

House Bill 499 (AS PASSED HOUSE AND SENATE)

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

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 499

- 1 -

SECTION 1.

17
18 Article 1 of Chapter 6 of Title 19 of the Official Code of Georgia Annotated, relating to
19 general provisions regarding alimony and child support, is amended by revising Code
20 Section 19-6-9, relating to voluntary separation, abandonment, or driving off of spouse as it
21 relates to equity compelling support, as follows:

22 "19-6-9.

23 Absent the making of a voluntary contract or other agreement, as provided in Code
24 Section 19-6-8, and on the application of a party, the court, exercising its equitable powers,
25 may compel the spouse of the party to make provision for the support of the party and such
26 minor children and any dependent adult child as defined in Code Section 19-6-15.1 and as
27 may be in the custody of the party."

SECTION 2.

28
29 Said article is further amended by revising Code Section 19-6-10, relating to voluntary
30 separation, abandonment, or driving off of spouse as it relates to a petition for alimony or
31 child support when no divorce pending, order and enforcement, equitable remedies, and
32 effect of filing for divorce, as follows:

33 "19-6-10.

34 When spouses are living separately or in a bona fide state of separation and there is no
35 action for divorce pending, either party, on the party's own behalf or on the behalf of the
36 minor children and any dependent adult child as defined in Code Section 19-6-15.1 in the
37 party's custody, if any, may institute a proceeding by petition, setting forth fully the party's
38 case. Upon three days' notice to the other party, the judge may hear the same and may
39 grant such order as he or she might grant were it based on a pending petition for divorce,
40 to be enforced in the same manner, together with any other remedy applicable in equity,
41 such as appointing a receiver and the like. Should the petition proceed to a hearing before
42 a jury, the jury may render a verdict which shall provide the factual basis for equitable

43 relief as in Code Section 19-6-9. However, such proceeding shall be held in abeyance
44 when a petition for divorce is filed bona fide by either party and the judge presiding has
45 made his or her order on the motion for alimony. When so made, the order shall be a
46 substitute for the aforesaid decree in equity as long as the petition is pending and is not
47 finally disposed of on the merits."

48 **SECTION 3.**

49 Said article is further amended by adding a new subsection to Code Section 19-6-15, relating
50 to child support guidelines for determining amount of award, continuation of duty of support,
51 and duration of support, to read as follows:

52 "(p) The child support guidelines provided in this Code section shall not apply to support
53 for a dependent adult child as defined in Code Section 19-6-15.1."

54 **SECTION 4.**

55 Said article is further amended by adding new Code sections, to read as follows:

56 "19-6-15.1.

57 (a) As used in this article, the term 'dependent adult child' means an unmarried individual
58 who has reached the age of majority and is incapable of self-support as a result of a
59 physical or mental incapacity that began before the individual reached the age of majority.

60 (b) A legal proceeding may be brought to establish support for a dependent adult child.
61 Such proceeding shall be brought in accordance with Code Section 19-6-26 and may be
62 brought by the following:

63 (1) Either parent;

64 (2) A nonparent custodian;

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

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

69 (c) A legal proceeding initiated pursuant to this Code section may be filed at any time after
70 a dependent adult child reaches 17 years and six months of age, unless an order for support
71 was established during the dependent adult child's minority.

72 (d) The amount of support to be paid by one or both parents shall be established in a
73 separate support proceeding pursuant to subsection (b) of this Code section; provided,
74 however, that if a court has jurisdiction over the parties for an issue of support, the parents
75 of an adult dependent child may agree in writing to provide for dependent adult child
76 support in an existing case provided that such agreement is submitted to the court for
77 approval before such child reaches 18 years of age.

78 (e) Support ordered after a dependent adult child reaches 18 years of age shall be paid only
79 to the dependent adult child or his or her court appointed guardian advocate, guardian, or
80 agent under a durable power of attorney; provided, however, that the court, in the exercise
81 of its sound discretion, may irrevocably assign the support to a special needs trust
82 established pursuant to 42 U.S.C. Section 1396p(d)(4)(A) or 1396p(d)(4)(C) for the benefit
83 of the dependent adult child by the dependent adult child, his or her agent under a durable
84 power of attorney, the court, a parent or grandparent, a guardian, or a guardian advocate
85 who has been delegated those rights in order to maintain the dependent adult child's
86 means-based government benefits. The court shall not order support for a dependent adult
87 child to be paid to the family support registry established pursuant to Code
88 Section 19-6-33.1.

89 19-6-15.2.

90 (a) Pursuant to a support proceeding initiated pursuant to Code Section 19-6-15.1, the
91 court, in the exercise of its sound discretion, may direct either or both parents to provide
92 financial assistance in the form of support to a dependent adult child. In determining the

93 amount of support to be paid to a dependent adult child, the specific terms and conditions
94 of such support, and the rights and duties of both parents with respect to such support, the
95 court shall determine and consider the following:

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

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

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

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

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

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

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

111 (b) The obligation for support of a dependent adult child pursuant to subsection (a) of this
112 Code section shall be modified for either party if the trier of fact determines, in the exercise
113 of its sound discretion, that there has been a substantial change in such parent's or child's
114 ability to provide support as provided by this Code section.

115 (c) The court, in the exercise of its sound discretion, may irrevocably assign support for
116 a dependent adult child to a special needs trust established pursuant to 42 U.S.C. Section
117 1396p(d)(4)(A) or 1396p(d)(4)(C) for the benefit of the dependent adult child by the
118 dependent adult child, his or her agent under a durable power of attorney, the court, a

119 parent or grandparent, a guardian, or a guardian advocate who has been delegated those
120 rights in order to maintain the dependent adult child's means-based government benefits.
121 (d) The support provided pursuant to this Code section shall be in addition to and not in
122 lieu of the benefits or assistance a dependent adult child may receive from a source other
123 than his or her parents. No duty created pursuant to Code Section 19-6-15.1 nor any other
124 provisions of this Code section shall impact the eligibility of a dependent adult child to
125 receive the maximum benefits provided by any federal, state, local, and other governmental
126 and public agencies.
127 (e) The provisions for support provided in this Code section may be enforced by either
128 parent, by any nonparent custodian, by a guardian appointed to receive support for the
129 dependent adult child for whose benefit the support is ordered, or by the dependent adult
130 child for whose benefit the support is ordered."

131 **SECTION 5.**

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

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

140 (2) The trier of fact, in the exercise of its sound discretion, may direct either or both
141 parents to maintain life insurance for the benefit of a dependent adult child as defined in
142 Code Section 19-6-15.1."

143 **SECTION 6.**

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

146 **SECTION 7.**

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