

# 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, BUTTENS-CHON, 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:

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 or kinship caregivers of an adult child  
5 under the age of twenty-six are chargeable with support of such individ-  
6 ual provided such individual is diagnosed with a developmental disabili-  
7 ty as defined under subdivision twenty-two of section 1.03 of the mental  
8 hygiene law.

9 2. Upon petition brought by the parent or kinship caregiver of an  
10 adult child with a disability, the court shall make its award for  
11 support for an adult child with a developmental disability in accordance  
12 with the provisions of subdivision one-b of section two hundred forty of  
13 this article. In addition to the provisions of subdivision one-b of  
14 section two hundred forty of this article, the court may consider wheth-  
15 er the financial responsibility of caring for the individual has been  
16 unreasonably placed on one parent when determining the child support  
17 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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1 factor shall be limited to the time period from when the child turned  
2 twenty-one until the child turns twenty-six. If a child support order  
3 ended at the age of eighteen then such time period shall be from when  
4 the child turned eighteen until the child turns twenty-six.

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

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

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

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

19 § 413-b. Support orders for adult dependent children. 1. Notwith-  
20 standing any other law, parents or kinship caregivers of an adult child  
21 under the age of twenty-six are chargeable with support of such individ-  
22 ual provided such individual is diagnosed with a developmental disabili-  
23 ty as defined under subdivision twenty-two of section 1.03 of the mental  
24 hygiene law.

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

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

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

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

50 § 3. This act shall take effect immediately.