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I N A S S E M B L Y

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Introduced by M. of A. ABINANTI, FAHY, GOTTFRIED, JAFFEE, MARKEY, MAYER, PAULIN, SCHIMMINGER, RA -- Multi-Sponsored by -- M. of A. BUCHWALD, TITUS -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the surrogate's court procedure act, in relation to people with intellectual disabilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The article heading of article 17-A of the surrogate's
2 court procedure act, as added by chapter 675 of the laws of 1989, is
3 amended to read as follows:
4 GUARDIANS OF [MENTALLY RETARDED]
5 PERSONS WHO ARE INTELLECTUALLY DISABLED AND
6 DEVELOPMENTALLY DISABLED [PERSONS]
7 S 2. Section 1750 of the surrogate's court procedure act, as amended
8 by chapter 500 of the laws of 2002, is amended to read as follows:
9 S 1750. Guardianship of [mentally retarded] persons WHO ARE INTELLECTU-
10 ALLY DISABLED
11 When it shall appear to the satisfaction of the court that a person is
12 a [mentally retarded] person WHO IS INTELLECTUALLY DISABLED, the court
13 is authorized to appoint a guardian of the person or of the property or
14 of both if such appointment of a guardian or guardians is in the best
15 interest of the [mentally retarded] person WHO IS INTELLECTUALLY DISA-
16 BLED. Such appointment shall be made pursuant to the provisions of this
17 article, provided however that the provisions of section seventeen
18 hundred fifty-a of this article shall not apply to the appointment of a
19 guardian or guardians of a [mentally retarded] person WHO IS INTELLECTU-
20 ALLY DISABLED.

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

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1 1. For the purposes of this article, a [mentally retarded] person WHO
2 IS INTELLECTUALLY DISABLED is a person who has been certified by one
3 licensed physician and one licensed psychologist, or by two licensed
4 physicians at least one of whom is familiar with or has professional
5 knowledge in the care and treatment of persons with [mental retardation]
6 AN INTELLECTUAL DISABILITY, having qualifications to make such certifi-
7 cation, as being incapable to manage him or herself and/or his or her
8 affairs by reason of [mental retardation] INTELLECTUAL DISABILITY and
9 that such condition is permanent in nature or likely to continue indefi-
10 nitely.

11 2. Every such certification pursuant to subdivision one of this
12 section, made on or after the effective date of this subdivision, shall
13 include a specific determination by such physician and psychologist, or
14 by such physicians, as to whether the [mentally retarded] person WHO IS
15 INTELLECTUALLY DISABLED has the capacity to make health care decisions,
16 as defined by subdivision three of section twenty-nine hundred eighty of
17 the public health law, for himself or herself. A determination that the
18 [mentally retarded] person WHO IS INTELLECTUALLY DISABLED has the capac-
19 ity to make health care decisions shall not preclude the appointment of
20 a guardian pursuant to this section to make other decisions on behalf of
21 the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED. The
22 absence of this determination in the case of guardians appointed prior
23 to the effective date of this subdivision shall not preclude such guard-
24 ians from making health care decisions.

25 S 3. Section 1750-a of the surrogate's court procedure act, as amended
26 by chapter 744 of the laws of 2005, is amended to read as follows:

27 S 1750-a. Guardianship of PERSONS WHO ARE developmentally disabled
28 [persons]

29 1. When it shall appear to the satisfaction of the court that a person
30 is a PERSON WHO IS developmentally disabled [person], the court is
31 authorized to appoint a guardian of the person or of the property or of
32 both if such appointment of a guardian or guardians is in the best
33 interest of the PERSON WHO IS developmentally disabled [person]. Such
34 appointments shall be made pursuant to the provisions of this article,
35 provided however that the provisions of section seventeen hundred fifty
36 of this article shall not apply to the appointment of a guardian or
37 guardians of a PERSON WHO IS developmentally disabled [person]. For the
38 purposes of this article, a PERSON WHO IS developmentally disabled
39 [person] is a person who has been certified by one licensed physician
40 and one licensed psychologist, or by two licensed physicians at least
41 one of whom is familiar with or has professional knowledge in the care
42 and treatment of persons with developmental disabilities, having quali-
43 fications to make such certification, as having an impaired ability to
44 understand and appreciate the nature and consequences of decisions which
45 result in such person being incapable of managing himself or herself
46 and/or his or her affairs by reason of developmental disability and that
47 such condition is permanent in nature or likely to continue indefinitely,
48 ly, and whose disability:

49 (a) is attributable to cerebral palsy, epilepsy, neurological impair-
50 ment, autism or traumatic head injury;

51 (b) is attributable to any other condition of a person found to be
52 closely related to [mental retardation] INTELLECTUAL DISABILITY because
53 such condition results in similar impairment of general intellectual
54 functioning or adaptive behavior to that of [mentally retarded] persons
55 WITH INTELLECTUAL DISABILITIES; or

(c) is attributable to dyslexia resulting from a disability described in subdivision one or two of this section or from [mental retardation] INTELLECTUAL DISABILITY; and

(d) originates before such person attains age twenty-two, provided, however, that no such age of origination shall apply for the purposes of this article to a person with traumatic head injury.

2. Notwithstanding any provision of law to the contrary, for the purposes of subdivision two of section seventeen hundred fifty and section seventeen hundred fifty-b of this article, "a person [with mental retardation] WHO IS INTELLECTUALLY DISABLED and his or her guardian" shall also mean a person and his or her guardian appointed pursuant to this section; provided that such person has been certified by the physicians and/or psychologists, specified in subdivision one of this section, as (i) having [mental retardation] AN INTELLECTUAL DISABILITY, or (ii) having a developmental disability, as defined in section 1.03 of the mental hygiene law, which (A) includes [mental retardation] INTELLECTUAL DISABILITY, or (B) results in a similar impairment of general intellectual functioning or adaptive behavior so that such person is incapable of managing himself or herself, and/or his or her affairs by reason of such developmental disability.

S 4. Section 1750-b of the surrogate's court procedure act, as added by chapter 500 of the laws of 2002, subdivision 1 as amended by chapter 105 of the laws of 2007, the opening paragraph, paragraphs (a) and (b) of subdivision 1, and the opening paragraph of subdivision 4 as amended by chapter 8 of the laws of 2010, subparagraph (i) of paragraph (a) and clause A of subparagraph (i) of paragraph (e) of subdivision 4 as amended by section 18 of part J of chapter 56 of the laws of 2012, and paragraph (d) of subdivision 5 as added by chapter 262 of the laws of 2008, is amended to read as follows:

S 1750-b. Health care decisions for [mentally retarded] persons WHO ARE INTELLECTUALLY DISABLED

1. Scope of authority. Unless specifically prohibited by the court after consideration of the determination, if any, regarding a [mentally retarded person's] PERSON WHO IS INTELLECTUALLY DISABLED'S capacity to make health care decisions, which is required by section seventeen hundred fifty of this article, the guardian of such person appointed pursuant to section seventeen hundred fifty of this article shall have the authority to make any and all health care decisions, as defined by subdivision six of section twenty-nine hundred eighty of the public health law, on behalf of the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED that such person could make if such person had capacity. Such decisions may include decisions to withhold or withdraw life-sustaining treatment. For purposes of this section, "life-sustaining treatment" means medical treatment, including cardiopulmonary resuscitation and nutrition and hydration provided by means of medical treatment, which is sustaining life functions and without which, according to reasonable medical judgment, the patient will die within a relatively short time period. Cardiopulmonary resuscitation is presumed to be life-sustaining treatment without the necessity of a medical judgment by an attending physician. The provisions of this article are not intended to permit or promote suicide, assisted suicide or euthanasia; accordingly, nothing in this section shall be construed to permit a guardian to consent to any act or omission to which the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED could not consent if such person had capacity.

