the court system. This grant helps us help them make informed decisions about representation in court for civil cases.”

“We’re excited to be working with the courts and legal aid associations because we understand that an informed public is a better-served public,” said Raineyl Coiro, ESRL administrator. “By visiting a public library on the Eastern Shore, the public will be able to acquire information that will help them to decide whether or not they need to seek legal counsel before going to court. Information concerning referrals to private attorneys, pro bono, or legal aid will also be available.”

Library staff will be trained how to provide legal information and use various tools to answer questions from the general public. Resources for self-represented litigants will include an online diagnostic tool for landlord-tenant law, legal Web sites to download forms, and other law publications. Resources will also be made available in Spanish.

Somerset and Dorchester libraries have begun a regular schedule of self-help legal clinics, and plans are under way to hold ongoing evening legal information sessions at all four Eastern Shore libraries on such topics as lead paint issues in landlord/tenant disputes, and collection rights and exemptions available in civil judgments. On Oct. 1, the Somerset County Library system began providing public access computers to complete and download forms on family related issues, landlord/tenant disputes and civil claims.

The “Get Ready for Your Day in Court at Your Library” project is made possible by a grant from the U. S. Institute of Museum and Library Services and awarded by the Maryland State Department of Education, Division of Library Development and Services. It is being administered and implemented by the Eastern Shore Regional Library in partnership with the Maryland Legal Assistance Network.



Judge Norton meets with Dorchester County librarians to plan the launch of the “Get Ready for Your Day in Court at Your Library” program.

Congratulations

The Daily Record named several members of the Judiciary to receive a 2007 Leadership in Law award. The recipients are: **Judge Mary Ellen Barbera of the Maryland Court of Special Appeals; Chief Judge Ben C. Clyburn of the District Court of Maryland; Baltimore City District Judge Charlotte M. Cooksey; Judge Glenn T. Harrell, Jr., of the Maryland Court of Appeals; Baltimore County Circuit Judge Robert B. Kershaw; Baltimore City Circuit Judge Lynn K. Stewart; and Judge Patrick L. Woodward of the Maryland Court of Special Appeals.**

Talbot County District Judge William Hugh Adkins, III, received a Pro Bono Award from the Mid-Shore Council on Family Violence in recognition of his efforts to help the organization and its clients.

Court of Appeals Judge Lynne A. Battaglia and Baltimore City Circuit Judge W. Michel Pierson were elected to the American Law Institute, a group that publishes model codes, restatements of the law, and recommendations for legal reform. Judges Battaglia and Pierson are two of four Marylanders among 47 newly elected members from across the United States.

Baltimore City District Judge Charlotte M. Cooksey received the Outstanding Public Servant Award from the National Alliance on Mental Illness of Maryland for her dedication to improving the lives of persons with mental illness in Maryland. Judge Cooksey was honored during the association's 25th Annual Statewide Conference in November.

Retired **Baltimore City Circuit Judge Kathleen O'Farrell Friedman** received the Rita C. Davidson Award from the Women's Bar Association of Maryland.

Lynda Byrd, judicial manager for the Clerk of the Circuit Court for Frederick County, was chosen to receive the 2007 Criminal Justice Award from the Maryland Network Against Domestic Violence. Byrd serves as the Clerk's Office representative on the county's Domestic Violence Coordinating Council, and has been instrumental in getting domestic violence cases into courtrooms in a timely manner and issuing certified copies of protection orders to petitioners.



Lynda Byrd (center) is joined at the awards ceremony by Frederick County Circuit Court Clerk Sandra Dalton and Rosario Garcia Vaughan, Frederick City Police Department.

Send submissions for Congratulations to cio@mdcourts.gov.

News from the Bench

Retirements

Hon. Allen L. Schwait, Baltimore City Circuit Court.

Hon. Dennis M. Sweeney, Howard County Circuit Court.

In Memoriam

Hon. Solomon Baylor, Baltimore City District Court, from 1970-1977, Baltimore City Circuit Court, from 1977-1986.

Hon. Theodore G. Bloom, Court of Special Appeals, from 1983-1996.

Hon. Ernest A. Loveless, Jr., Prince George's County Circuit Court, 7th Judicial Circuit Court, from 1960-1992.

Hon. George D. Solter, Baltimore City Supreme Bench, from 1968-1970.

Hon. James F. Strine, Washington County District Court, from 1982 -1995.

