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Seymour Moskowitz

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FILIAL RESPONSIBILITY STATUTES: LEGAL AND POLICY CONSIDERATIONS

*Seymour Moskowitz**

INTRODUCTION

The appropriate relationship between parents and their adult children has occupied theologians, philosophers, and legislators since antiquity. The economic links between parents and children likewise have long legal roots. As early as 1601, English law mandated reciprocal obligations among family members, including the responsibility of children to provide financial support for their parents. Carried to the colonies, Elizabethan “poor law” served as the prototype for colonial welfare systems and later for numerous legislative policy choices. That legacy still exists today. Currently, statutes in thirty American states require adult children to support their indigent parents. Although enforcement of these laws is sporadic, state courts have generally upheld them against constitutional attacks. As a result, they are a part of our contemporary debate about treatment of the aged.¹

The precarious economic position of many elderly persons in the United States ensures that the controversy about appropriate

* Professor of Law, Valparaiso University School of Law. J.D. Harvard Law School; B.A. Columbia University.

¹ See, e.g., Joann Blair, Note, “*Honor Thy Father and Thy Mother*” – *But for How Long?* – *Adult Children’s Duty to Care for and Protect Elderly Parents*, 35 U. LOUISVILLE J. FAM. L. 765 (1996-97) (discussing the problem of elder abuse, various steps taken to curb it, and the legal duty of adult children); Terrance A. Kline, *A Rational Role for Filial Responsibility in Modern Society?*, 26 FAM. L.Q. 195 (1992) (discussing the origins of filial responsibility statutes and arguing that such laws promote the policy objective of curbing adult abuse).

relationships between generations will continue. This essay provides an overview of legal and other aspects of filial responsibility laws. Part One provides a historical perspective. Part Two analyzes the state statutes currently in effect in the United States. Part Three discusses the dire economic straits faced by many American seniors. Parts Four and Five survey the policy and practice questions these statutes present and discuss whether their enforcement will contribute to an overall improvement in the condition of the indigent elderly. This article concludes with the proposition that this problem is far too complex for the imposition of across-the-board legal rules, and that a more multi-faceted, sophisticated and positive approach combining public law and private employer policies is needed.

I. HISTORICAL OVERVIEW

Legal rules requiring support of parents have existed for thousands of years. Early Roman law² and Jewish and Christian scripture³ clearly articulated such a duty. St. Thomas Aquinas concurred.⁴ Aristotle also believed children owed aged parents a duty of support, based on historical reciprocity. As Aristotle explained:

That is why it would seem that a son does not have the right to disown his father, whereas a father has the right to disown his son. A debtor must pay his debt, but nothing a son may have done (to repay his father) is a worthy return

² See, e.g., Catherine Doscher Byrd, *Relative Responsibility Extended: Requirement of Adult Children to Pay for Their Indigent Parent's Medical Needs*, 22 FAM. L.Q. 87, 88 (1988).

³ See, e.g., *Exodus* 20:12 (King James) ("Honor thy Father and thy Mother: that thy days may be long upon the land which the Lord thy God giveth thee."); *Matthew* 15:2,4 (King James) ("Why do thy disciples transgress the tradition of the elders? . . . For God commanded, saying, honor thy father and mother: and, He that curseth father or mother, let him die the death.").

⁴ Aquinas believed that since our parents are, next to God, the "closest sources of our existence and development," we owe them respect, reverence, and services. 13 THOMAS AQUINAS, *SUMMA THEOLOGICA* 101.1 (Blackfriars ed., 1968).

for everything the father has provided for him, and therefore he will always be in his debt.⁵

The most direct precursor of modern American filial responsibility statutes was the Elizabethan Poor Relief Act of 1601.⁶ That law mandated that the “father and grandfather and the mother and the grandmother, and *the children of every poor, old, blind, lame, and impotent person*”⁷ support that relative to the extent of his or her ability. The overarching principles of the Elizabethan “poor laws” dictated that blood relatives were the primary source of support for family members, including the elderly, but that public assistance was available for those unable to sustain themselves with private resources.⁸ William Blackstone, the noted legal historian, ascribed early English laws as imposing a legal duty towards parents because they had cared for their children and thus, “ought in return to be supported by their offspring” who owed them “honor and reverence” regardless of their parents’ misbehavior or other factors.⁹ This remained the legal position in England until the great reforms that were enacted after World War II.

The English system for dealing with poverty was transported across the Atlantic Ocean and became the prototype for early welfare systems in the American colonies.¹⁰ A 1705 Pennsylvania

⁵ ARISTOTLE, NICOMACHEAN ETHICS § 1163b, 244 (Martin Ostwald ed. and trans., 1962).

⁶ 43 Eliz. 1, ch. 2, IV (Eng.) (1601); see also Robin M. Jacobson, Note, American Healthcare Ctr. v. Randal: *The Renaissance of Filial Responsibility*, 40 S.D. L. REV. 518, 527-28 (1995).

⁷ 43 Eliz. 1 ch. 2, 6. (emphasis added); see also Priscilla Day, *The Abandonment Defense to a Claim for Parental Support*, 11 J. CONTEMP. LEGAL ISSUES, 380 (2000).

⁸ This system also provided public assistance through local tax collections, the building of “hospitals” and alms houses, imprisonment of able-bodied individuals who refused to work, and the placement of poor children in apprenticeships. 43 Eliz. 1, ch. 1, 2, 3, 4, 12.

⁹ David Thompson, *I Am Not My Father’s Keeper: Families and the Elderly in Nineteenth Century England*, 2 LAW. & HIST. REV. 265, 266 (1984) (quoting 1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 1765-69 (Chicago 1977)).

¹⁰ See generally Jacobus tenBroek, *California’s Dual System of Family Law: Its Origin, Development, and Present Status*, 16 STAN. L. REV. 257 (1964) (tracing importation of English poor law system into the American legal system).

law, for example, authorized “overseers of the poor” to impose taxes for the relief of “poor, indigent” persons and imposed the duty of support upon “father and grandfather and the mother and grandmother and the children of every poor, old, blind, lame, and impotent person.”¹¹ Until the New Deal in the 1930s,¹² most poor relief, including family responsibility provisions, was state initiated and continued to be based on the English model outlined above.¹³ Numerous cases interpreted these filial responsibility laws to require that children provide financial support for their indigent parents in order to relieve state and local authorities from the tax burden of supporting poor persons whose relatives could provide private support for them.¹⁴ Appellate courts in many

¹¹ Colonial Laws of Pennsylvania, 1705-06, ch. CLIV, Section V, at 253; see also Stephan A. Riesenfeld, *The Formative Era of American Public Assistance*, 43 CAL. L. REV. 175, 230-31 (1955).

¹² See Title IVA of the Social Security Act of 1935, Aid to Families With Dependant Children (AFDC), Pub. L. No. 74-271, 49 Stat. 620 (codified at 42 U.S.C. §§ 601-17), which created a federal-state minimum monthly subsistence payment system to families meeting eligibility criteria.

