
By: **Delegate Finifter**

Introduced and read first time: March 2, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court - Appeals - Stay of Proceedings**

3 FOR the purpose of providing that any appeal from an orphans' court stays all
4 proceedings in the orphans' court concerning the issue appealed; repealing a
5 provision of law that provides that a certain appeal from an orphans' court to the
6 Court of Special Appeals does not stay any proceedings in the orphans' court
7 under certain circumstances; providing for the application of this Act; and
8 generally relating to stay of the orphans' court proceedings in case of appeals.

9 BY repealing and reenacting, without amendments,
10 Article - Courts and Judicial Proceedings
11 Section 12-501 and 12-502
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1997 Supplement)

14 BY repealing
15 Article - Courts and Judicial Proceedings
16 Section 12-701(a)
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1997 Supplement)

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 12-701(a)
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1997 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 12-501.

3 A party may appeal to the Court of Special Appeals from a final judgment of an
4 orphans' court. However, if the final judgment was given or made in a summary
5 proceeding, and on the testimony of witnesses, an appeal is not allowed under this
6 section unless the party desiring to appeal immediately gives notice of his intention to
7 appeal and requests that the testimony be reduced to writing. In such case the
8 testimony shall be reduced to writing at the cost of the party requesting it.

9 12-502.

10 (a) (1) Instead of a direct appeal to the Court of Special Appeals pursuant to
11 § 12-501 of this subtitle, a party may appeal to the circuit court for the county from
12 a final judgment of an orphans' court. The appeal shall be heard de novo by the circuit
13 court. The de novo appeal shall be treated as if it were a new proceeding and as if
14 there had never been a prior hearing or judgment by the orphans' court. The circuit
15 court shall give judgment according to the equity of the matter.

16 (2) This subsection does not apply to Harford County or Montgomery
17 County.

18 (b) An appeal pursuant to this section shall be taken by filing an order for
19 appeal with the register of wills within 30 days after the date of the final judgment
20 from which the appeal is taken. Within 30 days thereafter the register of wills shall
21 transmit all pleadings and orders of the proceedings to the court to which the appeal
22 is taken, unless the orphans' court from which the appeal is taken extends the time
23 for transmitting these pleadings and orders.

24 12-701.

25 [(a) (1) An appeal from a final judgment of a court of law to which issues
26 have been sent from an orphans' court stays all proceedings in the orphans' court
27 concerning the subject of the issues.

28 (2) A direct appeal from an orphans' court pursuant to § 12-501 does not
29 stay any proceedings in the orphans' court which may with propriety be carried on
30 before the appeal is decided, if the court can provide for conforming to the decision of
31 the appellate court, whether the decision eventually is for or against the appellant.]

32 (A) ANY APPEAL FROM AN ORPHANS' COURT STAYS ALL PROCEEDINGS IN THE
33 ORPHANS' COURT CONCERNING THE ISSUE APPEALED.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
35 appeals that are filed on or after the effective date of this Act.

36 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1998.