1 (a) For the purposes of making a decision to withhold or withdraw
2 life-sustaining treatment pursuant to this section, in the case of a
3 person for whom no guardian has been appointed pursuant to section
4 seventeen hundred fifty or seventeen hundred fifty-a of this article, a
5 "guardian" shall also mean a family member of a person who (i) has
6 [mental retardation] INTELLECTUAL DISABILITY, or (ii) has a develop-
7 mental disability, as defined in section 1.03 of the mental hygiene law,
8 which (A) includes [mental retardation] INTELLECTUAL DISABILITY, or (B)
9 results in a similar impairment of general intellectual functioning or
10 adaptive behavior so that such person is incapable of managing himself
11 or herself, and/or his or her affairs by reason of such developmental
12 disability. Qualified family members shall be included in a prioritized
13 list of said family members pursuant to regulations established by the
14 commissioner of [mental retardation and] THE OFFICE FOR PEOPLE WITH
15 developmental disabilities. Such family members must have a significant
16 and ongoing involvement in a person's life so as to have sufficient
17 knowledge of their needs and, when reasonably known or ascertainable,
18 the person's wishes, including moral and religious beliefs. In the case
19 of a person who was a resident of the former Willowbrook state school on
20 March seventeenth, nineteen hundred seventy-two and those individuals
21 who were in community care status on that date and subsequently returned
22 to Willowbrook or a related facility, who are fully represented by the
23 consumer advisory board and who have no guardians appointed pursuant to
24 this article or have no qualified family members to make such a deci-
25 sion, then a "guardian" shall also mean the Willowbrook consumer advi-
26 sory board. A decision of such family member or the Willowbrook consumer
27 advisory board to withhold or withdraw life-sustaining treatment shall
28 be subject to all of the protections, procedures and safeguards which
29 apply to the decision of a guardian to withhold or withdraw life-sus-
30 taining treatment pursuant to this section.

31 In the case of a person for whom no guardian has been appointed pursu-
32 ant to this article or for whom there is no qualified family member or
33 the Willowbrook consumer advisory board available to make such a deci-
34 sion, a "guardian" shall also mean, notwithstanding the definitions in
35 section 80.03 of the mental hygiene law, a surrogate decision-making
36 committee, as defined in article eighty of the mental hygiene law. All
37 declarations and procedures, including expedited procedures, to comply
38 with this section shall be established by regulations promulgated by the
39 commission on quality of care and advocacy for persons with disabili-
40 ties.

41 (b) Regulations establishing the prioritized list of qualified family
42 members required by paragraph (a) of this subdivision shall be developed
43 by the commissioner of [mental retardation and] THE OFFICE FOR PEOPLE
44 WITH developmental disabilities in conjunction with parents, advocates
45 and family members of persons who are [mentally retarded] INTELLECTUALLY
46 DISABLED. Regulations to implement the authority of the Willowbrook
47 consumer advisory board pursuant to paragraph (a) of this subdivision
48 may be promulgated by the commissioner of the office [of mental retarda-
49 tion and] FOR PEOPLE WITH developmental disabilities with advice from
50 the Willowbrook consumer advisory board.

51 (c) Notwithstanding any provision of law to the contrary, the formal
52 determinations required pursuant to section seventeen hundred fifty of
53 this article shall only apply to guardians appointed pursuant to section
54 seventeen hundred fifty or seventeen hundred fifty-a of this article.

55 2. Decision-making standard. (a) The guardian shall base all advocacy
56 and health care decision-making solely and exclusively on the best

1 interests of the [mentally retarded] person WHO IS INTELLECTUALLY DISA-
2 BLED and, when reasonably known or ascertainable with reasonable dili-
3 gence, on the [mentally retarded person's] PERSON WHO IS INTELLECTUALLY
4 DISABLED'S wishes, including moral and religious beliefs.

5 (b) An assessment of the [mentally retarded person's] PERSON WHO IS
6 INTELLECTUALLY DISABLED'S best interests shall include consideration of:
7 (i) the dignity and uniqueness of every person;
8 (ii) the preservation, improvement or restoration of the [mentally
9 retarded person's] PERSON WHO IS INTELLECTUALLY DISABLED'S health;
10 (iii) the relief of the [mentally retarded person's] PERSON WHO IS
11 INTELLECTUALLY DISABLED'S suffering by means of palliative care and pain
12 management;
13 (iv) the unique nature of artificially provided nutrition or
14 hydration, and the effect it may have on the [mentally retarded] person
15 WHO IS INTELLECTUALLY DISABLED; and
16 (v) the entire medical condition of the person.

17 (c) No health care decision shall be influenced in any way by:
18 (i) a presumption that persons [with mental retardation] WHO ARE
19 INTELLECTUALLY DISABLED are not entitled to the full and equal rights,
20 equal protection, respect, medical care and dignity afforded to persons
21 without [mental retardation] AN INTELLECTUAL DISABILITY or A develop-
22 mental [disabilities] DISABILITY; or
23 (ii) financial considerations of the guardian, as such considerations
24 affect the guardian, a health care provider or any other party.

25 3. Right to receive information. Subject to the provisions of sections
26 33.13 and 33.16 of the mental hygiene law, the guardian shall have the
27 right to receive all medical information and medical and clinical
28 records necessary to make informed decisions regarding the [mentally
29 retarded person's] PERSON WHO IS INTELLECTUALLY DISABLED'S health care.

