STATE OF NEW YORK

898

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. WOERNER, WALSH, FAHY, WILLIAMS, REYES, HUNTER, GUNTHER, JEAN-PIERRE, SIMON, GALEF, HYNDMAN, SOLAGES, DAVILA, BUTTENSCHON, SEAWRIGHT, DICKENS, GLICK, McMAHON, M. MILLER, NIOU, QUART, CUSICK, ASHBY, BRABENEC, WALCZYK, BYRNES, SMULLEN, FRIEND, MONTESANO, J. M. GIGLIO, BLANKENBUSH, MANKTELOW, HAWLEY, GOODELL, BYRNE, DiPIETRO, MORINELLO, ROZIC, LUPARDO, DARLING, WALKER, HEVESI, COOK, WALLACE, WEPRIN, L. ROSENTHAL, STIRPE, CRUZ -- 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:

Section 1. The domestic relations law is amended by adding a new section 240-d to read as follows:

§ 240-d. Support orders for adult dependent children. 1. Notwithstanding any other law, parents or kinship caregivers of an adult child under the age of twenty-six are chargeable with support of such individual provided such individual is diagnosed with a developmental disability as defined under subdivision twenty-two of section 1.03 of the mental hygiene law.

2. Upon petition brought by the parent or kinship caregiver of an adult child with a disability, the court shall make its award for support for an adult child with a developmental disability in accordance with the provisions of subdivision one-b of section two hundred forty of this article. In addition to the provisions of subdivision one-b of section two hundred forty of this article, the court may consider whether the financial responsibility of caring for the individual has been unreasonably placed on one parent when determining the child support obligation. The duration of time the court may use when considering this

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

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factor shall be limited to the time period from when the child turned twenty-one until the child turns twenty-six. If a child support order ended at the age of eighteen then such time period shall be from when the child turned eighteen until the child turns twenty-six.

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

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

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

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

§ 413-b. Support orders for adult dependent children. 1. Notwithstanding any other law, parents or kinship caregivers of an adult child under the age of twenty-six are chargeable with support of such individual provided such individual is diagnosed with a developmental disability as defined under subdivision twenty-two of section 1.03 of the mental hygiene law.

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

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

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

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

§ 3. This act shall take effect immediately.