

STATE OF NEW YORK

898--A

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, BUTTENSCHON, 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 -- 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:

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 certain adult dependents. 1. Notwithstand-
4 ing any other law, a person who would otherwise be chargeable under law
5 with support of a minor child is also chargeable with the support of any
6 such individual until such individual reaches the age of twenty-six,
7 provided such individual has a diagnosed developmental disability as
8 defined in subdivision twenty-two of section 1.03 of the mental hygiene
9 law, resides with the person seeking such support, and is principally
10 dependent on such person for maintenance.

11 2. Upon petition brought by such person, the court shall make its
12 award for support for such individual with a developmental disability in
13 accordance with the provisions of subdivision one-b of section two
14 hundred forty of this article. In addition to the provisions of subdi-
15 vision one-b of section two hundred forty of this article, the court may
16 consider whether the financial responsibility of caring for the individ-

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

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1 ual has been unreasonably placed on one parent when determining the
2 support obligation. The duration of time the court may use when consid-
3 ering this factor shall be limited to the time period from when the
4 child turned twenty-one until the individual turns twenty-six. If a
5 child support order ended at the age of eighteen then such time period
6 shall be from when the child turned eighteen until the individual turns
7 twenty-six.

8 3. The court has jurisdiction to determine proceedings brought by
9 petition and order to show cause, for the determination of support of
10 such adult dependents, as well as to enforce or modify orders or judg-
11 ments.

12 4. The court shall have discretion to order the payor party to make
13 support payments either to the petitioner or to the trustee of an
14 "exception trust" as defined in 42 U.S.C. 1396p(d)(4)(A) and (C),
15 clause (iii) of subparagraph two of paragraph (b) of subdivision two of
16 section three hundred sixty-six of the social services law, and section
17 7-1.12 of the estates, powers and trusts law if such direction would
18 assist in maximizing assistance to the child.

19 5. Except where inconsistent with this section, all provisions of this
20 article relating to orders of child support shall apply to all orders of
21 support for adults with developmental disabilities.

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

24 § 413-b. Support orders for certain adult dependents. 1. Notwithstand-
25 ing any other law, a person who would otherwise be chargeable under law
26 with support of a minor child is also chargeable with the support of any
27 such individual until such individual reaches the age of twenty-six,
28 provided such individual has a diagnosed developmental disability as
29 defined under subdivision twenty-two of section 1.03 of the mental
30 hygiene law, resides with the person seeking such support, and is prin-
31 cipally dependent on such person for maintenance.

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

46 3. The court has jurisdiction to determine proceedings brought by
47 petition and order to show cause, for the determination of support of
48 such dependents, as well as to enforce or modify orders or judgments.

49 4. The court shall have discretion to order the payor party to make
50 support payments either to the petitioner or to the trustee of an
51 "exception trust" as defined in 42 U.S.C. 1396p(d)(4)(A) and (C), clause
52 (iii) of subparagraph two of paragraph (b) of subdivision two of section
53 three hundred sixty-six of the social services law, and section 7-1.12
54 of the estates, powers and trusts law if such direction would assist in
55 maximizing assistance to the child.

- 1 5. Except where inconsistent with this section, all provisions of this
- 2 article relating to orders of child support shall apply to all orders of
- 3 support for adults with developmental disabilities.
- 4 § 3. This act shall take effect immediately.