30 4. Life-sustaining treatment. The guardian shall have the affirmative
31 obligation to advocate for the full and efficacious provision of health
32 care, including life-sustaining treatment. In the event that a guardian
33 makes a decision to withdraw or withhold life-sustaining treatment from
34 a [mentally retarded] person WHO IS INTELLECTUALLY DISABLED:

35 (a) The attending physician, as defined in subdivision two of section
36 twenty-nine hundred eighty of the public health law, must confirm to a
37 reasonable degree of medical certainty that the [mentally retarded]
38 person WHO IS INTELLECTUALLY DISABLED lacks capacity to make health care
39 decisions. The determination thereof shall be included in the [mentally
40 retarded person's] PERSON WHO IS INTELLECTUALLY DISABLED'S medical
41 record, and shall contain such attending physician's opinion regarding
42 the cause and nature of the [mentally retarded person's] PERSON WHO IS
43 INTELLECTUALLY DISABLED'S incapacity as well as its extent and probable
44 duration. The attending physician who makes the confirmation shall
45 consult with another physician, or a licensed psychologist, to further
46 confirm the [mentally retarded person's] PERSON WHO IS INTELLECTUALLY
47 DISABLED'S lack of capacity. The attending physician who makes the
48 confirmation, or the physician or licensed psychologist with whom the
49 attending physician consults, must (i) be employed by a developmental
50 disabilities services office named in section 13.17 of the mental
51 hygiene law or employed by the office for people with developmental
52 disabilities to provide treatment and care to people with developmental
53 disabilities, or (ii) have been employed for a minimum of two years to
54 render care and service in a facility or program operated, licensed or
55 authorized by the office [of mental retardation and] FOR PEOPLE WITH
56 developmental disabilities, or (iii) have been approved by the commis-

1 sioner of [mental retardation and] THE OFFICE FOR PEOPLE WITH develop-
2 mental disabilities in accordance with regulations promulgated by such
3 commissioner. Such regulations shall require that a physician or
4 licensed psychologist possess specialized training or three years expe-
5 rience in treating [mental retardation] INTELLECTUAL DISABILITY. A
6 record of such consultation shall be included in the [mentally retarded
7 person's] PERSON WHO IS INTELLECTUALLY DISABLED'S medical record.

8 (b) The attending physician, as defined in subdivision two of section
9 twenty-nine hundred eighty of the public health law, with the concu-
10 rrence of another physician with whom such attending physician shall
11 consult, must determine to a reasonable degree of medical certainty and
12 note on the [mentally retarded person's] PERSON WHO IS INTELLECTUALLY
13 DISABLED'S chart that:

14 (i) the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED has
15 a medical condition as follows:

16 A. a terminal condition, as defined in subdivision twenty-three of
17 section twenty-nine hundred sixty-one of the public health law; or

18 B. permanent unconsciousness; or

19 C. a medical condition other than such person's [mental retardation]
20 INTELLECTUAL DISABILITY which requires life-sustaining treatment, is
21 irreversible and which will continue indefinitely; and

22 (ii) the life-sustaining treatment would impose an extraordinary
23 burden on such person, in light of:

24 A. such person's medical condition, other than such person's [mental
25 retardation] INTELLECTUAL DISABILITY; and

26 B. the expected outcome of the life-sustaining treatment, notwith-
27 standing such person's [mental retardation] INTELLECTUAL DISABILITY; and

28 (iii) in the case of a decision to withdraw or withhold artificially
29 provided nutrition or hydration:

30 A. there is no reasonable hope of maintaining life; or

31 B. the artificially provided nutrition or hydration poses an extraor-
32 dinary burden.

33 (c) The guardian shall express a decision to withhold or withdraw
34 life-sustaining treatment either:

35 (i) in writing, dated and signed in the presence of one witness eigh-
36 teen years of age or older who shall sign the decision, and presented to
37 the attending physician, as defined in subdivision two of section twen-
38 ty-nine hundred eighty of the public health law; or

39 (ii) orally, to two persons eighteen years of age or older, at least
40 one of whom is the [mentally retarded person's] PERSON WHO IS INTELLEC-
41 TUALLY DISABLED'S attending physician, as defined in subdivision two of
42 section twenty-nine hundred eighty of the public health law.

