

# Will Challenges in the DMV Region: Capacity, Undue Influence, and Fraud

October 2, 2026  
By Thomas W. Repczynski



Will contests (aka caveats or challenges) in the District of Columbia, Maryland, and Virginia (the "DMV" region), as in most U.S. jurisdictions, in fact, share some common features: (i) capacity remains a low threshold; (ii) undue influence generally requires proof that the testator's free agency was overcome (with special circumstances for fiduciaries); and (iii) fraud in procurement (aka "fraud in the inducement") typically requires proof of material misrepresentation affecting testamentary intent.

While similar, each jurisdiction's statutory and decisional authorities have, as one might expect, evolved differently. Virginia has recently supplemented its common-law framework through legislation creating enhanced presumptions of undue influence in certain will and trust contests, while Maryland and the District of Columbia continue to rely principally upon traditional judicial formulations.<sup>1</sup>

| Jurisdiction         | Capacity                                                           | Undue Influence                                 | Fraud                                                                  |
|----------------------|--------------------------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------|
| Virginia             | <i>Parson v. Miller</i>                                            | <i>Parson v. Miller</i> , Va. Code § 64.2-454.1 | Typically pled with undue influence                                    |
| Maryland             | <i>Lynn v. Magness</i> ; <i>Castruccio v. Estate of Castruccio</i> | <i>Upman v. Clarke</i>                          | <i>Upman</i> provides closest modern discussion                        |
| District of Columbia | D.C. Code § 18-102; <i>In re Estate of Wilson</i>                  | Limited published authority                     | Often litigated alongside capacity challenges under D.C. Code § 18-102 |

Virginia's bellwether is *Parson v. Miller*,<sup>2</sup> where the Supreme Court reversed a jury verdict that had set aside a will on grounds of lack of testamentary capacity and undue influence. The Court held that the contestant's evidence, largely circumstantial and rooted in family dynamics, was legally insufficient to sustain a finding of undue influence. The opinion remains Virginia's leading judicial analysis of the circumstances giving rise to a presumption of undue influence and the evidentiary consequences that follow.

The common-law framework articulated in *Parson v. Miller* has since been codified and supplemented by the General Assembly. In 2022, the Virginia General Assembly enacted Section 64.2-454.1, providing that in defined situations where a presumption of undue influence arises in a will contest, the finder of fact shall presume undue influence unless persuaded that the decedent intended the challenged instrument to operate as his will. The provision materially strengthens the position of contestants once the predicate facts giving rise to the presumption have been established and reflects a legislative shift toward greater scrutiny of suspicious testamentary transfers.<sup>3</sup>

Maryland's appellate courts have likewise adhered to traditional capacity principles. In *Lynn v. Magness*,<sup>4</sup> the Court of Appeals articulated the familiar rule that a testator must understand the nature of the testamentary act, the property being disposed of, and the natural objects of his bounty. More recently, in *Castruccio v. Estate of Castruccio*,<sup>5</sup> the Court reaffirmed Maryland's adherence to longstanding testamentary principles while resolving an execution-formalities dispute under Md. Code Ann., Estates & Trusts § 4-102. And in *Upman v. Clarke*,<sup>6</sup> the Court held that a revocable trust functioning as a will substitute must be evaluated under the testamentary undue-influence standard rather than the *inter vivos* gift standard. Maryland's recent enactment of the Maryland SAFE Act, codified principally at Md. Code Ann., Estates & Trusts §§ 13-601 *et seq.*, has expanded remedies for elder financial exploitation but has not altered traditional burdens of proof or presumptions governing will contests. As a result, Maryland appears, at least, to remain substantially committed to common-law analysis of testamentary capacity and undue influence, even as litigants increasingly pair those claims with statutory exploitation remedies.

The District of Columbia, by contrast, has fewer published appellate decisions squarely addressing undue influence in the will contest context. But the statutory baseline is clear: a testator must be "of sound and disposing mind" at execution. In practice, the D.C. Superior Court Probate Division generally analyzes testamentary-capacity disputes through principles similar to those employed in neighboring jurisdictions, focusing on whether the testator understood the nature of the testamentary act, the property involved, and the natural objects of his bounty. See *In re Estate of Wilson*, 416 A.2d 228 (D.C. 1980); D.C. Code § 18-102.<sup>7</sup>

<sup>1</sup> Execution-formalities disputes and forensic challenges to testamentary documents are beyond the scope of this analysis. For more on challenging the bona fides of a will document, itself, see my March 26, 2026 publication, "[Will Challenge Litigation: Forensic Expert Cross-Examination](#)." For more on execution-formalities disputes, see my posts regarding "de facto" Wills and the Harmless Error Rule, "[Part One, April 27, 2023](#)"; and "[Part 2, May 22, 2023](#)" (Offit Kurman Blog); and "[De Facto Wills: Estate Planning's Dirty Little Secret?](#)" Virginia State Bar Trusts and Estates Section Newsletter, Vol. 22 No. 13.

<sup>2</sup> *Parson v. Miller*, 296 Va. 509, 822 S.E.2d 169 (2018).

<sup>3</sup> See also Va. Code § 64.2-724.1 (effective July 1, 2026), extending a comparable presumption-of-undue-influence framework to certain trust contests.

<sup>4</sup> *Lynn v. Magness*, 191 Md. 674, 62 A.2d 604 (1948).

<sup>5</sup> *Castruccio v. Estate of Castruccio*, 456 Md. 1 (2017).

<sup>6</sup> *Upman v. Clarke*, 359 Md. 32 (2000).

<sup>7</sup> See *In re Estate of Wilson*, 416 A.2d 228 (D.C. 1980) (discussing testamentary capacity); D.C. Code § 18-102.