

House Bill 499

By: Representatives Hitchens of the 161st, Dempsey of the 13th, Smith of the 70th, Stephens of the 164th, and Ballinger of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 6 of Title 19 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding alimony and child support, so as to authorize child
3 support and insurance policies for disabled children who have reached the age of majority
4 but lack the ability to otherwise support themselves independently; to provide for a
5 definition; to provide for an effective date and applicability; to provide for related matters;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 6 of Title 19 of the Official Code of Georgia Annotated, relating to
10 general provisions regarding alimony and child support, is amended by revising Code
11 Section 19-6-9, relating to voluntary separation, abandonment, or driving off of spouse as it
12 relates to equity compelling support, as follows:

13 "19-6-9.

14 Absent the making of a voluntary contract or other agreement, as provided in Code
15 Section 19-6-8, and on the application of a party, the court, exercising its equitable powers,
16 may compel the spouse of the party to make provision for the support of the party and such

minor children and disabled children who have attained the age of majority but lack the ability to otherwise support themselves independently as may be in the custody of the party."

SECTION 2.

Said article is further amended by revising Code Section 19-6-10, relating to voluntary separation, abandonment, or driving off of spouse as it relates to a petition for alimony or child support when no divorce pending, order and enforcement, equitable remedies, and effect of filing for divorce, as follows:

"19-6-10.

When spouses are living separately or in a bona fide state of separation and there is no action for divorce pending, either party, on the party's own behalf or on the behalf of the minor children and disabled children who have attained the age of majority but lack the ability to otherwise support themselves independently in the party's custody, if any, may institute a proceeding by petition, setting forth fully the party's case. Upon three days' notice to the other party, the judge may hear the same and may grant such order as he or she might grant were it based on a pending petition for divorce, to be enforced in the same manner, together with any other remedy applicable in equity, such as appointing a receiver and the like. Should the petition proceed to a hearing before a jury, the jury may render a verdict which shall provide the factual basis for equitable relief as in Code Section 19-6-9. However, such proceeding shall be held in abeyance when a petition for divorce is filed bona fide by either party and the judge presiding has made his or her order on the motion for alimony. When so made, the order shall be a substitute for the aforesaid decree in equity as long as the petition is pending and is not finally disposed of on the merits."

SECTION 3.

Said article is further amended by adding a new paragraph to subsection (a) and revising subsection (e) of Code Section 19-6-15, relating to child support guidelines for determining amount of award, continuation of duty of support, and duration of support, as follows:

"(10.1) 'Disabled child' means an individual who has a physical or mental impairment that substantially limits one or more major life activities and which meets the criteria for a disability under state or federal law."

"(e) Duration of child support responsibility.

(1) Except as otherwise provided in paragraph (2) of this subsection, the ~~The~~ duty to provide support for a minor child shall continue until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs; provided, however, that, in any temporary, final, or modified order for child support with respect to any proceeding for divorce, separate maintenance, legitimacy, or paternity entered on or after July 1, 1992, the court, in the exercise of sound discretion, may direct either or both parents to provide financial assistance to a child who has not previously married or become emancipated, who is enrolled in and attending a secondary school, and who has attained the age of majority before completing his or her secondary school education, provided that such financial assistance shall not be required after a child attains 20 years of age. The provisions for child support provided in this subsection may be enforced by either parent, by any nonparent custodian, by a guardian appointed to receive child support for the child for whose benefit the child support is ordered, or by the child for whose benefit the child support is ordered.

(2) The court, in the exercise of sound discretion, may direct either or both parents to provide financial assistance to a disabled child who has attained the age of majority but lacks the ability to otherwise support himself or herself independently; provided, however, that the obligation for postmajority child support under this paragraph shall be modified for either party if the trier of fact determines, in the exercise of its sound

discretion, that there has been a substantial change in the child's ability to provide support for himself or herself. The child support provided pursuant to this paragraph shall be in addition to and not in lieu of the benefits or assistance a child may receive from a source other than his or her parents. No duty created pursuant to this paragraph nor any other provisions of this subsection shall impact the eligibility of a child awarded postmajority child support to receive the maximum benefits provided by any federal, state, local, and other governmental and public agencies."

SECTION 4.

Said article is further amended by revising subsection (d) of Code Section 19-6-34, relating to inclusion of life insurance in order of support, as follows:

"(d)(1) The trier of fact, in the exercise of sound discretion, may direct either or both parents to maintain life insurance for the benefit of a child who has not previously married or become emancipated, who is enrolled in and attending a secondary school, and who has attained the age of majority before completing his or her secondary school education, provided that maintenance of such life insurance for the benefit of the child shall not be required after a child attains 20 years of age.

(2) The trier of fact, in the exercise of sound discretion, may direct either or both parents to maintain life insurance for the benefit of a disabled child who has attained the age of majority but lacks the ability to otherwise support himself or herself independently."

SECTION 5.

This Act shall become effective July 1, 2023, and shall apply to all causes of action accruing on or after such date.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.