¹³ See generally Daniel Mandelker, *Family Responsibility Under American Poor Laws*, 54 MICH. L. REV. 497 (1956) (surveying various state's filial responsibility laws and their origins).

¹⁴ See, e.g., *Helen B.M. v. Samuel F.D.*, 479 A.2d 852, 855 (Del. Fam. Ct. 1984) (describing the rationale and remedial nature of various states' filial responsibility statutes); *Pickett v. Pickett*, 251 N.E.2d 684, 687 (Ind. Ct. App. 1969) (indicating that the two basic concerns of filial responsibility statutes are the financial need of the parents and the child's ability to pay); *Gluckman v. Gaines*, 71 Cal. Rptr. 795, 797 (Cal. App. 1968) (describing the limits of statutory liability which can be imposed on children to maintain destitute parents); *City of Springfield v. Siderlund*, 122 N.E.2d 898, 898 (Mass. 1954) (affirming, against a son of sufficient means, the assessment of sums paid by the city for the maintenance of his mother); *Albert Einstein Med. Ctr. v. Foreman*, 243 A.2d 181, 183 (Pa. Super. Ct. 1968) (citing *Stoner's Estate*, 56 A.2d 250 (Pa. 1948) for the proposition that “if there is a financially responsible [child], an action in assumpsit may be utilized to enforce the duty” to “financially assist” an indigent parent imposed by the support law); *Belknap v. Witmire*, 72 P. 589, 590 (Or. 1903) (holding that when support is furnished to a parent at the child's request, the child is legally bound to recover the costs); *Jasper County v. Osborne*, 13 N.W. 104, 106 (Iowa 1882) (indicating that children are liable for reimbursing state expenditures voluntarily rendered for the support of destitute parents).

states have upheld these statutes against constitutional challenges, alleging a violation of the Equal Protection Clause,¹⁵ an illegal “taking” of property,¹⁶ or double taxation of relatives.¹⁷

State and local provisions for the indigent elderly were not the only legislative responses to their needs. Beginning in the 1930s, the federal government created a new statutory and administrative framework for dealing with problems of the aged poor. The advent of Social Security in the 1930s,¹⁸ health services through Medicare in the 1960s,¹⁹ and the growth of private pension plans, all created substantial supports for the elderly, separate from state and local welfare laws.

II. CONTEMPORARY FILIAL RESPONSIBILITY LAWS

The statutory duty of adult children to provide financial assistance to their indigent parents is one category of family support obligations. Far more commonly known, however, are

¹⁵ See *American Healthcare Ctr. v. Randall*, 513 N.W.2d 566, 572 (S.D. 1994) (rejecting equal protection arguments against filial responsibility statutes based on the lack of an arbitrary classification and the existence of a rational relationship between the classification and some legitimate legislative purpose); *Groover v. Essex Co. Welfare Bd.*, 264 A.2d 143, 144 (D.C. 1970) (holding that state filial responsibility statute does not violate the Equal Protection Clause of the U.S. Constitution).

¹⁶ See, e.g., *Dep't of Mental Hygiene v. McGilvery*, 329 P.2d 689 (Cal. 1958) (holding that statutes providing for support of indigent persons are not an unconstitutional taking of private property as the statute's limits are defined and apply only with respect to reasonable conditions for assistance and to certain close relatives); *Atkins v. Curtis*, 66 So. 2d 455 (Ala. 1953) (finding that filial responsibility statutes are not unconstitutional on grounds that they constitute a taking of private property without just compensation).

¹⁷ See, e.g., *Maricopa Co. v. Douglas*, 208 P.2d 646, 649 (Ariz. 1949) (finding that merely because “there is both a legal and moral obligation to pay for the maintenance of certain relatives does not itself constitute double taxation”).

¹⁸ 42 U.S.C. § 401 (2000). Section 401 creates a trust fund called the Federal Old-Age and Survivors Insurance Trust Fund. *Id.*

¹⁹ 42 U.S.C. § 1394 (2000). Section 1394 authorizes payments to states, either by advancement or reimbursement as determined by the agency secretary. *Id.*

duties of parents in every state to financially support their minor children.²⁰ Spouses are likewise mandated to support each other.²¹ The provisions of the thirty state filial responsibility laws – where there is no federal counterpart – are diverse. Many of these state laws were enacted in the nineteenth century. For example, Iowa's provisions date from 1851,²² and California passed its statute in 1872.²³ Many others, however, were enacted or re-enacted far more recently.²⁴

By enacting the Medicaid program in 1965, the federal government produced an initial decrease in the utilization of filial responsibility laws. The Medicaid program specifically prohibits states from considering the financial responsibility “of any individual for any applicant or recipient of assistance under the [Medicaid] plan unless such applicant or recipient is such indivi-

²⁰ See HARRY D. KRAUSE, *CHILD SUPPORT IN AMERICA: THE LEGAL PERSPECTIVE* 4 (1981) (explaining that the support of minor children has been enlarged to include both parents, since many women in today's economy have steady incomes); see also *Carole K. v. Arnold K.*, 380 N.Y.S.2d 593 (Fam. Ct. 1976) (striking down statute requiring fathers, but not mothers, to pay child support).

²¹ See, e.g., HOMER CLARK, *THE LAW OF DOMESTIC RELATIONS IN THE UNITED STATES* 619-20 (2d ed. 1988).

²² IOWA CODE ANN. § 252.2 (West 1999). Iowa's provision states that:

The father, mother, and children of any poor person, who is unable to maintain the poor person's self by labor, shall jointly or severally relieve or maintain such person in such manner as, upon the application to the board of supervisors of the county where such person has a residence or may be, they may direct.

Id.

²³ See CAL. FAM. CODE §§ 4400, 4401 (West 2000).

²⁴ E.g., S.D. CODIFIED LAWS § 28-13-1.1 (Michie 2000). The definition of an “indigent or poor person” for the purpose of eligibility standards for relief provides that:

an indigent or poor person is any person who does not have sufficient money, credit, or property to be self-supporting, who has no one to look to who is legally required to provide support; or who is unable to be self-supporting through work because of illness or injury. In applying this definition, each county shall establish reasonable eligibility standards for county poor relief.

Id.

dual's spouse *or such individual's child who is under age 21.*"²⁵ This applies only to eligibility for Medicaid, however, and not other benefits. Nor does it rule out normal enforcement of state statutes. Although some states repealed their filial responsibility laws after the advent of Medicaid, the vast majority have allowed their laws to remain in effect.²⁶

Legal research on the topic of filial responsibility is challenging because laws addressing different issues regarding this topic are scattered in varying parts of state codes. For example, some statutes reflect a seemingly reciprocal contract obligation, mandating that since the parents provided support in the past, the adult child now owes support to the needy parent.²⁷ Consistent with this legal theory, adult children are, in some cases, excused from the duty if the parent fails to support him or her during their minority or was guilty of abuse or neglect.²⁸ The financial need of the parent that triggers the duty is usually described in general terms, such as "unable to maintain" self.²⁹

Often statutes provide a right of contribution from other relatives. For example, a child required to support the parent may seek contribution from siblings.³⁰ The financial obligations of adult children are described in various ways, such as a duty to provide "necessary food, clothing, shelter or medical attention,"³¹ to provide "necessaries,"³² "medical expenses,"³³ or "burial expens-

²⁵ 42 U.S.C. § 1396(A)(17)(D) (2000).

