

by the master" is not a final order. The cross reference to Section 12-701 could scarcely have the effect of providing for a stay, but even if it should be construed that way, it might well be thought to have a much broader effect since the bill appears to make the order in question not final and thus unappealable.

Be that as it may, the bill seems to present other problems, the basic one being the assumption that a master imposes a judgment in a juvenile case.

In Matter of Anderson, No. 491, September Term 1973 (February 11, 1974) the Court of Special Appeals made it clear that a master may do no more than make findings and recommendations. The master assists the judge as an employee of the court. There is no adjudication by reason of the master's findings and recommendations. There is no adjudication, and no order, until a judge has taken some specific action with respect to the master's findings and recommendations. Maryland Rule 908.e. reflects this theory quite clearly.

Therefore, the bill as drawn seems to be meaningless; there would not be an "judgment imposed by the master."

One final problem may exist. H.B. 1111 amends Title 3, subtitle 8 of the Courts Article, and does apply in all parts of the State except Montgomery County, where juvenile proceedings are governed by Title 3, subtitle 5. If the bill can be construed to have the effect apparently originally intended, that is to stay a judgment of commitment to a training school pending appeal, this provision would not apply in Montgomery County. In fact, under the express language of Section 12-701(b), there is no stay of such a judgment pending an appeal in Montgomery County. This would raise an equal protection question, since it might appear that juveniles in other parts of the State would be receiving more favorable treatment pending appeal (stay of a commitment order) than juveniles in Montgomery County. Under the reasoning of the Court of Appeals in Matter of Trader No. 380 September Term 1973 (February 11, 1974), this might render the Montgomery County provision unconstitutional.

Very truly yours,  
/s/ William H. Adkins, II  
Director

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