

Date: February 16, 2021
Bill: HB 816 - Family Law – Support of Destitute Adult Children – Repeal
Committee: House Judiciary Committee
Delegate Luke Clippinger, Chair
Position: **SUPPORT**

Mr. Chairman and Committee Members:

In 2017, the Maryland General Assembly repealed the law requiring filial support. In 2020, great progress was made by the Legislature on reforming the existing child support laws to make them more reasonable for Maryland parents. Now in 2021, House Bill 816 is before this committee that would further these accomplishments by bringing increased fairness and protections to Marylanders.

Specifically, HB 816 would repeal the legal requirement to support Destitute Adult Children. (MD. Code, FAM LAW §13-101(b)). I became familiar with this arcane law due to a petition brought before the Circuit Court for Baltimore County in 2015 by my then 22-year old, estranged daughter to have herself declared an Adult Destitute Child. The court was forced to rule in my daughter’s favor due to this law’s vague requirements. Through my experiences of going through two years of litigation, followed by four years of uncertainty and oppressive financial burdens as a result, I feel compelled to support its repeal.

Many of the justifications made in 2017 to repeal the associated filial support requirements apply to this repeal. One striking similarity is that just as children have no ability to control their parents’ lifestyle, healthcare expenditures, or have no right to compel a parent to plan for long term care expenses, a parent does not have such control over an adult child. Yet, the Destitute Adult Child law creates a draconian situation that applies punitive measures against a parent for situations outside of their control. The judge in my particular case, the Honorable Sherrie R. Bailey, even questioned the fairness of the law in her ruling:

“And this is an extraordinary remedy that Ms. Schleunes has sought in this matter, to have parents supporting an adult in this fashion. Very unusual situation. And I do believe it impinges

upon liberty and freedom of parents. Just as parents are required to support children, I mean minor children, there does come a point in time where a child is entitled to, you know, make their own decisions, and an adult is entitled to be free of the obligation of supporting that person. It's not a -- it's not a life sentence."

Another assertion made in 2017 concerns the all too often scenario where a parent has abused or abandoned a child. There was no accommodation for such context under the filial support law. Likewise, there is no provision for considering cases where an adult child has abused, threatened, or, at their choice, become estranged from their parents.

Other consequences of this law that create untenable situations for parents and lead to the conclusion the law must be repealed are as follows:

The law itself is non-specific concerning the actual requirements to be met to be declared an adult destitute child. No expert testimony or sworn affidavits from medical professionals are required to validate an adult child cannot be self supporting "due to mental or physical infirmity."

There is no distinction under the law between life-long, permanent, full-time medical conditions versus those of a more transient, sporadic nature. Judge Bailey also stated in her ruling that "*the appropriate time reference in this matter is the present.*" However, the law does not require any re-evaluation of an adult child's medical or physical condition nor does it include a requirement to prove an ongoing inability to be self supporting. This makes such a ruling in favor of the adult child a life sentence exactly as Judge Bailey warned it should not be.

There are no requirements to check the lifestyle or living conditions of the child. No consideration is given as to external factors that have resulted in a child being destitute. Some of these factors may be choices made by the adult child that, again, a parent has no control over.

Another significant issue with this law is the fact that such a ruling for an adult child has to follow the guidelines for minor children and the ongoing financial support that demands. An adult who is deemed unable to care for herself is a very different situation

than a minor child under the custody of a parent.

An example of this, is the obligation to pay for medical expenses. An adult who is deemed unable to be self-supporting due to mental health reasons, should not be in a position to make her own medical decisions at the expense of parents who have no say as to the necessity or cost-effectiveness of those decisions. There is also no requirement for the child to maintain any health insurance which compounds the financial obligations of the parents by creating a financial liability with no limitations.

There is likewise no requirement for the child to get appropriate medical care or accommodations so as to improve the condition that makes them unable to support themselves. In a minor child support case, there is at least one parent overseeing the medical care decisions of the child to ensure appropriateness and bring fiscal responsibility to such decisions. This is not the case with an adult destitute child.

A review of case law indicates that even if an adult child is independent, able to pay their expenses except for medical bills, such adult can still claim to be an adult destitute child and require parents to pay those medical bills. As this unfortunately covers a wide section of society, this law could be applied more broadly than intended.

There really is no government agency overseeing adult destitute child cases to maintain guidelines or “rules.” Local Child Support Services that routinely handle minor child support cases are not prepared to manage cases involving adult children. For example, there are no guidelines regarding what happens if/when a parent retires from the workforce and no longer receives income from employment. With minor child support cases, the child will usually reach the age of emancipation while the parents are still earning an income. Any request for modifications of adult destitute child orders require revisiting the issue in court which simply increases the financial burdens on the parents.

In summary, the Adult Destitute Child law is very broad in scope with no defining criteria and therefore open to abuse. There currently are no protections for parents who find themselves subject to decisions based on this law. There simply is no established process for a parent to counter the argument made by a child that they cannot be self supporting. The net result of the application of this law is the placing of extraordinary financial liabilities on parents that last for the lifetime of that parent (or the child).

For these reasons noted above, I respectfully ask for a **FAVORABLE** report on House Bill 816.

Thank you.

Respectfully submitted,

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