

Filial Responsibility Law

The legal aspect of caring for aging parents

We spend our young lives fully dependent on our parents' care.

It only makes sense that at the end of their lives, we return the favor.

Caring for aging parents may seem like simply a moral prerogative, but there are legal grounds as well, known as *Filial Responsibility Laws* or *Filial Support Laws*.

Not all states have such laws, and even fewer states enforce them. In recent years some states have begun enforcing and enacting filial support laws, namely Louisiana in 2015.

New Jersey has filial responsibility laws that were just updated in 2018.

New York State and Florida, on the other hand, do not have filial responsibility laws in effect.

How do filial responsibility laws benefit you?

If New York enforced filial responsibility, it is possible that when applying for Medicare or Medicaid benefits, the state would have to look into adult children's assets in order to judge eligibility.

That adult child might then be compelled to contribute financially to their loved one's medical care, as they would have a legal mandate to support ailing parents.

In other words, even if children provide care for parents, New York law does not require the children to disclose assets or spend down finances in order for the parent to qualify for medical assistance.

New Jersey does have [filial responsibility laws](#), but they are rarely enforced.

Courts can compel adult children of sufficient means to provide financial support to a parent on public assistance.

The law does not apply to adult children over the age of 55 or those who have a history of parental abuse or abandonment.

Similarly, a healthy spouse can be ordered to support an ailing spouse, with no age restriction.

Liability of an adult child

Read any and all admission agreements when enrolling a parent into nursing home care.

Some of those contracts put the child on the hook for payments and fees, or for filing for Medicaid or Medicare benefits on behalf of the parent.

Ask your New York elder law and estate planning lawyers to review the contract on your behalf to ensure you will not have any surprises in store and that the nursing home or facility does not have outdated contract items that violate the law.

If the child has a power of attorney, then the child may be responsible for making sure their parent's nursing home care and medical treatment is paid for either through Medicaid, Medicare, or private funding.

How a strong estate plan helps the whole family

In New York, New Jersey, or Florida, families can retain the legal counsel of Lissner & Lissner, LLP to assist in creating and executing a comprehensive estate plan.

We also help families who do not have a plan in place for their elderly members to protect themselves and their assets.

The earlier you can begin putting the plan in place, the greater benefit you will see.

We look forward to answering all your probate, estate planning and [Medicaid planning](#) questions to make sure you get the affordable coverage you need.

Take advantage of our 75 years of combined legal experience.

Contact us or call [\(212\) 307-1499](tel:(212)307-1499) to schedule a consultation today.

The laws are changing learn more about the [NY Medicaid home care law changes](#).