

STATE OF NEW YORK

5276--B

2019-2020 Regular Sessions

IN SENATE

April 23, 2019

Introduced by Sens. PERSAUD, CARLUCCI, SALAZAR, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 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
18 factor shall be limited to the time period from when the child turned
19 twenty-one until the child turns twenty-six. If a child support order

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

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1 ended at the age of eighteen then such time period shall be from when
2 the child turned eighteen until the child turns twenty-six.

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

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

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

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

17 § 413-b. Support orders for adult dependent children. 1. Notwith-
18 standing any other law, parents or kinship caregivers of an adult child
19 under the age of twenty-six are chargeable with support of such individ-
20 ual provided such individual is diagnosed with a developmental disabili-
21 ty as defined under subdivision twenty-two of section 1.03 of the mental
22 hygiene law.

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

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

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

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

48 § 3. This act shall take effect immediately.