

# STATE OF NEW YORK

7443

2021-2022 Regular Sessions

## IN ASSEMBLY

May 10, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to replacing certain instances of the term "mentally retarded" with the term "individuals with intellectual or developmental disabilities"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of subdivision 5 of section 62 of the social  
2 services law, as amended by chapter 344 of the laws of 1973, is amended  
3 to read as follows:

4 (c) When a [~~mentally ill~~] person with a mental illness, [~~mentally~~  
5 ~~retarded~~] an intellectual or developmental disability or [~~epileptic~~  
6 ~~person~~] epilepsy is in need of public assistance or care while on conva-  
7 lescent status or community status from a state hospital or institution  
8 under the provisions of section 29.15 of the mental hygiene law, the  
9 public welfare district, town or city from which he was admitted to such  
10 hospital or institution shall be responsible for providing and paying  
11 for such assistance or care as in the case of other persons requiring  
12 public assistance and care, except that such responsibility shall  
13 continue during any period such person is on convalescent status or  
14 community status outside the territory of such public welfare district,  
15 town or city and shall continue thereafter in accordance with the  
16 provisions of this paragraph and paragraph (b) of this subdivision if  
17 such person was receiving or should have been receiving public assist-  
18 ance or care from such public welfare district, town or city outside its  
19 territory at the time he was discharged from such convalescent status or  
20 community status.

21 § 2. The opening paragraph of subdivision 1 of section 131-o of the  
22 social services law, as amended by section 45 of part C of chapter 58 of  
23 the laws of 2005, is amended to read as follows:

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

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1 Each individual receiving family care, residential care or care in a  
2 school for [~~the mentally retarded~~] individuals with intellectual or  
3 developmental disabilities, or enhanced residential care as those terms  
4 are defined in section two hundred nine of this chapter, and who is  
5 receiving benefits under the program of additional state payments pursu-  
6 ant to this chapter while receiving such care, shall be entitled to a  
7 monthly personal allowance out of such benefits in the following amount:

8 § 3. Section 199 of the social services law, as amended by chapter 195  
9 of the laws of 1973, is amended to read as follows:

10 § 199. Power of commissioner of public welfare to detain certain  
11 inmates. The commissioner of public welfare shall have power to detain  
12 in the public home, pending a vacancy for such person in a state insti-  
13 tution, a person over the age of sixteen who has been certified as  
14 [~~mentally retarded~~] an individual with an intellectual or developmental  
15 disability or [~~epileptic~~] epilepsy in accordance with the provisions of  
16 the mental hygiene law and for whom an application for admission to a  
17 state institution has been made. Whenever the commissioner shall so  
18 detain an inmate in the public home he shall at once notify the state  
19 department of mental hygiene.

20 § 4. Paragraph (e) of subdivision 3 of section 209 of the social  
21 services law, as amended by chapter 672 of the laws of 2019, is amended  
22 to read as follows:

23 (e) "Receiving enhanced residential care" shall mean residing in a  
24 privately operated school for [~~the mentally retarded and developmentally~~  
25 ~~disabled~~] individuals with intellectual or developmental disabilities  
26 which is certified by the office for people with developmental disabili-  
27 ties of the department of mental hygiene, in accordance with applicable  
28 provisions of law and regulations or an adult home, or enriched housing  
29 program certified by the department of health in accordance with appli-  
30 cable law, rules and regulations to the extent permitted by federal law  
31 and regulations.

32 § 5. Subdivision 1 of section 210 of the social services law, as  
33 amended by chapter 515 of the laws of 2006, is amended to read as  
34 follows:

35 1. Any inconsistent provisions of this title or any other law notwith-  
36 standing, but subject to the provisions of subdivisions two and three of  
37 this section, an individual who is deemed to have met the eligibility  
38 criteria for additional state payments pursuant to paragraph (c) of  
39 subdivision one of section two hundred nine of this title, shall be  
40 entitled to receive for each month after December, nineteen hundred  
41 seventy-three an additional state payment in an amount which, when added  
42 to the supplemental security income benefit and other countable income,  
43 is equal to such individual's December, nineteen hundred seventy-three  
44 cash grant of assistance under the state's program of old age assist-  
45 ance, assistance to the blind, aid to the disabled or the combined  
46 program of aid to aged, blind and disabled persons, plus income not  
47 excluded under such state program, plus an amount equal to the January,  
48 nineteen hundred seventy-two bonus value of food stamps as determined in  
49 accordance with the regulations of the office of temporary and disabili-  
50 ty assistance plus, for any month after June, nineteen hundred seventy-  
51 five, an amount reflecting the federal supplemental security increases  
52 resulting from July first, nineteen hundred seventy-five cost of living  
53 increases in such benefits, plus for any month after June, nineteen  
54 hundred eighty-two, an amount equal to the July first, nineteen hundred  
55 eighty-two federal supplemental security income cost of living adjust-  
56 ment, providing such individual was eligible to receive a mandatory

1 state supplement for the month of December, nineteen hundred eighty-one,  
2 plus for any month after June, nineteen hundred eighty-three, an amount  
3 equal to \$17.70 for individuals, \$26.55 for couples who are living alone  
4 or living with others and \$35.40 for couples receiving family care,  
5 residential care or care in schools for [~~the mentally retarded~~] individ-  
6 uals with intellectual or developmental disabilities, plus for any month  
7 after December, nineteen hundred eighty-three, an amount equal to \$9.70  
8 for individuals, \$15.60 for couples who are living alone or living with  
9 others and \$19.40 for couples receiving family care, residential care or  
10 care in schools for [~~the mentally retarded~~] individuals with intellectu-  
11 al or developmental disabilities, plus for any month after December,  
12 nineteen hundred eighty-four, an amount equal to \$11.00 for individuals,  
13 \$16.00 for couples who are living alone or living with others and \$22.00  
14 for couples receiving family care, residential care or care in schools  
15 for [~~the mentally retarded~~] individuals with intellectual or develop-  
16 mental disabilities, plus for any month after December, nineteen hundred  
17 eighty-five, an amount equal to \$11.00 for individuals, \$16.00 for  
18 couples who are living alone or living with others and \$22.00 for  
19 couples receiving family care, residential care or care in schools for  
20 [~~the mentally retarded~~] individuals with intellectual or developmental  
21 disabilities, plus for any month after December, nineteen hundred eight-  
22 y-six an amount equal to \$4.00 for individuals, \$6.00 for couples who  
23 are living alone or living with others and \$8.00 for couples receiving  
24 family care, residential care or care in schools for [~~the mentally~~  
25 ~~retarded~~] individuals with intellectual or developmental disabilities,  
26 plus for any month after December, nineteen hundred eighty-seven an  
27 amount equal to \$14.00 for individuals, \$22.00 for couples who are  
28 living alone or living with others and \$28.00 for couples receiving  
29 family care, residential care or care in schools for [~~the mentally~~  
30 ~~retarded~~] individuals with intellectual or developmental disabilities,  
31 plus for any month after December, nineteen hundred eighty-eight an  
32 amount equal to \$14.00 for individuals, \$21.00 for couples who are  
33 living alone or living with others and \$28.00 for couples receiving  
34 family care, residential care or care in schools for [~~the mentally~~  
35 ~~retarded~~] individuals with intellectual or developmental disabilities,  
36 plus for any other month after December, nineteen hundred eighty-nine an  
37 amount equal to \$18.00 for individuals, \$27.00 for couples who are  
38 living alone or living with others and \$36.00 for couples receiving  
39 family care, residential care or care in schools for [~~the mentally~~  
40 ~~retarded~~] individuals with intellectual or developmental disabilities,  
41 plus for any month after December, nineteen hundred ninety an amount  
42 equal to \$21.00 for individuals, \$31.00 for couples who are living alone  
43 or living with others and \$42.00 for couples receiving family care,  
44 residential care or care in schools for [~~the mentally retarded~~] individ-  
45 uals with intellectual or developmental disabilities, plus for any month  
46 after December, nineteen hundred ninety-one an amount equal to \$15.00  
47 for individuals, \$23.00 for couples who are living alone or living with  
48 others and \$30.00 for couples receiving family care, residential care or  
49 care in schools for [~~the mentally retarded~~] individuals with intellectu-  
50 al or developmental disabilities, plus for any month after December,  
51 nineteen hundred ninety-two, an amount equal to \$12.00 for individuals,  
52 \$19.00 for couples who are living alone or living with others and \$24.00  
53 for couples receiving family care, residential care or care in schools  
54 for [~~the mentally retarded~~] individuals with intellectual or develop-  
55 mental disabilities, plus for any month after December, nineteen hundred  
56 ninety-three an amount equal to \$12.00 for individuals, \$17.00 for

