



## PA Family Support Obligation Law: A Time Bomb for Adult Children?

Filial support or responsibility refers to the legal responsibility on certain family members to provide financial support and/or care for indigent members of their family. Those who can be held responsible are spouses, adult children and parents. This article focuses on the responsibility that can be imposed on an adult child to support an indigent parent.

Under 2005 legislation, commonly referred to as Act 43, PA courts have upheld highly provocative decisions. To wit: an adult son was held entirely liable for his mother's \$93,000 nursing home bill, notwithstanding the mother's pending Medicaid application and other adult children in the family who may have shared the financial burden. (*HCR vs. Pittas*, 2012).

In response to this decision, Linda M. Anderson, J.D., LL.M, CELA of Anderson Elder Law says, "It is vital that any parent who may be facing long-term care expenses at home or in a facility obtain advice on how to properly manage those costs. This chilling decision about the scope of responsibility for adult children makes many wonder if it isn't 'Open Season' on adult children in Pennsylvania. It is now clear that a parent's creditors can chase down any of their responsible, involved children."

The statue is at odds with commonly accepted notions of fairness. In the *Pittas* example, the son asked the court to consider the mother's husband and other two adult children. The court responded that although it was sympathetic, the statue did not require them to do so. It instead informed him that he was free to join the nursing home in the case and name his mother's husband and his siblings as co-defendants to share the burden of support.

Act 43 also turns its back on responsible vs. irresponsible behavior of adult children. For instance, if an adult son used power of attorney to transfer his mother's funds to himself, he would trigger a period of ineligibility for Medical Assistance for his mother. Nevertheless, another child in the family could be held solely responsible for care costs, *even* if the other child was unaware of and didn't benefit from the transfer of funds.

There is an exemption of an adult child's responsibility in the case of abandonment. A child cannot be held responsible if that child was abandoned by the parent for a period of ten years during childhood. However, this doesn't apply to a situation of estrangement after childhood or the adult child's lack of awareness of the parent's situation.

An exemption is also made in the case when the child does not have sufficient financial resources. However, in the 2015 *Eori v. Eori* case, the court was satisfied that a son was financially capable of supporting his mother with his \$60,000 annual income. In doing so, the court did not consider the son's car payments or tuition payments for his stepchildren to be legal expenses.

Who is "indigent"? In the *Pittas* case, the PA Superior Court said that "the indigent person need not be helpless and in extreme want, so destitute of property, as to require assistance from the public." PA courts have also determined that a decision about an adult child's obligation can be rendered without considering any pending assistance benefits such as Medical Assistance or VA benefits.

An outgrowth of the law is family discord as illustrated in the *Eori* case in which one son sued his two brothers in order to force them to contribute to the cost of their mother's care. In this situation, the son who sued was his mother's power of attorney and also contributed to her care.

*"It is one thing to say that family members have mutual obligations to love and support each other in hard times...It is quite another thing for Pennsylvania to decide it will be ... using the legal system to mandate financial support among family members..."*

Katherine C. Pearson, Professor of Law  
Dickinson school of Law, Penn State

The cases reported involve support actions by indigent individual against his or her family members, but also include applications of the law by third parties (such as nursing home facilities) seeking collections from a child for a parent's unpaid bill.

PAELA, the Pennsylvania Association of Elder Law Attorneys (PAELA) took the position that it wants Pennsylvania's filial support law to be repealed. It argues that the law undermines family harmony and encourages litigation. PAELA also disputes the law's notion of support, saying that forcing an adult child to pay off creditors reduces the possibility of the child being in a position to support the parent's ongoing needs. PAELA concluded that the law can undermine optimal care for the parent.

It is noteworthy that while most states previously had filial support laws, nearly all are now disregarded or repealed. PAELA asks the Pennsylvania legislation to follow that sensible path.

Like many important legal issues, with careful planning from your Certified Elder Law Attorney the possibility of filial responsibility should NOT be a time bomb for you.

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