HOUSE BILL 816

J1, D4 4lr2768
CF SB 261

By: **Delegate Hubbard**
Introduced and read first time: February 3, 2014
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Requirements for Filial Support – Repeal

FOR the purpose of repealing the prohibition on the neglect or refusal, by an adult child who has or is able to earn sufficient means, to provide a destitute parent with food, shelter, care, and clothing; repealing the authority of an individual to make a certain complaint relating to the neglect or refusal of a certain adult child to provide a destitute parent with necessary food, shelter, care, and clothing; repealing the authority of the State's Attorney to file a certain information relating to certain nonsupport of a destitute parent; repealing a requirement that a court order a certain individual to pay support to the individual's destitute parent under certain circumstances; repealing a requirement that a certain individual pay certain support until a certain occurrence; repealing the authority of a court to order payment of certain forfeited recognizance to a destitute parent or certain agency under certain circumstances; repealing the authority of a court to release a certain individual and a certain surety from the terms of a certain order, bond, or recognizance under certain circumstances; altering the definition of "responsible relative", as it relates to responsibility for the cost of certain services provided in a facility or program operated or funded by the Department of Health and Mental Hygiene, to exclude from the definition the children of a recipient of certain services; repealing a certain definition; making conforming changes; and generally relating to the repeal of laws requiring filial support and financial responsibility.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 13–101 through 13–103 and 13–106 through 13–109
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

Article – Health – General
Section 16–101(a) and (c) and 16–102
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 16–101(f) and 16–203(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

Preamble

WHEREAS, Filial support laws have their origins in the Elizabethan Poor Laws, and nearly all states had them at one time; and

WHEREAS, States began repealing the laws after the passage of social insurance statutes, including Social Security, Medicare, and Medicaid; and

WHEREAS, In Maryland, children may still be held responsible for their parents' expenses without any contractual agreement to be held liable; and

WHEREAS, Parents are able to incur bills and expenses without their children having a say, but when the bill comes due, the children may be legally responsible for payment; and

WHEREAS, Under Title 16, Subtitles 1 and 2 of the Health – General Article of the Annotated Code of Maryland, Maryland's filial law that relates to recipients of services in a facility or program operated or funded by the Department of Health and Mental Hygiene, when a parent is under the care of a State psychiatric hospital and is under age 65, children may be required to reimburse the State for the parent's care out of their monthly income, leaving the children with a bare monthly allowance; and

WHEREAS, Current Maryland law requires adult children to pay for food, shelter, care, and clothing for a destitute parent even though the children are unable to control what expenses their parents incur; and

WHEREAS, Adult children may be held liable for medical expenses of an indigent parent even though the children have no control over the parent's finances; and

WHEREAS, Children are unable to compel a parent to purchase long–term care insurance or to save for future expenses; and

WHEREAS, A parent's failure to exercise sound financial discretion should not result in a burden on the parent's children; now, therefore,

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

Article – Family Law

13–101.

[(a)**]** In this title **[**the following words have the meanings indicated.

(b) "Destitute adult child"**], "DESTITUTE ADULT CHILD"** means an adult child who:

(1) has no means of subsistence; and

(2) cannot be self–supporting, due to mental or physical infirmity.

[(c) "Destitute parent" means a parent who:

(1) has no means of subsistence; and

(2) cannot be self–supporting, due to old age or mental or physical infirmity.**]**

13–102.

(a) **[**If a destitute parent is in this State and has an adult child who has or is able to earn sufficient means, the adult child may not neglect or refuse to provide the destitute parent with food, shelter, care, and clothing.

(b)**]** If a destitute adult child is in this State and has a parent who has or is able to earn sufficient means, the parent may not neglect or refuse to provide the destitute adult child with food, shelter, care, and clothing.

[(c)**](B)** A person who violates **[**any provision of**]** this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year, or both.

13–103.

(a) A complaint under this section shall be made under oath in writing to a State's Attorney.

(b) **[**An individual may make a complaint that states that:

(1) the individual is a destitute parent;

(2) an adult child of the destitute parent has or is able to earn means sufficient to provide the destitute parent with necessary food, shelter, care, and clothing; and

(3) the adult child has neglected or refused to provide the destitute parent with necessary food, shelter, care, and clothing.

(c)**]** An individual may make a complaint that states that:

(1) the individual is a destitute adult child;

(2) a parent of the destitute adult child has or is able to earn means sufficient to provide the destitute adult child with necessary food, shelter, care, and clothing; and

(3) the parent has neglected or refused to provide the destitute adult child with necessary food, shelter, care, and clothing.

13–106.

(a) The State's Attorney may file an information that charges the accused individual with nonsupport of the individual's **[**destitute parent or**]** destitute adult child, based on the complaint.