1 couples who are living alone or living with others and \$24.00 for  
2 couples receiving family care, residential care or care in schools for  
3 [~~the mentally retarded~~] individuals with intellectual or developmental  
4 disabilities, plus for any month after December, nineteen hundred nine-  
5 ty-four an amount equal to \$12.00 for individuals, \$18.00 for couples  
6 who are living alone or living with others and \$24.00 for couples  
7 receiving family care, residential care or care in schools for [~~the~~  
8 ~~mentally retarded~~] individuals with intellectual or developmental disa-  
9 bilities, plus for any month after December, nineteen hundred ninety-  
10 five an amount equal to \$12.00 for individuals, \$18.00 for couples who  
11 are living alone or living with others and \$24.00 for couples receiving  
12 family care, residential care or care in schools for [~~the mentally~~  
13 ~~retarded~~] individuals with intellectual or developmental disabilities,  
14 plus for any month after December, nineteen hundred ninety-six, an  
15 amount equal to \$14.00 for individuals and \$21.00 for couples plus for  
16 any month after December, nineteen hundred ninety-seven an amount equal  
17 to \$10.00 for individuals and \$15.00 for couples plus for any month  
18 after December, nineteen hundred ninety-eight an amount equal to \$6.00  
19 for individuals and \$11.00 for couples plus for any month after Decem-  
20 ber, nineteen hundred ninety-nine an amount equal to \$13.00 for individ-  
21 uals and \$18.00 for couples plus for any month after December, two thou-  
22 sand an amount equal to \$18.00 for individuals and \$27.00 for couples  
23 plus for any month after December, two thousand one an amount equal to  
24 \$15.00 for individuals and \$21.00 for couples plus for any month after  
25 December, two thousand two an amount equal to \$7.00 for individuals and  
26 \$12.00 for couples plus for any month after December, two thousand three  
27 an amount equal to \$12.00 for individuals and \$17.00 for couples plus  
28 for any month after December, two thousand four an amount equal to  
29 \$15.00 for individuals and \$23.00 for couples plus for any month after  
30 December, two thousand five an amount equal to \$24.00 for individuals  
31 and \$35.00 for couples plus for any month after December, two thousand  
32 six an amount equal to the amount of any increases in federal supple-  
33 mental security income benefits for individuals or couples pursuant to  
34 section 1617 of the Social Security Act (42 USC § 1382f) which become  
35 effective on or after January first, two thousand seven.

36 § 6. Paragraph (c) of subdivision 2 and paragraph (a) of subdivision 4  
37 of section 365 of the social services law, paragraph (c) of subdivision  
38 2 as amended by chapter 516 of the laws of 1973 and paragraph (a) of  
39 subdivision 4 as amended by chapter 170 of the laws of 1994, are amended  
40 to read as follows:

41 (c) who are patients in that part of a public institution operated for  
42 the care of [~~the mentally retarded~~] individuals with intellectual or  
43 developmental disabilities that has been approved pursuant to law as a  
44 hospital or nursing home;

45 (a) who are patients in that part of a public institution operated for  
46 the care of [~~the mentally retarded~~] individuals with intellectual or  
47 developmental disabilities that has been approved pursuant to law as an  
48 intermediate care facility or who are participating in a program oper-  
49 ated by the department of mental hygiene or by a voluntary agency under  
50 an agreement with such department, in that part of such a facility that  
51 has been approved as a day treatment program in accordance with the  
52 regulations of the state commissioner of mental hygiene;

53 § 7. Clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1,  
54 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) and  
55 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (e) of  
56 subdivision 5 of section 366 of the social services law, clause (iii) of