43 (d) The attending physician, as defined in subdivision two of section
44 twenty-nine hundred eighty of the public health law, who is provided
45 with the decision of a guardian shall include the decision in the
46 [mentally retarded person's] PERSON WHO IS INTELLECTUALLY DISABLED'S
47 medical chart, and shall either:

48 (i) promptly issue an order to withhold or withdraw life-sustaining
49 treatment from the [mentally retarded] person WHO IS INTELLECTUALLY
50 DISABLED, and inform the staff responsible for such person's care, if
51 any, of the order; or

52 (ii) promptly object to such decision, in accordance with subdivision
53 five of this section.

54 (e) At least forty-eight hours prior to the implementation of a deci-
55 sion to withdraw life-sustaining treatment, or at the earliest possible

1 time prior to the implementation of a decision to withhold life-sustain-
2 ing treatment, the attending physician shall notify:

3 (i) the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED,
4 except if the attending physician determines, in writing and in consul-
5 tation with another physician or a licensed psychologist, that, to a
6 reasonable degree of medical certainty, the person would suffer immedi-
7 ate and severe injury from such notification. The attending physician
8 who makes the confirmation, or the physician or licensed psychologist
9 with whom the attending physician consults, shall:

10 A. be employed by a developmental disabilities services office named
11 in section 13.17 of the mental hygiene law or employed by the office for
12 people with developmental disabilities to provide treatment and care to
13 people with developmental disabilities, or

14 B. have been employed for a minimum of two years to render care and
15 service in a facility operated, licensed or authorized by the office [of
16 mental retardation and] FOR PEOPLE WITH developmental disabilities, or

17 C. have been approved by the commissioner of [mental retardation and]
18 THE OFFICE FOR PEOPLE WITH developmental disabilities in accordance with
19 regulations promulgated by such commissioner. Such regulations shall
20 require that a physician or licensed psychologist possess specialized
21 training or three years experience in treating [mental retardation]
22 INTELLECTUAL DISABILITY. A record of such consultation shall be
23 included in the [mentally retarded person's] PERSON WHO IS INTELLECTUAL-
24 LY DISABLED'S medical record;

25 (ii) if the person is in or was transferred from a residential facili-
26 ty operated, licensed or authorized by the office [of mental retardation
27 and] FOR PEOPLE WITH developmental disabilities, the chief executive
28 officer of the agency or organization operating such facility and the
29 mental hygiene legal service; and

30 (iii) if the person is not in and was not transferred from such a
31 facility or program, the commissioner of [mental retardation and] THE
32 OFFICE FOR PEOPLE WITH developmental disabilities, or his or her desig-
33 nee.

34 5. Objection to health care decision. (a) Suspension. A health care
35 decision made pursuant to subdivision four of this section shall be
36 suspended, pending judicial review, except if the suspension would in
37 reasonable medical judgment be likely to result in the death of the
38 [mentally retarded] person WHO IS INTELLECTUALLY DISABLED, in the event
39 of an objection to that decision at any time by:

40 (i) the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED on
41 whose behalf such decision was made; or

42 (ii) a parent or adult sibling who either resides with or has main-
43 tained substantial and continuous contact with the [mentally retarded]
44 person WHO IS INTELLECTUALLY DISABLED; or

45 (iii) the attending physician, as defined in subdivision two of
46 section twenty-nine hundred eighty of the public health law; or

47 (iv) any other health care practitioner providing services to the
48 [mentally retarded] person WHO IS INTELLECTUALLY DISABLED, who is
49 licensed pursuant to article one hundred thirty-one, one hundred thir-
50 ty-one-B, one hundred thirty-two, one hundred thirty-three, one hundred
51 thirty-six, one hundred thirty-nine, one hundred forty-one, one hundred
52 forty-three, one hundred forty-four, one hundred fifty-three, one
53 hundred fifty-four, one hundred fifty-six, one hundred fifty-nine or one
54 hundred sixty-four of the education law; or

55 (v) the chief executive officer identified in subparagraph (ii) of
56 paragraph (e) of subdivision four of this section; or

1 (vi) if the person is in or was transferred from a residential facili-
2 ty or program operated, approved or licensed by the office [of mental
3 retardation and] FOR PEOPLE WITH developmental disabilities, the mental
4 hygiene legal service; or

5 (vii) if the person is not in and was not transferred from such a
6 facility or program, the commissioner of [mental retardation and] THE
7 OFFICE FOR PEOPLE WITH developmental disabilities, or his or her desig-
8 nee.