(b) After filing an information, the State's Attorney may seek to obtain the consent of the accused individual to the entry of a court order under § 13–107 of this title.

13–107.

(a) With the written consent of the accused individual before charging or trial, or on conviction of the individual under this subtitle, the court shall order the individual:

(1) to pay support:

(i) to the individual's **[**destitute parent or**]** destitute adult child; or

(ii) if the **[**destitute parent or**]** destitute adult child is a public charge to the agency that is authorized by law to receive these payments; and

(2) to give a bond with securities to this State, conditioned on compliance with the court's order and any modification of the order.

(b) In determining the amount of support, the court shall consider the financial circumstances of the individual.

(c) The individual shall pay the support until the **[**destitute parent or**]** destitute adult child has other means of adequate support or dies.

(d) The court may modify the order.

13–108.

(a) An individual who fails to give bond after being ordered to give bond under § 13–107 of this title is subject to imprisonment until bond is given, not exceeding 1 year.

(b) In consideration of the financial circumstances of the accused individual, and on the individual's entering into a recognizance, the court may:

(1) suspend imposition of the sentence for failure to give bond; and

(2) place the individual on probation for the period that the individual is required to pay support.

(c) The recognizance ordered by the court shall be:

(1) in the amount that the court directs, with or without security; and

(2) on the conditions that:

(i) if the individual is summoned to appear before the court, the individual shall appear; and

(ii) the individual shall pay support as ordered by the court.

(d) If an individual fails to pay support under the court's order, the court may revoke the probation and impose the sentence for failure to give bond.

(e) The court may order that any forfeited recognizance be paid:

(1) to the individual's **[**destitute parent or**]** destitute adult child; or

(2) if the individual's **[**destitute parent or**]** destitute adult child is a public charge, to the agency that is authorized by law to receive the forfeited recognizance.

13–109.

The court shall release an individual who is ordered to pay support under this subtitle and any sureties of that individual from the terms of any court order, bond, or recognizance under this subtitle if:

(1) the individual or the individual's **[**destitute parent or**]** destitute adult child dies;

(2) the individual's **[**destitute parent or**]** destitute adult child becomes self–supporting; or

(3) the individual becomes unable to earn or loses possession of means sufficient to provide for the individual's **[**destitute parent or**]** destitute adult child.

Article – Health – General

16–101.

(a) In this title the following words have the meanings indicated.

(c) "Chargeable person" means:

(1) Any responsible relative;

(2) Except for a recipient of services, any other person who is legally responsible for the care of the individual; and

(3) Any person who maintains a policy of health insurance under which a recipient of services is insured.

(f) "Responsible relative" means:

(1) The spouse of a recipient of services; **AND**

(2) The parents of a recipient of services who is a minor**[**; and

(3) The children of a recipient of services**]**.

16–102.

(a) It is the policy of this State to obligate each recipient of services and, to the extent provided in this title, those legally responsible for the recipient to pay, if financially able, for the cost of care that is received by the recipient of services. Unless otherwise provided by statute, the recipient of services and the chargeable person shall be responsible for payment regardless of whether the recipient of services was admitted voluntarily, involuntarily, or by court order. If the recipient of services is involuntarily admitted to a public facility and released after evaluation, for failure to meet the standards for involuntary commitment, the recipient of services or chargeable person shall not be responsible for the cost of care.

(b) The total cost of care of each recipient of services is, in the first instance, the responsibility of the recipient of services and, as provided in this title, the chargeable person. Any uncollectible costs for services provided to the recipient shall become the responsibility of this State.

16–203.

(a) (1) The cost of care of a recipient of services shall be determined in accordance with the charges for services set under § 16–201 of this subtitle.

(2) Except as otherwise provided in this title:

(i) Payment for this cost of care shall be made by the recipient of services or a chargeable person;

(ii) Their liability for this payment is joint and several; and

(iii) The insured or policyholder may not withhold the payment and shall assign to the Department any benefits available under the policy for services rendered by the Department to any insured covered by the policy.

(3) Liability may not be imposed under this title on any spouse **[**or child**]** of a recipient of services, if the spouse **[**or child**]** has been abandoned by the recipient of services. The Department shall adopt rules and regulations that define abandonment for the purposes of this subsection.

(4) Liability may not be imposed under this title on a responsible relative if any responsible relative has been the victim of sexual abuse, physical abuse, or a crime of violence as defined in § 14–101 of the Criminal Law Article perpetrated by the recipient of services. The Department shall adopt regulations that define "sexual abuse, physical abuse, or a crime of violence" as defined in § 14–101 of the Criminal Law Article for the purposes of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.