²⁶ See *infra* Appendix (collecting state filial responsibility statutes).

²⁷ See, e.g., ALASKA STAT. § 25.20.030 (Michie 1998); ALASKA STAT. § 47.25.230 (Michie 1998); OR. REV. STAT. § 109.010 (West 1990).

²⁸ See the following state statutes for this adult child excuse provision: California; Indiana; Massachusetts; New Jersey; Ohio; Pennsylvania; Rhode Island; and Virginia. See *infra* Appendix.

²⁹ State statutes utilizing such "unable to maintain" language include: Alaska; Connecticut; Delaware; Idaho; Indiana; Iowa; Mississippi; Montana; North Dakota; Ohio; Oregon; Pennsylvania; and South Dakota. See *infra* Appendix.

³⁰ Right of contribution states include: California; Iowa; Kentucky; North Carolina; Ohio; Rhode Island; South Dakota; and Virginia. See *infra* Appendix.

³¹ See the following state statutes: California; Indiana; Montana; South Dakota; and Virginia. See *infra* Appendix.

³² States with "necessaries" language include: California; Connecticut; Maryland; Mississippi; and Ohio. See *infra* Appendix.

es.”³⁴ In some states, the obligation extends to grandchildren.³⁵ Other states, such as South Dakota, require preliminary procedural steps before suit may be filed, or, as does New Jersey, make exceptions for adult children over a certain age.³⁶

If state or local welfare authorities have provided assistance to the indigent parent, many states require adult children, or other relatives, to reimburse the public treasury.³⁷ This is comparable to the obligation often placed on parents to reimburse welfare authorities for public assistance provided to children.

Legal enforcement of these state statutes is difficult to gauge. Few cases invoking these laws have been reported in appellate court decisions.³⁸ Trial court cases are rarely printed and reported, making it impossible to estimate activity at the local level. Secondary sources generally state that utilization of filial responsibility laws is infrequent.³⁹

Of the thirty states with filial responsibility laws, twenty-two have civil statutes.⁴⁰ Standing to bring the action is placed with

³³ States with “medical expenses” language include: Nevada and Tennessee. *See infra* Appendix.

³⁴ States with “burial expenses” language include: Alaska; Indiana; Montana; and West Virginia. *See infra* Appendix.

³⁵ States extending such obligations to grandchildren include: Alaska; Arkansas; Iowa; Louisiana; Rhode Island; and Utah. *See infra* Appendix.

³⁶ *See infra* Appendix.

³⁷ States with reimbursement language include: Connecticut; Georgia; Idaho; Indiana; Iowa; Mississippi; Montana; and Tennessee. *See infra* Appendix.

³⁸ A 1995 law journal article places California as the state with the most decisions (ten), followed by New York (three), and Louisiana and New Jersey (two each). Art Lee, *Singapore's Maintenance of Parents Act & U.S. Filial Responsibility Laws*, 17 LOY. L.A. INT'L & COMP. L. REV. 671, 678 (1995).

³⁹ *Id.*; see also Ann Britton, *America's Best Kept Secret: An Adult Child's Duty to Support Aged Parents*, 26 CAL. W. L. REV. 351 (1990) (observing that filial responsibility laws are generally unenforced).

⁴⁰ *Alaska* (ALASKA STAT. §§ 25.20.030, 47.25.230 (Michie 1998)); *Arkansas* (ARK. CODE ANN. § 20-47-106 (Michie 1987)); *California* (CAL. FAM. CODE §§ 4400, 4401, 4403, 4410-14 (West 1994)), CAL. WELF. & INST. CODE § 12350 (West 1991 & Supp. 2000)); *Connecticut* (CONN. GEN. STAT. ANN. § 46b-215 (West 1995 & Supp. 2000)); *Delaware* (DEL. CODE ANN. tit. 13, § 503 (1999)); *Georgia* (GA. CODE ANN. § 36-12-3 (1993)); *Idaho* (IDAHO CODE § 31-16-17-1—31-16-17-17 (Michie 1999 & Supp. 2000)); *Indiana* (IND. CODE ANN.

varying persons or entities: the indigent parent, in states such as California, Indiana, and Pennsylvania; some public body or agency, in states such as California; welfare authorities, in states such as Connecticut and New Jersey; or creditors furnishing necessities to the indigent parent, in states such as North Carolina. Many statutes do not specify who may bring suit to recover support.

Seventeen states explicitly condition the child's responsibility on financial ability to pay.⁴¹ Twelve states make failure to financially support an indigent parent a criminal offense.⁴² These laws defy easy generalization. While many states allow the public prosecutor to bring the action, others surprisingly permit initiation by the court itself.⁴³ Rhode Island allows the director of any licensed private charity to initiate such a proceeding. As with civil

§§ 252.1, 252.2, 252.5, 252.6, 252.13 (West 1994)); *Louisiana* (LA. REV. STAT. ANN. § 4731 (West 1991)); *Mississippi* (MISS. CODE ANN. § 43-31-25 (1993)); *Montana* (MONT. CODE ANN. § 40-6-214 (1999)); *Nevada* (NEV. REV. STAT. ANN. § 428.070 (Michie 2000), NEV. REV. STAT. ANN. § 439B.310 (Michie 1996 & Supp. 1999)); *New Hampshire* (N.H. REV. STAT. ANN. § 167:2 (1994 & Supp. 1999), N.H. REV. STAT. ANN. § 546-A:2 (1997)); *New Jersey* (N.J. STAT. ANN. §§ 44:4-100-44:4-102, 44:1-139-44:1-141 (West 1993)); *North Dakota* (N.D. CENT. CODE § 14-09-10 (1997)); *Oregon* (OR. REV. STAT. § 109.010 (1990)); *Pennsylvania* (PA. STAT. ANN. tit. 62, § 1973 (West 1996)); *South Dakota* (S.D. CODIFIED LAWS § 25-7-27 (Michie 1999 & Supp. 2000), S.D. CODIFIED LAWS §§ 25-7-28, 28-13-1.1 (Michie 1999)); *Tennessee* (TENN. CODE ANN. § 71-5-115 (1995), TENN. CODE ANN. § 71-5-103 (1995 & Supp. 1999)); *Utah* (UTAH CODE ANN. § 17-14-2 (1999)); *West Virginia* (W. VA. CODE § 9-5-9 (1998)).

