

STATE OF NEW YORK

4467--B

2021-2022 Regular Sessions

IN SENATE

February 5, 2021

Introduced by Sen. MANNION -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- 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 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 when it shall appear to the satisfaction of the court that the person is
8 developmentally disabled as defined in subdivision twenty-two of section
9 1.03 of the mental hygiene law, resides with the person seeking such
10 support, and is principally dependent on such person for maintenance. A
11 finding of a developmental disability shall be supported by a diagnosis
12 and accompanying report of a physician, licensed psychologist, regis-
13 tered professional nurse, licensed clinical social worker or a licensed
14 master social worker under the supervision of a physician, psychologist
15 or licensed clinical social worker authorized to practice under title
16 eight of the education law, and acting within their lawful scope of
17 practice.

18 2. Upon petition brought by such person, the court shall make its
19 award for support for such individual with a developmental disability in
20 accordance with the provisions of subdivision one-b of section two
21 hundred forty of this article. In addition to the provisions of subdi-

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

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1 vision one-b of section two hundred forty of this article, the court may
2 consider whether the financial responsibility of caring for the individ-
3 ual has been unreasonably placed on one parent when determining the
4 support obligation. The duration of time the court may use when consid-
5 ering this factor shall be limited to the time period from when the
6 child turned twenty-one until the individual turns twenty-six. If a
7 child support order ended at the age of eighteen then such time period
8 shall be from when the child turned eighteen until the individual turns
9 twenty-six.

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

14 4. The court shall have discretion to order the payor party to make
15 support payments either to the petitioner or to the trustee of an
16 "exception trust" as defined in 42 U.S.C. 1396p(d)(4)(A) and (C),
17 clause (iii) of subparagraph two of paragraph (b) of subdivision two of
18 section three hundred sixty-six of the social services law, and section
19 7-1.12 of the estates, powers and trusts law if such direction would
20 assist in maximizing assistance to the child.

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

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

26 § 413-b. Support orders for certain adult dependents. 1. Notwithstand-
27 ing any other law, a person who would otherwise be chargeable under law
28 with support of a minor child is also chargeable with the support of any
29 such individual until such individual reaches the age of twenty-six,
30 when it shall appear to the satisfaction of the court that the person is
31 developmentally disabled as defined under subdivision twenty-two of
32 section 1.03 of the mental hygiene law, resides with the person seeking
33 such support, and is principally dependent on such person for mainte-
34 nance. A finding of a developmental disability shall be supported by a
35 diagnosis and accompanying report of a physician, licensed psychologist,
36 registered professional nurse, licensed clinical social worker or a
37 licensed master social worker under the supervision of a physician,
38 psychologist or licensed clinical social worker authorized to practice
39 under title eight of the education law, and acting within their lawful
40 scope of practice.

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

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

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

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

14 § 3. This act shall take effect immediately.