1 subparagraph 2 of paragraph (e) of subdivision 1 as added by section 1  
2 of part D of chapter 56 of the laws of 2013, clauses (vii), (viii) and  
3 (ix) of subparagraph 1 of paragraph (d) of subdivision 5 as added by  
4 chapter 170 of the laws of 1994, clause (vii) of subparagraph 1 of para-  
5 graph (e) of subdivision 5 as amended by section 51 of part C of chapter  
6 58 of the laws of 2008 and clauses (viii) and (ix) of subparagraph 1 of  
7 paragraph (e) of subdivision 5 as added by section 26-a of part C of  
8 chapter 109 of the laws of 2006, are amended to read as follows:

9 (iii) a patient in a public institution operated primarily for the  
10 care of [~~the mentally retarded~~] individuals with intellectual or devel-  
11 opmental disabilities who is receiving medical care or treatment in that  
12 part of such institution that has been approved pursuant to law as a  
13 hospital or nursing home;

14 (vii) "institutionalized individual" means any individual who is an  
15 in-patient in a nursing facility, including an intermediate care facili-  
16 ty for [~~the mentally retarded~~] individuals with intellectual or develop-  
17 mental disabilities, or who is an in-patient in a medical facility and  
18 is receiving a level of care provided in a nursing facility, or who is  
19 receiving care, services or supplies pursuant to a waiver granted pursu-  
20 ant to subsection (c) of section 1915 of the federal social security  
21 act.

22 (viii) "intermediate care facility for [~~the mentally retarded~~] indi-  
23 viduals with intellectual or developmental disabilities" means a facili-  
24 ty certified under article sixteen of the mental hygiene law and which  
25 has a valid agreement with the department for providing intermediate  
26 care facility services and receiving payment therefor under title XIX of  
27 the federal social security act.

28 (ix) "nursing facility" means a nursing home as defined by section  
29 twenty-eight hundred one of the public health law and an intermediate  
30 care facility for [~~the mentally retarded~~] individuals with intellectual  
31 or developmental disabilities.

32 (vii) "institutionalized individual" means any individual who is an  
33 in-patient in a nursing facility, including an intermediate care facili-  
34 ty for [~~the mentally retarded~~] individuals with intellectual or develop-  
35 mental disabilities, or who is an in-patient in a medical facility and  
36 is receiving a level of care provided in a nursing facility, or who is  
37 described in section 1902(a)(10)(A)(ii)(VI) of the federal social secu-  
38 rity act.

39 (viii) "intermediate care facility for [~~the mentally retarded~~] indi-  
40 viduals with intellectual or developmental disabilities" means a facili-  
41 ty certified under article sixteen of the mental hygiene law and which  
42 has a valid agreement with the department for providing intermediate  
43 care facility services and receiving payment therefor under title XIX of  
44 the federal social security act.

45 (ix) "nursing facility" means a nursing home as defined by section  
46 twenty-eight hundred one of the public health law and an intermediate  
47 care facility for [~~the mentally retarded~~] individuals with intellectual  
48 or developmental disabilities.

49 § 8. The opening paragraph of subparagraph (ii) of paragraph (a) of  
50 subdivision 2 of section 369 of the social services law, as amended by  
51 section 62 of part C of chapter 60 of the laws of 2014, is amended to  
52 read as follows:

53 with respect to the real property of an individual who is an inpatient  
54 in a nursing facility, intermediate care facility for [~~the mentally~~  
55 ~~retarded~~] individuals with intellectual or developmental disabilities,  
56 or other medical institution, who is not reasonably expected to be

1 discharged from the medical institution and to return home, and who is  
2 required, as a condition of receiving services in such institution under  
3 the state plan for medical assistance, to spend for costs of medical  
4 care all but a minimal amount of his or her income required for personal  
5 needs; provided, however, any such lien will dissolve upon the individ-  
6 ual's discharge from the medical institution and return home; in addi-  
7 tion, no such lien may be imposed on the individual's home if one of the  
8 following persons is lawfully residing in the home:

9 § 9. Paragraph (f) of subdivision 2 of section 473-e of the social  
10 services law, as added by chapter 395 of the laws of 1995, is amended to  
11 read as follows:

12 (f) a person named as a court-appointed evaluator or guardian in  
13 accordance with article eighty-one of the mental hygiene law, or a  
14 person named as a guardian for [~~the mentally retarded~~ individuals with  
15 intellectual or developmental disabilities in accordance with article  
16 seventeen-A of the surrogate's court procedure act; or

17 § 10. This act shall take effect immediately.