⁴¹ Those states are: Alaska; Arkansas; California; Connecticut; Georgia; Idaho; Indiana; Iowa; Louisiana; Montana; Nevada; New Jersey; North Dakota; Pennsylvania; South Dakota; Utah; and West Virginia. *See infra* Appendix.

⁴² *California* (CAL. PENAL CODE § 270c (West 1999)); *Connecticut* (CONN. GEN. STAT. ANN. § 53-3-4 (West 1994 & Supp. 2000)); *Indiana* (IND. CODE ANN. § 35-46-1-7 (West 1998)); *Kentucky* (KY. REV. STAT. ANN. § 530.050 (Banks-Baldwin 1999)); *Maryland* (MD. CODE ANN., FAM. LAW §§ 13-101, 13-102, 13-103 (1999)); *Massachusetts* (MASS. GEN. LAWS ANN. ch. 273, § 20 (West 1990)); *Montana* (MONT. CODE ANN. § 40-6-301 (1999)); *North Carolina* (N.C. GEN. STAT. § 14-326.1 (1999)); *Ohio* (OHIO REV. CODE ANN. § 2919.21 (West 1997 & Supp. 1999)); *Rhode Island* (R.I. GEN. LAWS §§ 15-1-1-15-10-7 (1996), R.I. GEN. LAWS §§ 40-5-13-4-5-18 (1997)); *Vermont* (VT. STAT. ANN. tit. 15, §§ 202, 203 (1989)); *Virginia* (VA. CODE ANN. § 20-88 (Michie 2000)).

⁴³ *See, e.g.,* VA. CODE ANN. § 20-88 (Michie 2000).

liability statutes, a defense is explicitly provided by many states for children who were not supported by their parents during their minority,⁴⁴ or are unable to provide the support.⁴⁵

III. ECONOMIC POSITION OF U.S. ELDERLY

The growth of America's elderly population, which exploded in the second half of the twentieth century, soon will increase dramatically. The aged, representing only one in every twenty-five Americans (3.1 million) in 1900, grew to one in eight Americans (33.2 million) in 1994.⁴⁶ By the middle of the twenty-first century, there will be approximately 80 million people sixty-five years or over than there are fourteen years or younger. Economically, about 3.4 million seniors, representing 10.5% of the American population, were below the official definitions of poverty in 1997. Another 2.1 million, or 6.4% of the elderly, were classified as "near-poor." In total, one out of every six older persons, or 17%, was poor or near poor in 1997.⁴⁷

In 1999, 32 million individuals, representing 34% of all older persons, reported an income of less than \$10,000; only 23% earned \$25,000 or more.⁴⁸ The median income reported was \$14,425.⁴⁹ The major sources of income for older persons in 1998 included: Social Security benefits (90% of seniors); income from assets (62%); public and private pensions (44%); earnings (21%); and

⁴⁴ States allowing such a defense include: Indiana; Massachusetts; Ohio; Rhode Island; and Virginia. *See infra* Appendix.

⁴⁵ Those states include: California; Connecticut; Indiana; Kentucky; Maryland; Montana; North Carolina; Ohio; Rhode Island; Vermont; and Virginia. *See infra* Appendix.

⁴⁶ ECON. AND STATISTICS ADMIN., U.S. DEP'T OF COMMERCE, STATISTICAL BRIEF, SIXTY-FIVE PLUS IN THE UNITED STATES (May 1995), *available at* <http://www.census.gov/socdemo/www/agebrief.html>.

⁴⁷ U.S. BUREAU OF CENSUS, CURRENT POPULATION REPORTS, CONSUMER INCOME 60-200 (Sept. 1998).

⁴⁸ ADMINISTRATION ON AGING, DEP'T OF HEALTH AND HUMAN SERVICES, A PROFILE OF OLDER AMERICANS (2000), *available at* <http://www.aoa.gov/aoa/-stats/profile/profile2000.html>.

⁴⁹ *Id.*

public assistance (6%).⁵⁰ Despite income deprivation, older households in 1994 were less likely than younger households to have received public assistance, food stamps, or to have members covered by Medicaid. Nearly one-third of older renter households lived in publicly owned or subsidized housing in 1994, as compared to 14% for younger renters, an additional indicator of poverty.⁵¹

When broken down by subgroups, additional patterns emerge. The elderly are becoming more racially and ethnically diverse. In 1994, one in ten aged citizens were non-white; by 2050, this proportion will rise to two in ten.⁵² Similarly, the proportion of elderly who are Hispanic is expected to climb from 4% to 16% over the same period.⁵³ While only 9% of elderly whites were poor, 26% of elderly blacks and 23.8% of elderly Hispanics were indigent. Older women had a higher poverty rate than older men in 1997; forty percent of older black women who lived alone were poor.⁵⁴ In 1999, seniors living alone or with non-relatives, representing 20.2%, were much more likely to be poor than were older persons living with families, representing only 5.2%.⁵⁵

The health status of the aged contributes to their economic problems. In 1995, 28.3% of older persons assessed their health as fair or poor, as compared to 9.4% of all persons. Older blacks, representing 43%, were much more likely to rate their health as fair or poor than older whites, representing 28%. Most older persons

⁵⁰ *Id.*

⁵¹ ADMINISTRATION ON AGING, DEP'T OF HEALTH AND HUMAN SERVICES, A PROFILE OF OLDER AMERICANS (1998), available at <http://www.aoa.dhhs.gov/-aoa/stats/profile/default.htm>.

⁵² ECONOMIC AND STATISTICS ADMIN., U.S. DEP'T OF COMMERCE STATISTICAL BRIEF, SIXTY-FIVE PLUS IN THE UNITED STATES (May 1995), available at <http://www.census.gov/socdemo/www/agebrief.html>.

⁵³ *Id.*

⁵⁴ ADMINISTRATION ON AGING, DEP'T OF HEALTH AND HUMAN SERVICES, A PROFILE OF OLDER AMERICANS (1998), available at <http://www.aoa.dhhs.gov/-aoa/stats/profile98.html>.

⁵⁵ ADMINISTRATION ON AGING, *supra* note 48.

have at least one chronic condition and many have multiple conditions.⁵⁶

IV. SHOULD FILIAL RESPONSIBILITY LAWS BE ENFORCED?

Despite their longevity, filial responsibility statutes and efforts to enforce them still engender rancorous debate.⁵⁷ Supporters advance three main arguments. First, the number of elderly poor is shockingly high and their economic situation is unlikely to improve. For nearly sixty years, Social Security has been the primary income source for retired workers and their families. According to a recent U.S. General Accounting Office ("GAO") study, the Social Security System faces a revenue shortfall of approximately \$3 trillion over the next seventy-five years.⁵⁸ While program revenues should continue to exceed expenditures until 2013, the substantial size of the subsequent anticipated shortfall highlights pressures upon the system. If Social Security were unable to meet its obligations by 2032, as is projected, this would have a grave impact on workers, beneficiaries, and society as a whole. The American College of Emergency Physicians reported a decade ago that as many as 100,000 to 200,000 geriatric patients are abandoned by families and care givers each year in hospital emergency rooms across the country.⁵⁹ It is likely that these numbers have risen in the intervening decade. Despite the popular view that seniors' medical needs are provided by Medicare, it is estimated that when expenses are totaled, Medicare pays only about 50% of costs.⁶⁰ The remainder must be paid by individuals

⁵⁶ ADMINISTRATION ON AGING, *supra* note 52. Those conditions include, for example: arthritis; hypertension; heart disease; hearing impairments; cataracts; orthopedic impairments; and diabetes.

