



2017-2018 Term

Hon. Anne L. Dodd, Chair

Hon. Wendy A. Cartwright, Vice-Chair

Stephane J. Latour, Esquire, Staff

Sharon Wright, Staff

Board Members:

Hon. George R. Ames, Jr.

Hon. Melissa Pollitt Bright

Hon. Sally Saunders Camp

Hon. Maureen Carr-York

Hon. Kimberly J. Cascia

Hon. Charles M. Coles, Jr.

Hon. Juliet G. Fisher

Hon. Athena Malloy Groves

Hon. Frank H. Lancaster

Hon. Theodore Philip LeBlanc

Hon. Michele E. Loewenthal

Hon. Leslie Smith Turner

Administrative Office of the Courts

Internal Affairs

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Annapolis, MD 21401

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CONFERENCE OF ORPHANS' COURT JUDGES

Maryland Judiciary
Judicial College Education and Conference Center
2011D Commerce Park Drive
Annapolis, MD 21401

MEETING MINUTES

Members Present:

Hon. George R. Ames, Jr.

Hon. Melissa Pollitt Bright

Hon. Sally Saunders Camp

Hon. Maureen Carr-York

Hon. Wendy A. Cartwright

Hon. Kimberly J. Cascia

Hon. Anne L. Dodd, Chair

Hon. Juliet G. Fisher

Hon. Athena Malloy Groves

Hon. Frank H. Lancaster

Hon. Theodore Philip LeBlanc

Hon. Leslie Smith Turner

Staff:

Stephane J. Latour

Sharon Wright

On Monday, January 23, 2017, the Conference of Orphans' Court Judges met at 9:30 am at the Judicial College Education and Conference Center, for the election of officers, to approve the November Minutes and to receive committee assignments. Due to traffic, everyone was not in attendance, and Judge Cartwright, Vice-Chair, directed the sub-committees to disseminate for their individual meetings and asked the new judges to select a committee to sit-in on.

The Conference reconvened at 10:45 am and the meeting of the Conference of Orphans' Court Judges began at 10:45 am. Hon. Anne Dodd was nominated by Judge Fisher and her nomination was seconded by Judge Malloy Groves. A vote was taken to appoint her as the Chairperson and the Conference unanimously agreed. Judge Dodd subsequently asked for nominations for the position of Vice-Chair. The Conference voted unanimously for Judge Cartwright's reappointment. The Chair and Vice-Chair will serve a one year term.

The Conference welcomed two new judges – Hon. Maureen Carr-York and Hon. George R. Ames, Jr.

I. Approval of November 7, 2016 Minutes

The Chair began the meeting by calling for an approval of the minutes of the November 7, 2016. Judge Fisher moved for approval of the minutes of the November 7, 2016 meeting, followed by a second to the motion by Judge LeBlanc. The motion passed without any changes. Three Judges abstained – Judges Ames, Carr-York and Cartwright.

II. Committee Reports

Education Sub-Committee

2017 Membership

Hon. Melissa Pollitt Bright, Co-Chair
Hon. Wendy A. Cartwright, Co-Chair
Hon. George R. Ames, Jr.
Hon. Sally Saunders Camp

The Committee voted to have Judge Pollitt Bright and Judge Cartwright co-chair the sub-committee. The committee welcomed Judge Saunders Camp as a member. The Committee's 2017 plans are to:

1. Complete work on revising the Orphans' Court pamphlet.
2. Continue to encourage, support, and facilitate cluster work.
3. Work with the Judicial College on requested Orientation II training.
4. Work with the Judicial College on 2019 Baby Judges/ Orientation training. The training should include the duties and expectations of Chief Judges. Judge Cartwright stated that Alexis Rohde will be asked to speak at the Annual Meeting regarding the role of Chief Judges.
5. Using the letter from Chief Judge Barbera and the A.G.'s Opinion written by David Hayes, define the role of Orphans' Court Chief Judge and work with the Judicial College and/or MAJOC to provide training and resources for Chief Judges. Judge Cartwright agreed to bring both the AG's Opinion and Chief Judge Barbera's letter to the next meeting.
6. Discuss with the Judicial College, continuing and expanding remote classes including follow up training for new judges.

Judge Cartwright will spearhead communications with the Judicial College.

