

# HOUSE BILL 471

D3, N2

1lr1623

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By: **Delegate Dumais**

Introduced and read first time: February 7, 2011

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Orphans' Court – Appeal of Final Judgment to Circuit Court**

3 FOR the purpose of requiring an appeal to a circuit court from a final judgment of an  
4 orphans' court to be heard by the circuit court on the record made in the  
5 orphans' court rather than to be heard de novo; providing for the application of  
6 this Act; and generally relating to an appeal to a circuit court from a final  
7 judgment of an orphans' court.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 12–502  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2010 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 12–502.

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

20 (ii) The appeal shall be heard [de novo] by the circuit court **ON**  
21 **THE RECORD MADE IN THE ORPHANS' COURT.**

22 [(iii) The de novo appeal shall be treated as if it were a new  
23 proceeding and as if there had never been a prior hearing or judgment by the orphans'  
24 court.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iv) The circuit court shall give judgment according to the equity  
2 of the matter.]

3 (2) This subsection does not apply to Harford County or Montgomery  
4 County.

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

8 (2) Within 30 days thereafter the register of wills shall transmit [all  
9 pleadings and orders of the proceedings] **THE RECORD** to the court to which the  
10 appeal is taken, unless the orphans' court from which the appeal is taken extends the  
11 time for transmitting [these pleadings and orders] **THE RECORD**.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
13 construed to apply only prospectively and may not be applied or interpreted to have  
14 any effect on or application to the estate of a decedent who dies before the effective  
15 date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2011.