⁵⁷ See, e.g., Kline, *supra* note 1; Robert Whitman & Diana Whitney, *Are Children Responsible for the Support of Their Parents?*, 123 TR. & EST. 43 (1984) (discussing objections to filial responsibility laws).

⁵⁸ Steven C. Wilbur, *Social Security Reform: A Comparison of Alternative Proposals*, TAX NOTES, Dec. 28, 1998, at 1667-74.

⁵⁹ Debra A. Pinkney, *Elderly Straining Emergency Departments*, AM. MED. ASS'N NEWS, Oct. 12, 1990, at 3.

⁶⁰ JOSEPH MATHEWS, SOCIAL SECURITY, MEDICARE & PENSIONS § 12:2 (7th ed. 1999).

through private insurance, or sometimes by Medicaid. These economic and social realities reinforce the need to attach legal bonds between children and their indigent or ill parents.

Second, proponents of filial responsibility argue that these laws simply enforce the implicit contract that was created by parents giving birth to children and nurturing/supporting them during their youth. This parental investment demands some return, and old age is the time for repayment of the debt. Long established norms of family loyalty and obligation lie behind such laws. "Honor thy father and thy mother"⁶¹ can be quoted by almost every person in our society. Jewish and Christian Scripture,⁶² theological commentary,⁶³ and mythological references⁶⁴ reinforce the reciprocity norm. To permit adult children to ignore the needs of their own parents who are unable to meet their basic needs is to promote unjust enrichment.

Adult children have profited from the prior financial and intangible investments made in them by their parents. As the South Dakota Supreme Court noted in *Americana Healthcare Center v. Randall*, a case challenging its filial responsibility law on equal protection grounds:

The fact that an indigent parent has supported and cared for a child during that child's minority provides an adequate basis for imposing a [legal] duty on the child to support that parent [I]t logically follows that the adult child should bear the burden of reciprocating on that benefit in the event a parent needs support in their later years.⁶⁵

⁶¹ *Exodus* 20:12 (King James).

⁶² See AQUINAS, *supra* note 4 at 11a/11ae, Q.101, a2; see also *John* 19: 26-27 (King James) (describing Jesus' provision of care for his mother even as he was being crucified).

⁶³ See *supra* note 4 and accompanying text; see also JOSEF PIEPER, *THE FOUR CARDINAL VIRTUES: PRUDENCE, JUSTICE, FORTITUDE, TEMPERANCE* 107 (1966).

⁶⁴ Virgil, for example, celebrates Aeneas for carrying Anchises, his father, on his shoulders as he traveled to Rome. See *THE AENEID OF VERGIL* (Allen Mandelbaum trans., Bantam Books 3d ed., 1981).

⁶⁵ 513 N.W.2d 566, 572-73 (S.D. 1994).

The *Randall* court found that the state statute did not classify citizens arbitrarily and furthered the state's legitimate interest in preventing "a parent from being thrown out on the street when in need of specialized care."⁶⁶ In *Swoap v. Superior Court*, the California Supreme Court upheld a statute that required children to reimburse the state for public assistance provided to their indigent parents.⁶⁷ The court held that the statutes did not discriminate on the basis of wealth, but rather selected children to bear the financial burden on the basis of parentage.⁶⁸

Third, supporters of filial responsibility laws argue that the abdication of financial responsibility by adult children forces society to shoulder the children's burden. Tax resources, they maintain, should only be utilized for general social obligations. Forcing or enabling children to support the elderly saves public dollars that could be shifted to education, libraries, recreation, or similar services. Supporters estimate that filial responsibility statutes can reduce public welfare costs by 11% to 30%, but it is difficult to place precise dollar amounts on the amount of tax dollars that might be saved.⁶⁹ In addition, advocates emphasize that such statutes deter elderly persons from applying for public assistance, further saving tax resources. The total number of potential aged applicants may be many times greater than the number of actual applicants.⁷⁰

Opponents of filial responsibility laws confront these arguments directly or turn them on their head. First, opponents maintain that families provide a great deal of support for their adult members voluntarily. In 1988, approximately 3.2 million persons provided financial support to more than 5.4 million adults not living in the

⁶⁶ *Id.* at 573.

⁶⁷ 516 P.2d 840 (Cal. 1973).

⁶⁸ *Id.* at 850. The state has a legitimate interest in and a duty towards the class of "parents in need." The state does not create a suspect classification based on wealth since it only imposes a liability on the adult children of "parents in need." Thus, the children themselves are selected based not on wealth, but on parentage. *Id.*

⁶⁹ W. Walton Garrett, *Filial Responsibility Laws*, 18 J. FAM. L. 793, 814-15 (1980).

⁷⁰ *Id.* at 815.

household with them.⁷¹ Almost all of those receiving support were relatives, and parents made up the largest group of non-household adults receiving support. The annual average payment by children to their parents was \$1,330.00.⁷²

Second, opponents counter that the “reciprocal contract” argument is overbroad. Many parents provided no support for their minor children, abandoned them, or worse, abused them.⁷³ While the legal duty to support minor children is finite – that is, until eighteen years of age or emancipation⁷⁴ – the legal duty to provide for parents would have no defined termination.⁷⁵ Moreover, parents made the decision to bring children into the world and thus assumed a legal responsibility for them. Children have not made a comparable decision. John Locke, in his *Second Treatise on Government*, observes: “[T]hat without an explicit and voluntary agreement on the part of children to be bound to parents after their majority, the former infants are at liberty to govern themselves and to unite with parents or others as they wish.”⁷⁶ In addition, our contemporary vision of the developing and mature adult stresses

⁷¹ BUREAU OF THE CENSUS, UNITED STATES DEP’T OF COMMERCE, WHO’S HELPING OUT? SUPPORT NETWORKS AMONG AMERICAN FAMILIES (1988) 2, 6-7 (1992).

⁷² *Id.*

⁷³ While it is impossible to determine the frequency of non-support, abuse, and neglect, commentators have estimated up to 4.5 million cases annually. There were 2.9 million reports of child abuse and neglect in the U.S. in 1994, of which 1 million were substantiated. CENTER ON CHILD ABUSE & NEGLECT, U.S. DEP’T OF HEALTH AND HUMAN SERVICES, CHILD MALTREATMENT 1994, reprinted in STATISTICAL ABSTRACT OF THE UNITED STATES 217-18 (1996).

