

## **Government focuses on adult children's assets to pay for parents' nursing home care**

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It appears that states around the country are gearing up to go after the assets of adult children for the care of their parents. This was the alert given in a recent publication of the National Academy of Elder Law Attorneys (NAELA News. April-May 2012).

As states gear up for an all-out assault on families, there is a steady drum beat of news articles with titles such as: "Pay Your Parents' Bills or Else;" "If Mom Can't Pay, Adult Child Must;" and "Little-Known State Laws Force Some to Pay Their Parents' Nursing Home Bills."

These recent articles flow directly out of a movement that got started in 2005, when a policy paper was issued by the National Center for Policy Analysis. That paper urged states to vigorously enforce state statutes called filial responsibility laws. The Center opined:

"... many [seniors] have adult children who could contribute toward their [parent's] care, but do not do so ... Enforcement of state filial responsibility statutes could reduce Medicaid spending ... Reminding children of their obligations would encourage them and their parents to consider proper planning ..."

Since the publication of the NCPA paper, there has been an ever-increasing effort to encourage enforcement of these laws. For example, nursing home industry leaders have been blogging frequently on the issue of filial responsibility. In a blog entry, a nursing home administrator editorialized that the filial responsibility laws ought to be enforced "as a way of shoring up faltering Medicaid dollars." In another entry, another blogger wrote:

"But Medicaid is in big trouble ... and will be inundated when Baby Boomers reach old age. The staggering cost of long-term care and the explosion in the number of people who will need it has prompted a second look at filial responsibility laws as a way to deal with the impending crisis."

Indeed, it appears some states that do not have filial responsibility laws may be considering the enactment of such statutes in the hope of using the laws to balance their state's budget.

Thirty states have such laws. Although Illinois does not have a filial responsibility statute, Illinois court cases have long imposed financial responsibility for the health care of children, spouses and indigent parents on other family members. With the financial health of Illinois in a truly dire condition, it does not take a rocket scientist to realize Illinois may soon seek to extract

retribution on Illinois families by: (1) enacting a filial responsibility law; or (2) seeking to use the legal theories and decisions of those old court cases to pursue adult children. In either or both eventuality, the goal would be to recoup, from adult children, money the state has paid for the nursing home and other long-term care of the children's parents.

In light of the gathering storm clouds that threaten to produce a tornado, which could rip apart the financial security of yourself and your loved ones, there is a need to vigilantly monitor filial responsibility laws and related activity around the country. AARP's website has an interactive map that will aid you in this regard:

[http://aassets.aarp.org/www.aarp.org\\_/articles/bulletin/interactive/filialpiety/index.html](http://aassets.aarp.org/www.aarp.org_/articles/bulletin/interactive/filialpiety/index.html).

More importantly, with the nursing home industry and policy think-tanks pushing hard in the direction of making children responsible for the cost of their parent's nursing home and other long-term care, now, more than ever, it is important to consult with knowledgeable and experienced counsel to protect yourself, your home, your assets and those you love.