

SUBTITLE 5. REVIEW OF DECISIONS OF ORPHANS' COURTS.

SEC. 12-501. SPECIAL APPEALS TO COURT OF SPECIAL APPEALS.

A PARTY MAY APPEAL TO THE COURT OF SPECIAL APPEALS FROM A FINAL JUDGMENT OF AN ORPHANS' COURT. HOWEVER, IF THE FINAL JUDGMENT WAS GIVEN OR MADE IN A SUMMARY PROCEEDING, AND ON THE TESTIMONY OF WITNESSES, AN APPEAL IS NOT ALLOWED UNDER THIS SECTION UNLESS THE PARTY DESIRING TO APPEAL IMMEDIATELY GIVES NOTICE OF HIS INTENTION TO APPEAL AND REQUESTS THAT THE TESTIMONY BE REDUCED TO WRITING. IN SUCH CASE THE TESTIMONY SHALL BE REDUCED TO WRITING AT THE COST OF THE PARTY REQUESTING IT.

REVISOR'S NOTE: This section combines §§9 and 10 of Art. 5, giving effect to recent legislation regarding appellate jurisdiction. The only changes made are in style.

SEC. 12-502. APPEAL TO CIRCUIT COURT OR SUPERIOR COURT.

(A) IN GENERAL: EXCEPTION IN MONTGOMERY COUNTY.

INSTEAD OF A DIRECT APPEAL TO THE COURT OF SPECIAL APPEALS PURSUANT TO § 12-501, A PARTY MAY APPEAL TO THE CIRCUIT COURT FOR THE COUNTY OR TO THE SUPERIOR COURT OF BALTIMORE CITY FROM A FINAL JUDGMENT OF AN ORPHANS' COURT. THE APPEAL SHALL BE HEARD DE NOVO BY THE APPELLATE COURT, AND IT SHALL GIVE JUDGMENT ACCORDING TO THE EQUITY OF THE MATTER. THIS SUBSECTION DOES NOT APPLY TO MONTGOMERY COUNTY.

REVISOR'S NOTE: This subsection is the substance of Art. 5, §25, giving effect to recent legislation regarding appellate jurisdiction. The provision does not apply to Montgomery County because that circuit court sits as an orphans' court; Const. Art. IV, §20. Obviously, a circuit court judgment cannot be appealed to the same circuit court. The appeal provided for by the last sentence of §25 is now authorized by §§12-301 and 12-302(a). Provisions for transmitting issues from an orphans' court to a court of law are contained in Art. 93, §2-105. "Final judgment" is defined in §12-101(f) to include action of an orphans' court. The only other changes made are in style.