

STATE OF NEW YORK

4467--A

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

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 provided such individual has a diagnosed developmental disability as
8 defined in subdivision twenty-two of section 1.03 of the mental hygiene
9 law, resides with the person seeking such support, and is principally
10 dependent on such person for maintenance.

11 2. Upon petition brought by such person, the court shall make its
12 award for support for such individual with a developmental disability in
13 accordance with the provisions of subdivision one-b of section two
14 hundred forty of this article. In addition to the provisions of subdi-
15 vision one-b of section two hundred forty of this article, the court may
16 consider whether the financial responsibility of caring for the individ-
17 ual has been unreasonably placed on one parent when determining the
18 support obligation. The duration of time the court may use when consid-
19 ering this factor shall be limited to the time period from when the
20 child turned twenty-one until the individual turns twenty-six. If a
21 child support order ended at the age of eighteen then such time period

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

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1 shall be from when the child turned eighteen until the individual turns
2 twenty-six.

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

7 4. The court shall have discretion to order the payor party to make
8 support payments either to the petitioner or to the trustee of an
9 "exception trust" as defined in 42 U.S.C. 1396p(d)(4)(A) and (C),
10 clause (iii) of subparagraph two of paragraph (b) of subdivision two of
11 section three hundred sixty-six of the social services law, and section
12 7-1.12 of the estates, powers and trusts law if such direction would
13 assist in maximizing assistance to the child.

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 adults 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 certain adult dependents. 1. Notwithstand-
20 ing any other law, a person who would otherwise be chargeable under law
21 with support of a minor child is also chargeable with the support of any
22 such individual until such individual reaches the age of twenty-six,
23 provided such individual has a diagnosed developmental disability as
24 defined under subdivision twenty-two of section 1.03 of the mental
25 hygiene law, resides with the person seeking such support, and is prin-
26 cipally dependent on such person for maintenance.

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

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

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

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

54 § 3. This act shall take effect immediately.