⁷⁴ See, e.g., VA. CODE ANN. § 6.1-333-334 (Michie 1998); *Stanton v. Stanton*, 517 P.2d 1010, 1011 (Utah 1974) (holding that an eighteen-year-old male child is entitled to child support under a totality of the circumstances examination rather than merely looking to a consent decree or the child’s age).

⁷⁵ Life expectancy in the United States, forty-seven years in 1900 and 68 years in 1950, increased to 76 years in 1991 and continues to rise. ECON. AND STATISTICS ADMIN., *supra* note 46.

⁷⁶ JOHN LOCKE, SECOND TREATISE ON GOVERNMENT 119 (Gateway 1964) (1690); see also *id.* at 67 (stating that “the subjection of a minor places in the father a temporary government, which terminates with the minority of the child”).

the importance of separation of children from their parents.⁷⁷ Adulthood is based on autonomous decision-making,⁷⁸ not governmentally coerced family interaction. Failure to achieve independence from parents is seen as a symptom of psychological problems in adult children.⁷⁹

Third, while not apparent on the surface, filial responsibility laws implicate important gender issues. It is typically women who find themselves saddled with the multiple responsibilities of rearing children, working for income outside the home and also providing care for aging family members. The notion of caregiving as women's work is deeply ingrained in our culture,⁸⁰ and the toll the caregiver must pay is often considerable. As one commentator explains:

The most severe impact of caring for a dependent adult appears to be that it is totally monopolizing and without rest, 24 hours a day, 7 days a week, 365 days a year. . . . There is gradually isolation . . . of the main care giver. They no longer go out, no longer invite people over, no longer accept invitations, because they cannot leave the dependent person alone and are too nervous about their unpredictable behavior to receive people or to have confidence in substitute care.⁸¹

To impose a legal/financial responsibility in addition to the traditional caregiving role will, in many circumstances, places an

⁷⁷ See generally JUSTIN PIKUMAS, *HUMAN DEVELOPMENT: A SCIENCE OF GROWTH* (1969).

⁷⁸ "The socially mature adult is in large measure inner-directed rather than group controlled. His decisions and behavior flow from personal conviction based on his principles, values and ideals." *Id.* at 330. See also Al Katz & Lee E. Teitelbaum, *PINS Jurisdiction, The Vagueness Doctrine & the Rule of Law*, 53 IND. L.J. 1, 17-23 (1977-78).

⁷⁹ See, e.g., M.S. Mahler, *A Study of the Separation – Individuation Process: And its Possible Application to Borderline Phenomena in the Psychoanalytic Situation*, in *THE PSYCHO ANALYTIC STUDY OF THE CHILD* 403-24 (1977).

⁸⁰ See, e.g., ELAINE M. BRODY, *WOMEN IN THE MIDDLE: THEIR PARENT-CARE YEARS* 29 (1990); see also ARLIE HOCHSCHILD, *THE SECOND SHIFT* (1989).

⁸¹ Nancy Guberman, *The Family, Women and Caring: Who Cares for the Carers?*, 17 RESOURCES FOR FEMINISTS RES. 37, 39 (1988).

unfair burden on women. "While both Christianity and Judaism make it plain that a child's responsibility to a parent is fundamental, maybe even greater than his duty to his offspring . . . carrying out the Fourth Commandment generally falls to middle-age daughters and other female relatives."⁸² In addition, the burden of filial responsibility laws will often fall upon families that are "sandwiched" between financial demands of their children, such as college expenses and other normal child rearing costs, and the need to support parents.⁸³

The increasing population and longevity of the aged means having to care for very old, frail relatives. More and more children in their forties, fifties and sixties will face the concern, physical labor and expense of caring for parents. The emotional and physical demands on both sides can strain individuals and marriages to the breaking point.⁸⁴

Fourth, opponents argue that statistical and structural factors militate against the use of filial responsibility laws. The average family in 1910 had 4.5 children; in 1960, it had only 2.5 children,⁸⁵ and it has even fewer today. As the number of children decreases, each adult child's proportionate share of the financial and emotional burden increases. Many parents choose to live below subsistence level rather than invoke legal processes that may force assistance from their adult children who do not have the means to provide additional money.

Finally, critics assert that imposing support obligations upon adult children for indigent elderly parents creates a violation of equal protection. In one well known case, *Department of Mental Hygiene v. Kirchner*, a state hospital attempted to recover the costs of a patient's care from the patient's daughter under a state statute

⁸² Lee Smith, *What Do We Owe to the Elderly?*, FORTUNE, Mar. 27, 1989, at 54, 58.

⁸³ See, e.g., Nora Underwood, *Mid-Life Panic, Thousands of Canadians Are Caught Between Children & Elderly Parents*, MACLEAN'S, Aug. 1991, at 30, 32 ("You have a situation in which you have adults, particularly women, caring for their children at a time when their own parents are likely to need help.").

⁸⁴ Herbert S. Donow, *Am I My Father's Keeper? Sons as Care Givers*, 31 GERONTOLOGIST 709-10 (1991).

⁸⁵ ROBERT C. ATCHLEY, THE SOCIAL FORCES IN LATER LIFE 13 (1972).

that had not been enforced for almost one hundred years.⁸⁶ The state argued that the natural bonds of consanguinity justified the imposition of the financial duty. The California Supreme Court rejected this argument and found the statute unconstitutional, reasoning that California's assumption of the costs associated with administering institutional treatment was a state function.⁸⁷ The court reasoned that:

A statute obviously violates the Equal Protection Clause if it selects one particular class of persons or a species of tax-ation and no rationale basis supports such a classification [T]he cost of a proper state function conducted for the public benefit cannot be arbitrarily changed to one class in the society.⁸⁸

The *Kirchner* court noted that the benefits of confinement and mental healthcare accrue to society as a whole and create the possibility of the individual's return to being a productive member of the community.⁸⁹ Analogously, if support of the indigent is a public duty, then that burden may not be shifted to the children of an aged parent.

V. JURISPRUDENTIAL AND PRACTICAL CONCERNS

Another set of arguments against filial responsibility laws revolves around jurisprudential notions of the proper role of the law. Litigation as a means of solving problems is a particularly blunt instrument when continuing relationships or processes are involved. Its strength is maximized when discrete transactions between parties are involved or a relationship is to be terminated.⁹⁰ The adversarial process of litigation may resolve a disagreement between family members temporarily, but only at great emotional and psychological costs. Indigent (and more affluent) older persons require long term care and continuing concerted

⁸⁶ 388 P.2d 720 (Cal. 1964).

⁸⁷ *Id.* at 722 & 724.

⁸⁸ *Id.* at 724.

⁸⁹ *Id.* at 722.

