

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 816
Judiciary

(Delegate Shoemaker)

Family Law - Support of Destitute Adult Children - Repeal

This bill repeals provisions relating to the prohibition against the neglect of a “destitute adult child” or the refusal by a parent who has or is able to earn sufficient means, to provide a destitute adult child with food, shelter, care, and clothing.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, as discussed below.

Local Effect: The bill is not anticipated to materially affect local government operations or finances, as discussed below.

Small Business Effect: None.

Analysis

Current Law: A “destitute adult child” is an adult child who has no means of subsistence and cannot be self-supporting, due to mental or physical infirmity. If a destitute adult child is in the State and has a parent who has or is able to earn sufficient means, the parent may not neglect the adult child or refuse to provide food, shelter, care, and clothing. A violator is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or one year imprisonment.

An individual alleging a violation of this provision may file a complaint under oath in writing to a State’s Attorney. Statutory provisions set forth a process by which the State’s Attorney may charge the accused individual with nonsupport. After filing an

information (charging document), the State's Attorney may seek to obtain the consent of the accused individual to the entry of a court order. With the written consent of the accused individual before charging or trial, or on conviction of the individual, the court must order the individual to pay support to the individual's destitute adult child or, if the destitute adult child is a public charge, to the agency that is authorized by law to receive the payments. In determining the amount of the support, the court must consider the financial circumstances of the individual. The individual must pay the support until the death of the destitute adult child or the attainment by the destitute adult child of other means of adequate support. Statutory provisions also establish requirements relating to an individual giving a bond with securities to the State, conditioned on compliance with the court's order and any modification of the order.

State/Local Fiscal Effect: While a specific fiscal estimate cannot be determined, it is anticipated that the bill does not materially affect State or local finances.

It is possible that individuals now claim specified exemptions for destitute adult children that they are required under current law to support. If the law is repealed, these individuals may opt to deny support to their destitute adult children, thereby increasing the tax liability of such individuals (parents), which would result in a corresponding increase in State and local income tax revenues. However, the Department of Legislative Services (DLS) advises that it is likely that many of the individuals continue to provide support to their adult children even without a legal requirement to do so, negating any impact on revenues.

The Maryland Department of Health (MDH) similarly advises that the bill may cause destitute adult children to lose the financial support of their parents, allowing the adult children to become eligible for Medicaid. However, MDH indicates that a fiscal estimate of any such impact cannot be reliably determined without actual experience under the bill, because data is not kept on the reasons that people become eligible for assistance. Because it is not possible to reliably predict behavior and estimate how many parents cease providing support to their destitute adult children if the legal obligation to do so is eliminated, the fiscal impact of the bill cannot be reliably determined.

It is also possible that if parents cease support of their destitute adult children, these adult children may seek and qualify for other public benefits.

However, DLS advises that it is assumed that most parents who provide support to their destitute adult children do so for reasons other than a legal responsibility (and many may be unaware that such a responsibility even exists). The Judiciary advises that very few cases arise under the statutory provisions repealed by the bill; Montgomery County provided a similar response. The Department of Public Safety and Correctional Services advises that in fiscal 2020, there were no individuals on supervision for the offense repealed by the bill, and that Baltimore City has not had an incarceration based on the offense in at

least 13 years. Accordingly, the bill is not anticipated to have a material effect on State or local finances.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Harford and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Maryland Department of Health; Department of Legislative Services

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