9 (b) Form of objection. Such objection shall occur orally or in writ-
10 ing.

11 (c) Notification. In the event of the suspension of a health care
12 decision pursuant to this subdivision, the objecting party shall prompt-
13 ly notify the guardian and the other parties identified in paragraph (a)
14 of this subdivision, and the attending physician shall record such
15 suspension in the [mentally retarded person's] PERSON WHO IS INTELLECTU-
16 ALLY DISABLED'S medical chart.

17 (d) Dispute mediation. In the event of an objection pursuant to this
18 subdivision, at the request of the objecting party or person or entity
19 authorized to act as a guardian under this section, except a surrogate
20 decision making committee established pursuant to article eighty of the
21 mental hygiene law, such objection shall be referred to a dispute medi-
22 ation system, established pursuant to section two thousand nine hundred
23 seventy-two of the public health law or similar entity for mediating
24 disputes in a hospice, such as a patient's advocate's office, hospital
25 chaplain's office or ethics committee, as described in writing and
26 adopted by the governing authority of such hospice, for non-binding
27 mediation. In the event that such dispute cannot be resolved within
28 seventy-two hours or no such mediation entity exists or is reasonably
29 available for mediation of a dispute, the objection shall proceed to
30 judicial review pursuant to this subdivision. The party requesting medi-
31 ation shall provide notification to those parties entitled to notice
32 pursuant to paragraph (a) of this subdivision.

33 6. Special proceeding authorized. The guardian, the attending physi-
34 cian, as defined in subdivision two of section twenty-nine hundred
35 eighty of the public health law, the chief executive officer identified
36 in subparagraph (ii) of paragraph (e) of subdivision four of this
37 section, the mental hygiene legal service (if the person is in or was
38 transferred from a residential facility or program operated, approved or
39 licensed by the office [of mental retardation and] FOR PEOPLE WITH
40 developmental disabilities) or the commissioner of [mental retardation
41 and] THE OFFICE FOR PEOPLE WITH developmental disabilities or his or her
42 designee (if the person is not in and was not transferred from such a
43 facility or program) may commence a special proceeding in a court of
44 competent jurisdiction with respect to any dispute arising under this
45 section, including objecting to the withdrawal or withholding of life-
46 sustaining treatment because such withdrawal or withholding is not in
47 accord with the criteria set forth in this section.

48 7. Provider's obligations. (a) A health care provider shall comply
49 with the health care decisions made by a guardian in good faith pursuant
50 to this section, to the same extent as if such decisions had been made
51 by the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED, if
52 such person had capacity.

53 (b) Notwithstanding paragraph (a) of this subdivision, nothing in this
54 section shall be construed to require a private hospital to honor a
55 guardian's health care decision that the hospital would not honor if the
56 decision had been made by the [mentally retarded] person WHO IS INTEL-

1 LECTUALLY DISABLED, if such person had capacity, because the decision is
2 contrary to a formally adopted written policy of the hospital expressly
3 based on religious beliefs or sincerely held moral convictions central
4 to the hospital's operating principles, and the hospital would be
5 permitted by law to refuse to honor the decision if made by such person,
6 provided:

7 (i) the hospital has informed the guardian of such policy prior to or
8 upon admission, if reasonably possible; and

9 (ii) the [mentally retarded] person WHO IS INTELLECTUALLY DISABLED is
10 transferred promptly to another hospital that is reasonably accessible
11 under the circumstances and is willing to honor the guardian's decision.
12 If the guardian is unable or unwilling to arrange such a transfer, the
13 hospital's refusal to honor the decision of the guardian shall consti-
14 tute an objection pursuant to subdivision five of this section.

15 (c) Notwithstanding paragraph (a) of this subdivision, nothing in this
16 section shall be construed to require an individual health care provider
17 to honor a guardian's health care decision that the individual would not
18 honor if the decision had been made by the [mentally retarded] person
19 WHO IS INTELLECTUALLY DISABLED, if such person had capacity, because the
20 decision is contrary to the individual's religious beliefs or sincerely
21 held moral convictions, provided the individual health care provider
22 promptly informs the guardian and the facility, if any, of his or her
23 refusal to honor the guardian's decision. In such event, the facility
24 shall promptly transfer responsibility for the [mentally retarded]
25 person WHO IS INTELLECTUALLY DISABLED to another individual health care
26 provider willing to honor the guardian's decision. The individual health
27 care provider shall cooperate in facilitating such transfer of the
28 patient.