Legislative Sub-Committee

2017 Membership

Hon. Juliet G. Fisher, Chair
Hon. Maureen Carr-York
Hon. Kimberly J. Cascia
Hon. Frank H. Lancaster
Hon. Leslie Smith Turner

Judge Cascia went over Judge Long's memo "to be mindful of the separation of powers limitations... neither offering advisory opinions nor otherwise commenting on bills within the legislature's prerogative."

The sub-committee elected Judge Fisher to chair the sub-committee. The sub-committee reviewed all proposed 2017 legislation to date that impacts the Orphans' Court. Judge Cascia then reviewed her list of 2017 proposed Legislation and reminded the committee that no advisory opinions had been sought to date. Judge Cascia gave a review of the bills proposed thus far this year.

HB 8- Notice Requirement Method of Delivery

This bill is an administrative function and not a function of the court, therefore, No Position Taken.

HB 81 Conditions of Disability and Incapacity - Confinement

No Position Taken

HB 87 Baltimore County - Elections for Judges of the Orphans' Court - Procedures

No Position was taken. Judge Fisher indicated that the Attorney General's Office said that there is nothing in the law that says party affiliation has to appear on ballots. In that respect, Judge Fisher explained her courts' position that that judges should be neutral and their party affiliation should not be an adherence and she feels this bill will change how Orphans' Court Judges run. Judge Cascia pointed out the same bill had been introduced last year (HB 193 & SB 151). Judges Lancaster and Cascia were opposed to the bill. Judge Pollitt Bright thanked Judge Fisher for her work on this bill.

SB 73- Share of Intestate Estate Inherited by Surviving Spouse

No Position Taken. A legislative matter.

SB 211 Cecil Co. OC Judges Travel Expense Allowance

No Position Taken. This is a local matter.

Policy, Rules & Forms Sub-Committee

2017 Membership

Hon. Michele E. Loewenthal, Chair

Hon. Athena Malloy Groves, Vice-Chair

Hon. Charles M. Coles, Jr.

Hon. Theodore Philip LeBlanc

1. The Rules Committee approved Judge Loewenthal and Judge Fisher's proposed amendment to Maryland Rule 16-813, the Code of Judicial Conduct, allowing Orphans' Court Judges to serve as mediators over any matter except probate.
2. The Conference's request for a change to Rule 6-416 (Consent to Compensation Form) was accepted by the Court of Appeals without discussion and will soon become part of the Maryland Rules.
3. Judge Dodd assigned Judge Coles to this Committee as he was absent.

Chairman's Report

1. Following up on the November task of designing a mechanism to communicate to all Orphans' Court judges exactly what the Conference does, Judge Dodd thought this could be best accomplished by disseminating the approved minutes of the Conference meetings to all judges through the ListServ. Judge Dodd will send out a communication informing the judges that this is forthcoming.
2. Following up on another task from the November meeting, Judge Dodd passed out Alexis Rohde – OAG response (see response below) to her request as to whether or not the Orphans' Courts were required to issue scheduling orders.

Email Response from Alexis Rohde: Title 2 rules don't apply to the Orphans' Courts outside of the few listed in Rule 6-461. The Orphans' Court is not required to issue a scheduling order. If you are dealing with a case where there will be discovery or if the case is complex for other reasons, I would absolutely issue a scheduling order to keep the parties on track. Or, you could request that the parties agree to a schedule and provide you with a joint proposed scheduling order. If the parties can't agree, you can look at the Circuit Court schedule and adopt one of their schedules. I think there would be deadline confusion in a complicated case without a scheduling order. Judge Dodd pointed out that there is a sample scheduling order in the Bench Book.

3. On December 13, 2016, the Court of Appeals issued an Order approving the change to Rule 6-416, the Consent to Compensation form that developed in the Policies, Rules & Forms Committee and was forwarded to the Rules committee after approval of the Conference.

4. The Maryland Judicial Council Legislative Committee advised Judge Dodd to supply the Legislative subcommittee leadership information to Suzanne Pelz in the Government Relations Department.
5. The Ex-Officio Legislative Caucus will meet following the Joint meeting on Thursday of this week. Byron Macfarlane is no longer chair of the ROW group. He was replaced by Loraine Hennessy, the ROW from Charles County. She will attend the meeting with Judge Cascia from MABE and Judge Dodd representing the Conference.

