

STATE OF NEW YORK

898

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. WOERNER, WALSH, FAHY, WILLIAMS, REYES, HUNTER, GUNTHER, JEAN-PIERRE, SIMON, GALEF, HYNDMAN, SOLAGES, DAVILA, BUTTENS-CHON, SEAWRIGHT, DICKENS, GLICK, McMAHON, M. MILLER, NIOU, QUART, CUSICK, ASHBY, BRABENEC, WALCZYK, BYRNES, SMULLEN, FRIEND, MONTESANO, J. M. GIGLIO, BLANKENBUSH, MANKTELOW, HAWLEY, GOODELL, BYRNE, DiPIETRO, MORINELLO, ROZIC, LUPARDO, DARLING, WALKER, HEVESI, COOK, WALLACE, WEPRIN, L. ROSENTHAL, STIRPE, CRUZ -- read once and referred to the Committee on Judiciary

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:

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

3 § 240-d. Support orders for adult dependent children. 1. Notwith-
4 standing any other law, parents or kinship caregivers of an adult child
5 under the age of twenty-six are chargeable with support of such individ-
6 ual provided such individual is diagnosed with a developmental disabili-
7 ty as defined under subdivision twenty-two of section 1.03 of the mental
8 hygiene law.

9 2. Upon petition brought by the parent or kinship caregiver of an
10 adult child with a disability, the court shall make its award for
11 support for an adult child with a developmental disability in accordance
12 with the provisions of subdivision one-b of section two hundred forty of
13 this article. In addition to the provisions of subdivision one-b of
14 section two hundred forty of this article, the court may consider wheth-
15 er the financial responsibility of caring for the individual has been
16 unreasonably placed on one parent when determining the child support
17 obligation. The duration of time the court may use when considering this

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

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1 factor shall be limited to the time period from when the child turned
2 twenty-one until the child turns twenty-six. If a child support order
3 ended at the age of eighteen then such time period shall be from when
4 the child turned eighteen until the child turns twenty-six.

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

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

14 5. 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 or kinship caregivers of an adult child
21 under the age of twenty-six are chargeable with support of such individ-
22 ual provided such individual is diagnosed with a developmental disabili-
23 ty as defined under subdivision twenty-two of section 1.03 of the mental
24 hygiene law.

25 2. Upon petition brought by the parent or kinship caregiver of an
26 adult child with a disability, the court shall make its award for
27 support for an adult child with a developmental disability in accordance
28 with the provisions of subdivision one of section four hundred thirteen
29 of this part. In addition to the provisions of subdivision one of
30 section four hundred thirteen of this part, the court may consider
31 whether the financial responsibility of caring for the individual has
32 been unreasonably placed on one parent when determining the child
33 support obligation. The duration of time the court may use when consid-
34 ering this factor shall be limited to the time period from when the
35 child turned twenty-one until the child turns twenty-six. If a child
36 support order ended at the age of eighteen then such time period shall
37 be from when the child turned eighteen until the child turns twenty-six.

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

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

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

50 § 3. This act shall take effect immediately.