Editorial Board

Judge William H. Adkins, III
Chairman, Talbot County District Court

Judge Vicki Ballou-Watts
Baltimore County Circuit Court

Judge Jean Szekeres Baron
Prince George's County District Court

Judge Melissa Pollitt Bright
Wicomico County Orphans' Court

Ken Brown
District Court Headquarters

Judge William O. Carr
Harford County Circuit Court

Sandra Dalton, Clerk
Frederick County Circuit Court

Valerie Dawson, Court Reporter
Wicomico County Circuit Court

Judge James R. Eyer
Court of Special Appeals

Judge Marcella A. Holland
Baltimore City Circuit Court

Catherine McGuire
Maryland State Law Library

Judge John P. Morrissey
Prince George's County District Court

Judge Stephen I. Platt
Circuit Court for Prince George's
County, Retired

Judge Emory A. Plitt
Harford County Circuit Court

Sally W. Rankin
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Judge Russell Sadler
Howard County District Court, Retired

Judge Dennis M. Sweeney
Howard County Circuit Court, Retired

staff

Mary Brighthaupt, designer
Darrell S. Pressley, editor
Molly Kalifut, assistant editor, writer
Dan Clark, photographer
Jason Clark, photographer

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We welcome your comments. Contact
us at: Court Information Office
361 Rowe Blvd. Annapolis, MD 21401
(410) 260-1488 cio@mdcourts.gov

A Message from the *Justice Matters* Editorial Board

In our last edition, we celebrated the 10th anniversary of *Justice Matters* and introduced some design changes. We were unaware of the upcoming change in leadership. Around this time eight years ago, Judge Dennis Sweeney followed Judge William Carr as the chair of the *Justice Matters* editorial board. With Judge Sweeney's retirement, Judge Hugh Adkins has agreed to assume the responsibilities associated with being the board's chair.

We cannot let the occasion of Judge Sweeney's retirement pass without expressing our sincere appreciation for his leadership and commitment to making *Justice Matters* a valuable communications tool—from running countless board meetings to resolving differences of opinion. He leaves with our heartfelt thanks for his many contributions, most notably his unwavering support for publishing a high-caliber Judiciary newsletter.



Scholarships Available

The State Justice Institute (SJI), a non-profit organization established by federal law to facilitate better coordination between state and federal courts, and foster innovative, efficient solutions to common court issues, is offering five grant programs to improve the quality of justice in state courts nationwide. For FY 2008, SJI is offering project, partner, technical assistance, curriculum adaptation, and training grants, along with a scholarship program for state court judges and court managers.

Scholarships are available to enable court judges and court managers to attend out-of-state, court-related educational programs within the United States, or to take part in online court-related educational programs. The purpose of the scholarship program is to enhance the skills, knowledge, and abilities of judges and court managers by supporting attendance at programs sponsored by national and state providers that they could not otherwise attend because of limited state, local, and personal budgets; and provide states, judicial educators, and court staff with evaluative information on a range of judicial and court-related education programs.

In October, Fred Williams, executive director of the Judicial Institute, attended a Leadership Institute in Judicial Education (LIJE) workshop at the University of Memphis. His attendance was made possible through scholarship support.

The deadline for new applications to be considered for the second quarter of FY 2008 is February 1. For more information about the SJI's scholarship program, visit the SJI Web site, www.statejustice.org.

Judiciary Sets Goals for Legislative Session

By Suzanne Delaney, Esq.

The Maryland Judiciary is preparing to present the General Assembly with its 2008 legislative package. This year the Judiciary's requests include asking the legislature to alter the violation of probation procedures for Circuit Court and District Court judges, revise laws affecting permanency planning and interstate placement of foster children, and authorize District Court commissioners to sit in any jurisdiction without emergency designation.

With regard to the Judiciary's budget, drug courts will be a priority this year. As federal funding starts to dry up, the Judiciary will make an effort to institutionalize funding by securing all Maryland drug court money in the Judiciary's budget, and issuing grants to the stakeholders.

This year's legislative package asks the legislature to address the following issues:

Violation of Probation

A similar bill to last session is being submitted regarding violation of probation. The bill would eliminate confusion by allowing the Circuit Courts and District Court to issue notice of a violation of probation within one year from the date of the end of the probation period rather than during the period of probation. This bill is different than the 2007 legislation in that a one-year time frame was added to the legislation. If for example, an offender were charged with a new crime shortly before expiration, it could be up to a year before the new charges are adjudicated. Allowing the courts one year would ensure that there was a sufficient amount of time allowed for the probation agent/monitor to notify the judge and wait for the new charges to be adjudicated before holding a violation of probation hearing.