Judge Dodd and Judge Cascia plan on meeting with Ms. Hennessy after the Joint meeting to share new legislation that a Conference Member may be planning on introducing. Judge Dodd should have all new bills members may want to introduce in advance of her meeting with Ms. Hennessy.

Judge Dodd will ask Ms. Hennessy if the ROWs plan to re-introduce the Bill pertaining to copies of Wills being approved administratively instead of by the courts.

6. Judge Pollitt Bright asked how the Conference addresses the deficient understanding with the Judicial Counsel concerning Orphans' Court Bills where the bill may not affect the courts directly, but would still have an adverse effect on the cases in which the Orphans' Court rule over.
7. **Rule 6-202 Instruction 2**, dealing with the list of interested persons and the fact that it must be filed at the time of petition for a small estate. Judge Dodd could not recall which judge was collecting this information, but Howard County does following this Rule.

Staff Report – Nothing to report.

Old Business

Judge Dodd explained that the Ex-Officio Legislative Caucus is a caucus of three people serving by virtue of their respective office and they are:

Chair – Conference of Orphans' Court

Chair – MAJOC

Chair – Register of Wills

At the November meeting the Conference agreed to recommend that MAJOC take over the role of appointing membership to the Joint Committee meetings of the Bench, Bar and RoW. The Conference recommended that MAJOC appoint a delegation representing Orphans' Court Judges that would consist of specific representatives (Conference Chair and Vice Chair, Policy, Rules & Forms Sub-committee liaison, Legislative Sub-committee Chair, MAJOC Chair and Vice Chair) and two at-large judges.

Judge Dodd asked to revisit this recommendation and made a motion to recommend to MAJOC that two at large judges serve for 2 year terms to join those currently serving and to rescind the original motion. Judge Cartwright seconded, 3 abstained Judges Pollitt Bright, Smith Turner and Cascia, all other judges in favor. Judge Dodd will place the recommendation on Letterhead and send to MAJOC.

Clusters – to bring the new judges up to speed, Judge Dodd explained the Cluster system being utilized by the Conference. The State is divided into 5 clusters with an organizing Judge as listed:

- Cluster 1 - Garrett, Alleghany, Washington, Frederick – Judge Dodd (No judge on the Conference resides in Cluster 1)
- Cluster 2 - Carroll, Baltimore County, Baltimore City, Howard and Anne Arundel – Judge Fisher
- Cluster 3 - Prince George's, Charles, Calvert, St. Mary – Judge Malloy Groves
- Cluster 4 - Cecil, Kent, Queen Anne, Caroline, Talbot – Judge Camp
- Cluster 5 - Dorchester, Wicomico, Somerset, Worcester – Judge Pollitt Bright

New Issues

Administrative Issue in the Court

There was much discussion regarding administrative issues with an Orphans' Court. Most Chief Judges thought that the Judicial Disability was the avenue that they should take. Stephane Latour stated that the Judicial Disabilities should be the last resort, and that the Chief Judge of said Orphans' Court should take all administrative steps to resolve the issue first. If that fails then the OC Chief Judge should contact Chief Judge Barbera.

Action Items

1. Contact Judge Coles and advised him of his Committee appointment. **Judge Dodd**
2. Draft letter to MAJOC regarding recommendation of having two at large judges serve for 2 year terms to join those currently serving. **Judge Dodd**
3. Send email to all Judges of the Orphans' Court to communicate that the Minutes of the Conference will be forwarded to them once approved by the Conference. **Judge Dodd**
4. Find out how Judges are appointed to the Conference – **Staff**
5. Send approved Minutes to all Orphans' Court Judges via the ListServ. **Staff**
6. Provide Suzanne Pelz with the name of the Chair for the Legislative sub-committee. – **Staff**
7. Post the approved Minutes and Agenda on CourtNet and SharePoint – **Staff**
8. Bring in memo from Chief Judge Bell and Attorney General Opinion from David Haynes regarding Chief Judge role in the Orphans' Court. **Judge Cartwright**
9. Ask Alexis Rohde to speak at the annual meeting regarding the role of Chief Judges. – **Judge Cartwright.**