

HOUSE BILL 760

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HB 1374/98 - JUD

1999 Regular Session
9r1488

By: **Delegates Finifter and Dembrow**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 1999

CHAPTER_____

1 AN ACT concerning

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

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

10 BY repealing and reenacting, ~~without~~ with amendments,

11 Article - Courts and Judicial Proceedings

12 Section 12-501 and 12-502

13 Annotated Code of Maryland

14 (1998 Replacement Volume)

15 BY repealing

16 Article - Courts and Judicial Proceedings

17 Section 12-701(a)

18 Annotated Code of Maryland

19 (1998 Replacement Volume)

20 BY adding to

21 Article - Courts and Judicial Proceedings

22 Section 12-701(a)

23 Annotated Code of Maryland

1 (1998 Replacement Volume)

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

4 **Article - Courts and Judicial Proceedings**

5 12-501.

6 (A) A party may appeal to the Court of Special Appeals from a final judgment
7 of an orphans' court.

8 (B) However, if the final judgment was given or made in a summary
9 proceeding, and on the testimony of witnesses, an appeal is not allowed under this
10 section unless the party desiring to appeal immediately gives notice of ~~his~~ THE
11 PARTY'S intention to appeal and requests that the testimony be reduced to writing.

12 (C) In such case the testimony shall be reduced to writing at the cost of the
13 party requesting it.

14 12-502.

15 (a) (1) (I) Instead of a direct appeal to the Court of Special Appeals
16 pursuant to § 12-501 of this subtitle, a party may appeal to the circuit court for the
17 county from a final judgment of an orphans' court.

18 (II) The appeal shall be heard de novo by the circuit court.

19 (III) The de novo appeal shall be treated as if it were a new
20 proceeding and as if there had never been a prior hearing or judgment by the orphans'
21 court.

22 (IV) The circuit court shall give judgment according to the equity of
23 the matter.

24 (2) This subsection does not apply to Harford County or Montgomery
25 County.

26 (b) (1) An appeal pursuant to this section shall be taken by filing an order
27 for appeal with the register of wills within 30 days after the date of the final
28 judgment from which the appeal is taken.

29 (2) Within 30 days thereafter the register of wills shall transmit all
30 pleadings and orders of the proceedings to the court to which the appeal is taken,
31 unless the orphans' court from which the appeal is taken extends the time for
32 transmitting these pleadings and orders.

1 12-701.

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

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

9 (A) (1) AN APPEAL FROM AN ORPHANS' COURT OR A CIRCUIT COURT STAYS
10 ALL PROCEEDINGS IN THE ORPHANS' COURT CONCERNING THE ISSUE APPEALED.

11 (2) AN APPEAL FROM AN ORPHANS' COURT OR A CIRCUIT COURT DOES
12 NOT STAY ANY PROCEEDINGS IN THE ORPHANS' COURT THAT DO NOT CONCERN THE
13 ISSUE APPEALED, IF THE ORPHANS' COURT CAN PROVIDE FOR CONFORMING TO THE
14 DECISION OF THE APPELLATE COURT.

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

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1999.