

# STATE OF NEW YORK

6658

2019-2020 Regular Sessions

## IN ASSEMBLY

March 14, 2019

Introduced by M. of A. WOERNER, WALSH -- 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 of an adult child of any age are chargea-  
5 ble with support of such individual provided such individual is diag-  
6 nosed with a developmental disability as defined under subdivision  
7 twenty-two of section 1.03 of the mental hygiene law.

8 2. The court shall make its award for support for an adult child with  
9 a developmental disability in accordance with the provisions of subdivi-  
10 sion one-b of section two hundred forty of this article. If the court  
11 awards a living allowance for an adult child with a developmental disa-  
12 bility, then on or before each and every fifth year following the date  
13 that the judgment award was entered, the court shall, sua sponte, set  
14 the matter down for a mandatory reassessment hearing to determine if a  
15 modification of the living allowance is warranted based on a substantial  
16 change in circumstances.

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

21 4. The court shall have discretion to order the payor party to make  
22 support payments either directly to the New York achieving a better life  
23 experience (NY ABLE) savings program trust fund or directly to a third

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

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1 party, provided the funds are used to pay for qualified disability  
2 expenses.

3 5. All orders for support for an adult child with a developmental  
4 disability shall include retroactive support for all adult dependent  
5 children aged twenty-six or younger. Any retroactive amount of support  
6 due shall be support arrears/past due support and shall be paid pursuant  
7 to the provisions of paragraph (j) of subdivision one of section two  
8 hundred forty of this article.

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

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

14 § 413-b. Support orders for adult dependent children. 1. Notwith-  
15 standing any other law, parents of an adult child of any age are charge-  
16 able with support of such individual provided such individual is diag-  
17 nosd with a developmental disability as defined under subdivision  
18 twenty-two of section 1.03 of the mental hygiene law.

19 2. The court shall make its award for support for an adult child with  
20 a developmental disability in accordance with the provisions of subdivi-  
21 sion one of section four hundred thirteen of this part. If the court  
22 awards a living allowance for an adult child with a developmental disa-  
23 bility, then on or before each and every fifth year following the date  
24 that the judgment award was entered, the court shall, sua sponte, set  
25 the matter down for a mandatory reassessment hearing to determine if a  
26 modification of the living allowance is warranted based on a substantial  
27 change in circumstances.

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

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

37 5. All orders for support for an adult child with a developmental  
38 disability shall include retroactive support for all adult dependent  
39 children aged twenty-six or younger. Any retroactive amount of support  
40 due shall be support arrears/past due support and shall be paid pursuant  
41 to the provisions of subdivision one of section four hundred forty of  
42 this article.

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

46 § 3. This act shall take effect immediately.