

STATE OF NEW YORK

7443--C

Cal. No. 310

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

Introduced by M. of A. ABINANTI, BICHOTTE HERMELYN, SAYEGH, OTIS, WEPRIN, BUTTENSCHON, SANTABARBARA -- read once and referred to the Committee on Social Services -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to replacing certain instances of the term "mentally retarded" with the term "individuals with 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, mentally retarded or epileptic person~~]
5 person with a mental illness or developmental disability is in need of
6 public assistance or care while on convalescent status or community
7 status from a state hospital or institution under the provisions of
8 section 29.15 of the mental hygiene law, the public welfare district,
9 town or city from which he was admitted to such hospital or institution
10 shall be responsible for providing and paying for such assistance or
11 care as in the case of other persons requiring public assistance and
12 care, except that such responsibility shall continue during any period
13 such person is on convalescent status or community status outside the
14 territory of such public welfare district, town or city and shall
15 continue thereafter in accordance with the provisions of this paragraph
16 and paragraph (b) of this subdivision if such person was receiving or
17 should have been receiving public assistance or care from such public
18 welfare district, town or city outside its territory at the time he was
19 discharged from such convalescent status or community status.

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

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

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

11 § 3. Section 199 of the social services law, as amended by chapter 322
12 of the laws of 2021, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (vii) "institutionalized individual" means any individual who is an
31 in-patient in a nursing facility, including an intermediate care facili-
32 ty for [~~the mentally retarded~~] individuals with developmental disabili-
33 ties, or who is an in-patient in a medical facility and is receiving a
34 level of care provided in a nursing facility, or who is described in
35 section 1902(a)(10)(A)(ii)(VI) of the federal social security act.

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

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

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

50 with respect to the real property of an individual who is an inpatient
51 in a nursing facility, intermediate care facility for [~~the mentally~~
52 ~~retarded~~] individuals with developmental disabilities, or other medical
53 institution, who is not reasonably expected to be discharged from the
54 medical institution and to return home, and who is required, as a condi-
55 tion of receiving services in such institution under the state plan for
56 medical assistance, to spend for costs of medical care all but a minimal

1 amount of his or her income required for personal needs; provided,
2 however, any such lien will dissolve upon the individual's discharge
3 from the medical institution and return home; in addition, no such lien
4 may be imposed on the individual's home if one of the following persons
5 is lawfully residing in the home:

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

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

14 § 10. Section 2 of the social services law is amended by adding two
15 new subdivisions 39 and 40 to read as follows:

16 39. "Mental illness" shall have the same meaning as defined in section
17 1.03 of the mental hygiene law.

18 40. "Developmental disability" shall have the same meaning as defined
19 in section 1.03 of the mental hygiene law.

20 § 11. This act shall take effect immediately.