

STATE OF NEW YORK

6195--B

Cal. No. 837

2021-2022 Regular Sessions

IN SENATE

April 14, 2021

Introduced by Sens. PERSAUD, MANNION, GAUGHRAN, O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- reported favorably from said committee to third reading, amended and ordered reprinted, retaining its place in 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

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

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1 welfare district, town or city outside its territory at the time he was
2 discharged from such convalescent status or community status.

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

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

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

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

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

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

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

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

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

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

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

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

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

54 § 7. Clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1,
55 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) and
56 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (e) of

subdivision 5 of section 366 of the social services law, clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1 as added by section 1 of part D of chapter 56 of the laws of 2013, clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) of subdivision 5 as added by chapter 170 of the laws of 1994, clause (vii) of subparagraph 1 of paragraph (e) of subdivision 5 as amended by section 51 of part C of chapter 58 of the laws of 2008 and clauses (viii) and (ix) of subparagraph 1 of paragraph (e) of subdivision 5 as added by section 26-a of part C of chapter 109 of the laws of 2006, are amended to read as follows:

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

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

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

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

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

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

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

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

with respect to the real property of an individual who is an inpatient in a nursing facility, intermediate care facility for ~~[the mentally retarded]~~ individuals with developmental disabilities, or other medical institution, who is not reasonably expected to be discharged from the medical institution and to return home, and who is required, as a condi-

tion of receiving services in such institution under the state plan for medical assistance, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; provided, however, any such lien will dissolve upon the individual's discharge from the medical institution and return home; in addition, no such lien may be imposed on the individual's home if one of the following persons is lawfully residing in the home:

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

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

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

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

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

§ 11. This act shall take effect immediately.