⁹⁰ See, e.g., Joel F. Handler, *Community Care for the Frail Elderly: A Theory of Empowerment*, 50 OHIO ST. L.J. 541, 542-45 (1989).

efforts by informal and formal care givers.⁹¹ It is highly unlikely that the courts can create ongoing social and financial relationships within families. If the love, understanding, and sense of obligation of the families described in the famous *Middletown*⁹² study of the 1920s is to be recaptured, it will not be through the coercive weapons of the law. Certainly our experience with respect to child support, a far less controversial and difficult area, gives little reason for optimism regarding filial responsibility laws. Establishment of state court decrees and actual collection of child support is so scandalously poor⁹³ that Congress has now created a web of federal laws on this traditional state law subject.⁹⁴ The experience of enforcing related state statutes, such as elder abuse and neglect laws, gives little reason to believe there will be greater success with filial responsibility laws.⁹⁵ Moreover, as a matter of public policy, does society want to encourage or force parents to sue their adult children?

Allied to jurisprudential concerns about the role of law are the practical issues inherent in enforcing filial responsibility laws. It is difficult if not impossible to enforce the legal rights of indigent aged parents, who are often frail, homebound, or in nursing homes. There is little incentive for private attorneys, overworked public prosecutors or welfare attorneys to bring such actions. Problems in

⁹¹ See, e.g., Diane Meier & Christine K. Cassel, *Nursing Home Placement & the Devastated Patient: A Case Presentation & Ethical Analysis*, 104 ANNALS OF INTERNAL MED. 98, 100 (1986).

⁹² ROBERT S. LYND & HELEN M. LYND, *MIDDLETOWN: A STUDY IN AMERICAN CULTURE* (1956) (analysis of Muncie, Indiana in 1929).

⁹³ A study by the Urban Institute reported that if child support orders were to be established for all children with a living non-custodial father, and if these orders were fully enforced, aggregate child support payments would have totaled \$48.2 billion in 1990. Only \$14.4 billion was actually received. ELAINE SORENSON, URBAN INSTITUTE, *NONCUSTODIAL FATHERS: CAN THEY AFFORD TO PAY MORE CHILD SUPPORT?* (1994).

⁹⁴ See, e.g., *Deadbeat Parents Punishment Act of 1998*, 18 U.S.C. § 228 (2000); *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified throughout scattered sections of 8 U.S.C. and 42 U.S.C.).

⁹⁵ Seymour Moskowitz, *Private Enforcement of Criminal Mandatory Reporting Laws*, 9 J. ELDER AB. & NEGL. 1, 2-4 (1998).

determining the exact amount of the elder person's need and the family member's ability to provide assistance will inevitably emerge in individual cases. Administrative and legal systems, akin to those used in child and spouse support cases, must be in place in order to avoid selective prosecution. Enforcement of filial responsibility laws will inevitably require efforts to locate and sue children living in other states, and will require additional lawsuits when the adult child seeks to recover from the parent's estate or seeks modification due to changed circumstances.

If aged parents choose not to proceed, or even to cooperate with the lawsuit, many of the issues that emerge when rape victims or abused women refuse to press criminal charges – fear, safety of the victim, violation of autonomy, etc. – will also surface in these cases of filial non-support. These issues will be exacerbated by the normal reluctance of parents to create legal problems for children, and the public embarrassment and humiliation inherent in these legal processes.

Another problem with using filial responsibility laws more extensively is their failure to recognize the diversity of the aged population and the subtleties of family relationships. In 1999, about 16.1% of persons sixty-five and over were minorities – 8.1% black, 5.3% Hispanic, 2.3% Asian and others.⁹⁶ These percentages are growing rapidly, and these various ethnic communities often exhibit diverse traditions of extended family ties and caring. Hispanic elderly, for example, are less likely to reside in long term care facilities than white or African-American elderly, and they are far more likely to live with family members in multi-generational households.⁹⁷ Their ability to locate and access administrative and legal services is hampered by language difficulties. African-American families, by contrast, often build unique “patterns of sharing and exchange of favors across networks of siblings, aunts, uncles, and other family members.”⁹⁸ Uniform enforcement of parental support laws is likely to create unintended negative

⁹⁶ ADMIN. ON AGING, *supra* note 48.

⁹⁷ ADMIN. ON AGING UPDATE, THE HISPANIC ELDERLY: A CULTURAL MOSIAC, at <http://www.aoa.dhhs.gov/update/update9-97.html#mosaic> (1997).

⁹⁸ Martha Minow, *All in the Family & In All Families: Membership, Loving, and Owing*, 95 W. VA. L. REV. 275, 324 (1992-93).

consequences because it fails to accommodate individual and subgroup complexities.

VI. MORE EFFECTIVE MEANS OF CONFRONTING THE PROBLEM

Other less coercive public policy measures could improve the financial and social situation of many of our elderly without introducing the intra-family tensions and legal and administrative problems that greater enforcement of filial responsibility laws would entail. The federal Family and Medical Leave Act ("FMLA")⁹⁹ guarantees employees leave to care for a seriously ill "son, daughter, or parent."¹⁰⁰ The FMLA guarantees a worker's job and seniority as well as coverage under any group health plan.¹⁰¹ Unfortunately, the FMLA allows for only twelve weeks leave,¹⁰² which typically is not sufficient time to provide for the long-term care needs of elder parents. Additionally, the FMLA provides only unpaid time off, making it impractical for many employees to utilize it. Amendments to the FMLA to provide for guaranteed wages, either in whole or in part, during the time needed to stabilize a dependent parent, would vastly improve the situation for adult children with caretaking responsibilities.¹⁰³

Different groups in the population also have different needs and require different responses. African-American women typically shoulder caregiving duties for parents and grandchildren as early as their late thirties, compared with late forties for white women.¹⁰⁴ As noted earlier, African-American and Hispanic cultures generally discourage institutionalization of elder parents and reinforce sharing the home. Because minority women are often employed in low paying service jobs, are twice as likely as white women to work nights or rotating shifts, and are more likely than

⁹⁹ 29 U.S.C. § 2612(a)(1) (2000).

¹⁰⁰ *Id.*

¹⁰¹ 29 C.F.R. § 825.800 (2000).

¹⁰² 29 U.S.C. § 2614.

¹⁰³ See, e.g., H.R. 226, 107th Cong. (2001).

¹⁰⁴ Sue Shellenbarger, *Work and Family*, WALL ST. J., Dec. 17, 1993, at B1 (discussing a University of North Carolina study on the disparity between African-American and white households' child and elder care responsibilities).

whites to have to provide their own elder care, their needs require more customized solutions.¹⁰⁵

Other public policy decisions could improve the plight of the elderly. Greater federal and state tax deductions for payments made to support elderly parents would ease the burden upon the "sandwich generation."¹⁰⁶ Low interest loan programs – similar to subsidized college expense loans – for children who wish to build additions to their homes for elderly relatives to live in or to meet other caretaking needs would likewise support moral and legal duties with economic subsidies. Universal coverage of basic medical services, including prescription drugs, eyeglasses, hearing aids and similar devices, often not covered by Medicare, would reflect a commitment to support of seniors. While legislation in many European countries historically has provided the retirement, health care, and family needs of workers, federal and state public policies in the United States are often lacking. Therefore, employers should assume more responsibility to support care of aged family members.¹⁰⁷ This responsibility is often ignored. Only a minority of employers offer elder care benefits, for example. This compares poorly with private employers offering some kind of child care benefits.¹⁰⁸ As a result of their elder care responsibilities, employees often need part-time work, shift changes, or other accommodations. A worker who is responsible for a parent may spend an average of twelve or more hours per week providing care.¹⁰⁹ Employer flexibility in response to these needs is essential. Intergenerational daycare centers and other innovations could provide support for all generations. Counseling and referral services relating to aspects of elder care, meal services, transportation, and housing would also be helpful.

