

The House Committee on Juvenile Justice offers the following substitute to HB 499:

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 dependent adult children who have attained the age of
4 majority; to provide for a definition; to require the court to consider certain factors when
5 determining the amount of support for a dependent adult child; to require the court to
6 consider certain state and federal programs and benefits in making its decisions; to provide
7 that post-majority child support must be modified in certain circumstances; to authorize the
8 court to irrevocably assign such support to certain trusts established for the benefit of the
9 dependent adult child for a specified purpose; to prohibit the court from ordering support that
10 will cause ineligibility for certain programs; to provide for who may enforce such support;
11 to provide that legal proceedings may be brought to establish support for a dependent adult
12 child; to provide for who may bring such proceedings and to specify a time frame during
13 which such proceedings may be brought; to require support to be paid to the dependent adult
14 child or other specified persons; to provide for an effective date and applicability; to provide
15 for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 499 (SUB)

- 1 -

SECTION 1.

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

"19-6-9.

Absent the making of a voluntary contract or other agreement, as provided in Code Section 19-6-8, and on the application of a party, the court, exercising its equitable powers, may compel the spouse of the party to make provision for the support of the party and such minor children and any dependent adult child as defined in Code Section 19-6-15 who has attained the age of majority and 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 any dependent adult child as defined in Code Section 19-6-15 who has attained the age of majority 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:

"(9.1) 'Dependent adult child' means an unmarried adult who is incapable of self-support as a result of a physical or mental incapacity that began before the person reached the age of majority."

"(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~~ paragraph 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)(A) The court, in the exercise of sound discretion, may direct either or both parents to provide financial assistance to a dependent adult child who has attained the age of majority. In determining the amount of support to be paid after a dependent adult child has attained the age of majority, the specific terms and conditions of such support, and the rights and duties of both parents with respect to such support, the court shall determine and consider the following:

(i) The dependent adult child's income and assets;

(ii) Any existing and future needs of the dependent adult child which are directly related to his or her mental or physical incapacity and the substantial care and personal supervision directly required by or related to that incapacity;

(iii) Whether a parent or other person pays for, or will pay for, the care or supervision of the dependent adult child or provides, or will provide, substantial care or personal supervision to the dependent adult child himself or herself;

(iv) The financial resources available to each parent for the support, care, and supervision of the dependent adult child;

(v) Any other resources, financial or otherwise, or programs available for the support, care, and supervision of the dependent adult child;

(vi) Any state or federal programs and benefits that the dependent adult child is receiving or may receive due to reaching the age of majority; and

(vii) The effect that the court-ordered support would have on the dependent adult child's eligibility for such programs and benefits.

(B) The obligation for child support of a dependent adult child 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 such parent's or child's ability to provide support as provided by this paragraph.

(C) The court, in the exercise of sound discretion, may irrevocably assign the support to a special needs trust established pursuant to 42 U.S.C. Section 1396p(d)(4)(A) or 1396p(d)(4)(C) and for the benefit of the dependent adult child by the dependent adult child, his or her agent under a durable power of attorney, the court, a parent or grandparent, a guardian, or a guardian advocate who has been delegated those rights in order to maintain the dependent adult child's means-based government benefits.

(D) 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 dependent adult child to receive the maximum benefits provided by any federal, state, local, and other governmental and public agencies.

(E) The provisions for child support provided in this paragraph 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 dependent adult child for whose benefit the child support is ordered."

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 dependent adult child as defined in Code Section 19-6-15."

SECTION 5.

Said article is further amended by adding a new Code section to read as follows:

"19-6-37.

(a) Notwithstanding any other provision of law, a legal proceeding may be brought to establish child support for a dependent adult child as defined in Code Section 19-6-15 and in accordance with Code Sections 19-6-15 and 19-6-26. Such proceeding may be brought by the following:

(1) Either parent;

(2) A nonparent custodian;

(3) A guardian appointed to receive child support for the child whose benefit the child support is ordered; or

(4) The dependent adult child for whose benefit the child support is ordered or his or her agent under a durable power of attorney.

(b) A legal proceeding initiated pursuant to subsection (a) of this Code section may be filed at any time after such dependent adult child reaches 17 years and six months of age, unless such an order is already in place having been established during the child's minority.

(c) If a court has jurisdiction over the parties because of an issue of child support, the parents may agree in writing to provide for dependent adult child support in the existing case provided that such agreement is submitted to the court for approval before such child reaches 18 years of age. Otherwise, the amount of support to be paid by one or both parents shall be established in a separate support proceeding pursuant to subsection (b) of this Code section.

(d) Support ordered after the dependent adult child reaches 18 years of age shall be paid only to himself or herself or his or her court appointed guardian advocate, guardian, or agent under a durable power of attorney; provided, however, that the court, in the exercise of sound discretion, may irrevocably assign the support to a special needs trust established pursuant to 42 U.S.C. Section 1396p(d)(4)(A) or 1396p(d)(4)(C) and for the benefit of the dependent adult child by the dependent adult child, his or her agent under a durable power of attorney, the court, a parent or grandparent, a guardian, or a guardian advocate who has been delegated those rights in order to maintain the dependent adult child's means-based government benefits."

SECTION 6.

This Act shall become effective July 1, 2024, and shall apply to all causes of action accruing on or after such date.

SECTION 7.

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