

STATE OF NEW YORK

6658--A

2019-2020 Regular Sessions

IN ASSEMBLY

March 14, 2019

Introduced by M. of A. WOERNER, WALSH, FAHY, WILLIAMS, REYES, HUNTER, GUNTHER, JEAN-PIERRE, SIMON, JAFFEE, GALEF, HYNDMAN, SOLAGES, DAVILA, BUTTENSCHON, SEAWRIGHT, DICKENS, GLICK, McMAHON, M. L. MILLER, NIOU, BLAKE, SIMOTAS, QUART, D'URSO, CUSICK -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law and the family court act, in relation to establishing a living allowance for adults with developmental disabilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The domestic relations law is amended by adding a new section 240-d to read as follows:

§ 240-d. Support orders for adult dependent children. 1. Notwithstanding any other law parents of an adult child of any age are chargeable with support of such individual provided such individual is diagnosed with a developmental disability as defined under subdivision twenty-two of section 1.03 of the mental hygiene law.

2. Upon petition brought by the parent of an adult child with a disability, the court shall make its award for support for an adult child with a developmental disability in accordance with the provisions of subdivision one-b of section two hundred forty of this article. If the court awards a living allowance for an adult child with a developmental disability, then on or before each and every fifth year following the date that the judgment award was entered, the court shall, sua sponte, set the matter down for a mandatory reassessment hearing to determine if a modification of the living allowance is warranted based on a substantial change in circumstances.

3. The court has jurisdiction to determine proceedings brought by petition and order to show cause, for the determination of support of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10716-02-9

1 adult dependent children, as well as to enforce or modify orders or
2 judgments.

3 4. The court shall have discretion to order the payor party to make
4 support payments either directly to the New York achieving a better life
5 experience (NY ABLE) savings program trust fund or directly to a third
6 party, provided the funds are used to pay for qualified disability
7 expenses.

8 5. All orders for support for an adult child with a developmental
9 disability may include retroactive support for all adult dependent chil-
10 dren aged twenty-six or younger. Any retroactive amount of support due
11 shall be support arrears/past due support and shall be paid pursuant to
12 the provisions of paragraph (j) of subdivision one of section two
13 hundred forty of this article.

14 6. Except where inconsistent with this section, all provisions of this
15 article relating to orders of child support shall apply to all orders of
16 support for adult children with developmental disabilities.

17 § 2. The family court act is amended by adding a new section 413-b to
18 read as follows:

19 § 413-b. Support orders for adult dependent children. 1. Notwith-
20 standing any other law, parents of an adult child of any age are charge-
21 able with support of such individual provided such individual is diag-
22 nosd with a developmental disability as defined under subdivision
23 twenty-two of section 1.03 of the mental hygiene law.

24 2. Upon petition brought by the parent of an adult child with a disa-
25 bility, the court shall make its award for support for an adult child
26 with a developmental disability in accordance with the provisions of
27 subdivision one of section four hundred thirteen of this part. If the
28 court awards a living allowance for an adult child with a developmental
29 disability, then on or before each and every fifth year following the
30 date that the judgment award was entered, the court shall, sua sponte,
31 set the matter down for a mandatory reassessment hearing to determine if
32 a modification of the living allowance is warranted based on a substan-
33 tial change in circumstances.

34 3. The court has jurisdiction to determine proceedings brought by
35 petition and order to show cause, for the determination of support of
36 adult dependent children, as well as to enforce or modify orders or
37 judgments.

38 4. The court shall have discretion to order the payor party to make
39 support payments either directly to the New York achieving a better life
40 experience (NY ABLE) savings program trust fund or directly to a third
41 party, provided the funds are used to pay for qualified disability
42 expenses.

43 5. All orders for support for an adult child with a developmental
44 disability shall include retroactive support for all adult dependent
45 children aged twenty-six or younger. Any retroactive amount of support
46 due shall be support arrears/past due support and shall be paid pursuant
47 to the provisions of subdivision one of section four hundred forty of
48 this article.

49 6. Except where inconsistent with this section, all provisions of this
50 article relating to orders of child support shall apply to all orders of
51 support for adult children with developmental disabilities.

52 § 3. This act shall take effect immediately.