

SENATE BILL 261

J1, D4

4lr1093

By: **Senators Kelley, Colburn, Conway, Jones–Rodwell, King, Madaleno, Middleton, and Montgomery**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Requirements for Filial Support – Repeal**

3 FOR the purpose of repealing the prohibition on the neglect or refusal, by an adult
4 child who has or is able to earn sufficient means, to provide a destitute parent
5 with food, shelter, care, and clothing; repealing the authority of an individual to
6 make a certain complaint relating to the neglect or refusal of a certain adult
7 child to provide a destitute parent with necessary food, shelter, care, and
8 clothing; repealing the authority of the State’s Attorney to file a certain
9 information relating to certain nonsupport of a destitute parent; repealing a
10 requirement that a court order a certain individual to pay support to the
11 individual’s destitute parent under certain circumstances; repealing a
12 requirement that a certain individual pay certain support until a certain
13 occurrence; repealing the authority of a court to order payment of certain
14 forfeited recognizance to a destitute parent or certain agency under certain
15 circumstances; repealing the authority of a court to release a certain individual
16 and a certain surety from the terms of a certain order, bond, or recognizance
17 under certain circumstances; altering the definition of “responsible relative”, as
18 it relates to responsibility for the cost of certain services provided in a facility or
19 program operated or funded by the Department of Health and Mental Hygiene,
20 to exclude from the definition the children of a recipient of certain services;
21 repealing a certain definition; making conforming changes; and generally
22 relating to the repeal of laws requiring filial support and financial
23 responsibility.

24 BY repealing and reenacting, with amendments,
25 Article – Family Law
26 Section 13–101 through 13–103 and 13–106 through 13–109
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Health – General
3 Section 16–101(a) and (c) and 16–102
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2013 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Health – General
8 Section 16–101(f) and 16–203(a)
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2013 Supplement)

11 Preamble

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

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

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

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

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

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

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

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

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

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

3 **Article – Family Law**

4 13–101.

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

6 (b) “Destitute adult child”, “**DESTITUTE ADULT CHILD**” means an adult
7 child who:

8 (1) has no means of subsistence; and

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

10 [(c) “Destitute parent” means a parent who:

11 (1) has no means of subsistence; and

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

14 13–102.

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

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

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

24 13–103.

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

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

28 (1) the individual is a destitute parent;

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

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

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

7 (1) the individual is a destitute adult child;

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

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

13 13–106.

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

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

20 13–107.

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

24 (1) to pay support:

25 (i) to the individual’s [destitute parent or] destitute adult child;
26 or

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

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

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

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

5 (d) The court may modify the order.

6 13–108.

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

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

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

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

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

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

17 (2) on the conditions that:

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

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

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

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

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

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

28 13–109.

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

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

6 (2) the individual's [destitute parent or] destitute adult child becomes
7 self-supporting; or

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

10 **Article – Health – General**

11 16–101.

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

13 (c) “Chargeable person” means:

14 (1) Any responsible relative;

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

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

19 (f) “Responsible relative” means:

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

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

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

23 16–102.

24 (a) It is the policy of this State to obligate each recipient of services and, to
25 the extent provided in this title, those legally responsible for the recipient to pay, if
26 financially able, for the cost of care that is received by the recipient of services. Unless
27 otherwise provided by statute, the recipient of services and the chargeable person
28 shall be responsible for payment regardless of whether the recipient of services was
29 admitted voluntarily, involuntarily, or by court order. If the recipient of services is
30 involuntarily admitted to a public facility and released after evaluation, for failure to

1 meet the standards for involuntary commitment, the recipient of services or
2 chargeable person shall not be responsible for the cost of care.

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

7 16–203.

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

10 (2) Except as otherwise provided in this title:

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

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

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

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

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

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