¹⁰⁵ *Id.* (quoting Dr. Dilworth-Anderson, Professor of Human Development and Family Studies at the University of North Carolina).

¹⁰⁶ Adult children of indigent elderly parents often have their minor children to support and educate.

¹⁰⁷ Shellenbarger, *supra* note 104.

¹⁰⁸ Shellenbarger, *supra* note 104.

¹⁰⁹ Shellenbarger, *supra* note 104 (citing estimates by Andrew Scharlach, Professor of Aging at the University of California at Berkeley).

CONCLUSION

Contemporary United States filial responsibility laws reflect a lengthy legal history and some community values. Enforcement of these laws may be appropriate in egregious individual situations. But implementation of such a “one size fits all” approach is likely to exacerbate intra-family conflict and create administrative and other problems. Alternative measures, in both public and private sectors, are likely to produce better results for our aged and poor citizens.

APPENDIX: STATE FILIAL RESPONSIBILITY STATUTES

Alaska

ALASKA STAT. § 25.20.030 (Michie 2000)	enacted 1949
ALASKA STAT. § 47.25.230 (Michie 1998)	enacted 1953

Arkansas

ARK. CODE ANN. § 20-47-106 (Michie 1987)	enacted 1947
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California

CAL. FAM. CODE §§ 4400 and 4401 (West 1994)	enacted 1872
CAL. FAM. CODE §§ 4403 and 4410-4414 (West 1994)	enacted 1955
CAL. PENAL CODE § 270c (West 1999)	enacted 1909
CAL. WELF. & INST. CODE § 12350 (West 1991 & Supp. 2001)	enacted 1965

Connecticut

CONN. GEN. STAT. ANN. § 46b-215 (West 1995 & Supp. 2000)	enacted 1949
CONN. GEN. STAT. ANN. § 53-304 (West 1994 & Supp. 2000)	enacted 1949

Delaware

DEL. CODE ANN. tit. 13, § 503 (1999)	enacted 1852
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Georgia

GA. CODE ANN. § 36-12-3 (2000)	enacted 1863
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Idaho

IDAHO CODE § 32-1002 (Michie 1996)	enacted 1897
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Indiana

- IND. CODE ANN. §§ 31-16-17-1—31-16-17-7
 (Michie 1997 & Supp. 2000) enacted 1947
 IND. CODE ANN. § 35-46-1-7 (Michie 1998) enacted 1921

Iowa

- IOWA CODE ANN. § 252.1 (West 2000) enacted 1897
 IOWA CODE ANN. §§ 252.2, 252.5,
 252.6, 252.13 (West 2000) enacted 1851

Kentucky

- KY. REV. STAT. ANN. § 530.050
 (Banks-Baldwin 1999) enacted 1974

Louisiana

- LA. REV. STAT. ANN. § 4731 (West 1991) enacted 1910

Maryland

- MD. CODE ANN., FAM. LAW § 13-101 (1999) enacted 1984
 MD. CODE ANN., FAM. LAW §§ 13-102,
 13-103, 13-109 (1999) enacted 1957

Massachusetts

- MASS. GEN. LAWS ANN. ch. 273, § 20
 (West 1990) enacted 1915

Mississippi

- MISS. CODE ANN. § 43-31-25 (1999) enacted 1930

Montana

- MONT. CODE ANN. § 40-6-214 (1999) enacted 1895
 MONT. CODE ANN. § 40-6-301 (1999) enacted 1915

Nevada

- NEV. REV. STAT. ANN. § 428.070
 (Michie 2000) enacted 1949
 NEV. REV. STAT. ANN. §439B.310 (Michie 2000)
 — definition of “indigent parent” enacted 1987

New Hampshire

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| N.H. REV. STAT. ANN. § 167:2
(1994 & Supp. 1999) | enacted 1937 |
| N.H. REV. STAT. ANN. § 546-A:2 (1997) | enacted 1955 |

New Jersey

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| N.J. STAT. ANN. §§ 44:4-100-44:4-102
(West 1993 & Supp. 2000) | enacted 1931 |
| N.J. STAT. ANN. §§ 44:1-139-44:1-141
(West 1993) | enacted 1924 |

North Carolina

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|-----------------------------------|--------------|
| N.C. GEN. STAT. § 14-326.1 (1999) | enacted 1955 |
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North Dakota

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| N.D. CENT. CODE § 14-09-10 (1997) | enacted 1877 |
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Ohio

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| OHIO REV. CODE ANN. § 2919.21
(West 1997 & Supp. 1999) | enacted 1953 |
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Oregon

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| OR. REV. STAT. § 109.010 (1999) | enacted 1853 |
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Pennsylvania

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| PA. STAT. ANN. tit. 62, § 1973 (West 1996) | enacted 1937 |
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Rhode Island

- | | |
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| R.I. GEN. LAWS §§ 15-10-1, 15-10-2,
15-10-4, 15-10-5 (2000) | enacted 1917 |
| R.I. GEN. LAWS §§ 15-10-3 and 15-10-6
(2000) | enacted 1952 |
| R.I. GEN. LAWS § 15-10-7 (2000) | enacted 1938 |
| R.I. GEN. LAWS §§ 40-5-13—40-5-18 (1997) | enacted 1896 |

South Dakota

- | | |
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| S.D. CODIFIED LAWS § 25-7-27
(Michie 1999 & Supp. 2000) | enacted 1939 |
| S.D. CODIFIED LAWS § 25-7-28 | |

- (Michie 1999) enacted 1939
S.D. CODIFIED LAWS § 28-13-1.1 (Michie 1999)
— def. of “indigent or poor person” enacted 1984
- Tennessee*
TENN. CODE ANN. § 71-5-115 (1995) enacted 1968
TENN. CODE ANN. § 71-5-103
(1995 & Supp. 2000) — definitions enacted 1968
- Utah*
UTAH CODE ANN. § 17-14-2 (1999) enacted 1898
- Vermont*
VT. STAT. ANN. tit. 15, §§ 202-203
(1989 & Supp. 2000) enacted 1947
- Virginia*
VA. CODE ANN. § 20-88 (Michie 2000) enacted 1920
- West Virginia*
W. VA. CODE § 9-5-9 (1998) enacted 1936