Permanency Planning and Interstate Placement of Foster Children

This bill stems from the legislation sponsored by the Maryland Judicial Conference in 2005. The Permanency for Families and Children Act of 2005 rewrote the termination of parental rights (TPR) and adoption statute, § 5-301 et. seq., of the Family Law Article. It also provided more permanency and safety for children while giving parents more options in avoiding involuntary termination of

parental rights as well as further due process clarifications and protections. Finally, it gave the courts more oversight resulting in federal requirements being met in all cases thereby protecting future federal funding.

This 2008 legislation will update the 2005 legislation further by bringing Maryland law into compliance with federal child welfare laws. These include requiring judicial procedures to achieve expeditious permanent placement decisions for children abandoned at or shortly after birth, requiring the court to consult annually with children regarding the proposed permanency plan, considering out-of-state placements for children, and ensuring that foster parents, pre-adoptive parents and relative caregivers of children in foster care are provided notice of the hearing and of their right to be heard. This will allow Maryland to continue to receive federal funding for programs that work with foster care children.

District Court Commissioners

This bill will allow commissioners to sit in any jurisdiction without emergency designation by the chief judge of the District Court. This would give the court the ability to adjust 24/7 schedules and maintain coverage in multi-county districts. This legislation, however, will not affect residency requirements for commissioners.

Ms. Delaney is deputy director of the Office of Government Relations.



Judiciary Spotlight

Orphans' Court: One of the Most-used

by Hon. Melissa Pollitt Bright

Although its functions have been a part of the justice system in Maryland since before the Revolution, the Orphans' Court—perhaps owing to its misleading name—is the least known and least understood part of our Judiciary. So what does the Orphans' Court actually do? Simply put, it conducts judicial probate and oversees the administration of estates. Small estates are handled by the Register of Wills, who acts as Clerk of Court to the Orphans' Court. Regular estates, those having a value of \$30,000 or greater, come before the Orphans' Court.

Orphans' Court is perhaps the most easily accessible court for the citizens, as well as the one court with which nearly all citizens will come in contact at some point in their lives. Its name derives from the City of London's Court for Widows and Orphans. In not-so-ancient times, a minor whose father had died was considered an "orphan," even if the mother was alive and well. The court protected and preserved minors' property until they reached the age of majority and could legally take title. Lord Baltimore brought this system to his colony.

During colonial times, the Prerogative Court proved wills and oversaw estate administration. In 1777 the Maryland General Assembly formally abolished the Prerogative Court and established an Orphans' Court and Register of Wills in each county and the City of Baltimore. That structure remains intact today.

In most jurisdictions, the Orphans' Court consists of three judges who are elected every four years. In Montgomery and Harford counties, a circuit judge sits as judge of Orphans' Court; as such, he/she can exercise only the jurisdiction of the Orphans' Court. Statewide, most of the judges are "lay judges," (not attorneys) and sit as a panel of three. In Baltimore City and some other jurisdictions, judges who are also attorneys may sit alone. Appeals from the Orphans' Court go to the Circuit Court, where they are heard *de novo*¹, or to the Court of Special Appeals, where they are heard on the record.

Judicial probate is instituted when an interested person or creditor files a petition with the court for the probate of a will, determination of intestacy², or appointment of a personal representative. A *caveat* petition³ or request for removal of a personal representative will also place an estate in judicial probate.

Personal representatives are usually granted Letters of Administration by the Registers of Wills. In cases where a judicial probate hearing is necessary or requested,

the Orphans' Court makes this appointment. Such cases include conflicting applications for Letters and requests to admit photocopies of wills for probate.

The Orphans' Court reviews the estate accounts prepared by the personal representative, to see that all bills and claims are paid, that the decedent's wishes and instructions (if there is a will) have been followed, the inventory is properly made and accounted for, and the decedent's assets are properly disbursed.

If the decedent has left a written will, and if it is properly executed and conforms to the laws of the state, the Orphans' Court will do everything

possible to enforce it. In the absence of a will, the court will see that heirs inherit according to the laws of intestacy.

