

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 79

(Senators Reilly and DeGrange)

Judicial Proceedings

**Family Law - Destitute Adults - Extraordinary Medical Expenses for
Developmental Disabilities and Civil Action**

This bill adds the “extraordinary medical expenses” of a destitute adult child with a developmental disability to the support required from a parent who has or is able to earn sufficient means. The bill also authorizes a destitute parent or a destitute adult child, or the guardian of such an individual, to initiate a civil action for support, instead of filing a complaint with the State’s Attorney. An order of support resulting from a civil action does not preclude prosecution or imposition of existing criminal penalties.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: “Extraordinary medical expenses” means uninsured expenses for a single illness or condition. It includes uninsured, reasonable costs for therapy or treatment of a chronic physical, intellectual, emotional, or cognitive impairment, including respite care, personal care support staff, therapeutic and recreational services, assistive technology, and behavioral intervention services. The definition of “developmental disability” is consistent with that found in the Health-General Article of the Annotated Code.

Existing procedures and criminal penalties regarding the failure to provide for a destitute adult child's support are expanded to include extraordinary medical expenses. The bill also establishes that in determining the amount of support for extraordinary medical expenses, the court may divide the support obligation between parents in proportion to their income.

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

With the written consent of the accused individual before charging or trial, or on conviction, the court must order the individual to pay support, as specified. In determining the amount of support, the court must consider the financial circumstances of the individual. The individual must pay the support until the destitute parent or adult child has other means of adequate support or dies. The court may modify the order.

Pursuant to § 7-101 of the Health-General Article, a “developmental disability” is a severe chronic disability of an individual that (1) is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments; (2) is manifested before the individual reaches age 22; (3) is likely to continue indefinitely; (4) results in an inability to live independently without external support or continuing and regular assistance; and (5) reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

State/Local Fiscal Effect: The bill's provisions are not anticipated to materially impact State or local finances. Information regarding the number of destitute adult children with a developmental disability who are currently receiving State-funded care but have a parent with sufficient means to provide for the individual's extraordinary medical expenses is not available. However, even if the bill's provisions result in court orders for parents to provide for the extraordinary medical expenses of such individuals, funding is likely to be reallocated for other clients, resulting in no reduction in expenditures. The bill is also not anticipated to materially impact the workload of the courts. The criminal penalty provisions of the bill likewise do not have a material impact on State or local finances or operations.

Additional Information

Prior Introductions: None.

Cross File: HB 15 (Delegate Chang) - Judiciary.

Information Source(s): Maryland Department of Aging; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Department of Disabilities; Department of Health and Mental Hygiene; Department of Human Resources; Department of Legislative Services

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md/kdm

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