When a minor is to receive funds or other property, a guardianship account may be created under the court's supervision. Since withdrawals from this account require a court order, this insures close supervision of the use of the funds until the minor reaches the age of majority.

Under certain circumstances, the Orphans' Court has concurrent jurisdiction with the Circuit Court over minors. In cases where neither parent is serving as guardian and no testamentary appointment has been made, the Orphans' Court may appoint a guardian of the person.



"Reading the Will" by Sir David Wilkie, 1819. Tate Gallery, London.

1. Translated from Latin "for new," *de novo* means to try a matter anew as if it had not been heard before.
2. The condition that exists when there is no will (Last Will and Testament).
3. A challenge to a will, usually alleging fraud, undue influence, incapacity, or forgery.

Courts Is Perhaps the Least Understood

Disputes brought before the Orphans' Court range from displeasure with the conduct of a personal representative, to disagreements among heirs, to will caveats, to assertions of paternity (and thereby the right to inherit), to objections to fees or commissions. Commissions for personal representatives are set by statute, but they may petition the Orphans' Court for an increase. Aggregate commissions include fees paid to attorneys, and the court will consider this when weighing the merits of the petition.

The Orphans' Court cherishes its reputation for being relatively informal and very accessible. It is the court that will act first on your behalf when you are no longer here to conduct your own affairs. The judges are acutely aware that the families and others involved with the estates are grieving and emotional, and that the assets of the estate often represent an entire life's work. It is an honor and privilege to assist in the respectful, equitable, and lawful conclusion of a person's worldly affairs.

Justice Bright is a judge of the Orphans' Court for Wicomico County.

AT A GLANCE

The Orphans' Court is the decedent's 'voice,' —enforcing the will if there is one, and protecting the rights of all involved. The Orphans' Court:

1. oversees the administration of estates
2. makes sure personal representatives do their job correctly
3. protects the rights of heirs and creditors
4. settles disputes
5. safeguards the property of minors
6. monitors the fees and commissions paid out of the estate

There are 24 Orphans' Courts, one for each county and Baltimore City. With the exception of Harford and Montgomery counties, there are three designated Orphans' Court judges for each jurisdiction, a total of 66 judges.

Case Management Initiative Introduced

The Maryland Judiciary is planning a project to modernize its entire court case management system. In September, Chief Judge Ben C. Clyburn of the District Court of Maryland and Circuit Judge William D. Missouri, administrative judge for Prince George's County, introduced the preliminary concepts of the project to the Conference of Circuit Judges. As part of an initial step in the project, a consultant, MTG Management, has been hired to assess how courts throughout the state currently use technology to meet constituents' needs. More news about this project will appear in future issues of *Justice Matters*.



photo by Jason Clark

Beyond Our Borders

Courts Host Visitors from Other Countries



Washington County Receives Visitors from Germany

This fall, Judge Ralph H. France, II, (center) and Judge Mark D. Thomas (second from right) of the Washington County District Court hosted a cultural exchange visit from officials of Wesel, Germany, including the Frau Burgermeister and Assistant Burgermeister and their spouses.

Russian Judges Visit Appellate Courts

In September, as part of the Russian-America Rule of Law Consortium, Pamela Harris, court administrator for the Montgomery County Circuit Court, Judge Mary Ellen Barbera of the Court of Special Appeals and retired Judge Alan M. Wilner of the Court of Appeals hosted visitors from Russia's judicial system. During a visit to the Court of Appeal's courtroom, Judge Wilner donned the court's unique scarlet robe and answered questions about Maryland's court system.



Queen Anne's County Hosts Chinese Delegation

By Hon. Thomas G. Ross

As part of a "sister cities" relationship Queen Anne's County has developed over the past two years with Suzhou, Cangling District, China, I was fortunate to be part of a 13-person delegation that visited in June, a diverse group of educators, local business representatives, and government employees. While the delegation had many meetings, cultural programs, and dinners hosted by local officials, schools and businesses, we were also able to see the sights in Beijing, Xi'an, Shanghai and Suzhou (including the local court system). As a continuation of the relationship, there have been exchanges of teachers, and there are plans for student exchanges and business relationships. While a fourth delegation from Suzhou is scheduled in November, Queen Anne's County hosted its first delegation from Tongzhou District, Beijing in September, and a 12-student children's delegation (ages 9-11) from Suzhou in October.



Judge Ross is a Circuit Judge for Queen Anne's County.