29 (d) Notwithstanding the provisions of any other paragraph of this
30 subdivision, if a guardian directs the provision of life-sustaining
31 treatment, the denial of which in reasonable medical judgment would be
32 likely to result in the death of the [mentally retarded] person WHO IS
33 INTELLECTUALLY DISABLED, a hospital or individual health care provider
34 that does not wish to provide such treatment shall nonetheless comply
35 with the guardian's decision pending either transfer of the [mentally
36 retarded] person WHO IS INTELLECTUALLY DISABLED to a willing hospital or
37 individual health care provider, or judicial review.

38 (e) Nothing in this section shall affect or diminish the authority of
39 a surrogate decision-making panel to render decisions regarding major
40 medical treatment pursuant to article eighty of the mental hygiene law.

41 8. Immunity. (a) Provider immunity. No health care provider or employ-
42 ee thereof shall be subjected to criminal or civil liability, or be
43 deemed to have engaged in unprofessional conduct, for honoring reason-
44 ably and in good faith a health care decision by a guardian, or for
45 other actions taken reasonably and in good faith pursuant to this
46 section.

47 (b) Guardian immunity. No guardian shall be subjected to criminal or
48 civil liability for making a health care decision reasonably and in good
49 faith pursuant to this section.

50 S 5. Section 1751 of the surrogate's court procedure act, as added by
51 chapter 675 of the laws of 1989, is amended to read as follows:

52 S 1751. Petition for appointment; by whom made

53 A petition for the appointment of a guardian of the person or proper-
54 ty, or both, of a [mentally retarded or developmentally disabled] person
55 WHO IS INTELLECTUALLY DISABLED OR A PERSON WHO IS DEVELOPMENTALLY DISA-
56 BLED may be made by a parent, any interested person eighteen years of

1 age or older on behalf of the [mentally retarded or developmentally
2 disabled] person WHO IS INTELLECTUALLY DISABLED OR A PERSON WHO IS
3 DEVELOPMENTALLY DISABLED including a corporation authorized to serve as
4 a guardian as provided for by this article, or by the [mentally retarded
5 or developmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR A
6 PERSON WHO IS DEVELOPMENTALLY DISABLED when such person is eighteen
7 years of age or older.

8 S 6. Section 1752 of the surrogate's court procedure act, as added by
9 chapter 675 of the laws of 1989, is amended to read as follows:

10 S 1752. Petition for appointment; contents

11 The petition for the appointment of a guardian shall be filed with the
12 court on forms to be prescribed by the state chief administrator of the
13 courts. Such petition for a guardian of a [mentally retarded or develop-
14 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR A PERSON WHO
15 IS DEVELOPMENTALLY DISABLED shall include, but not be limited to, the
16 following information:

17 1. the full name, date of birth and residence of the [mentally
18 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
19 BLED OR A PERSON WHO IS DEVELOPMENTALLY DISABLED;

20 2. the name, age, address and relationship or interest of the peti-
21 tioner to the [mentally retarded or developmentally disabled] person WHO
22 IS INTELLECTUALLY DISABLED OR A PERSON WHO IS DEVELOPMENTALLY DISABLED;

23 3. the names of the father, the mother, children, adult siblings if
24 eighteen years of age or older, the spouse and primary care physician if
25 other than a physician having submitted a certification with the peti-
26 tion, if any, of the [mentally retarded or developmentally disabled]
27 person WHO IS INTELLECTUALLY DISABLED OR A PERSON WHO IS DEVELOPMENTALLY
28 DISABLED and whether or not they are living, and if living, their
29 addresses and the names and addresses of the nearest distributees of
30 full age who are domiciliaries, if both parents are dead;

31 4. the name and address of the person with whom the [mentally retarded
32 or developmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR A
33 PERSON WHO IS DEVELOPMENTALLY DISABLED resides if other than the parents
34 or spouse;

35 5. the name, age, address, education and other qualifications, and
36 consent of the proposed guardian, standby and alternate guardian, if
37 other than the parent, spouse, adult child if eighteen years of age or
38 older or adult sibling if eighteen years of age or older, and if such
39 parent, spouse or adult child be living, why any of them should not be
40 appointed guardian;

41 6. the estimated value of real and personal property and the annual
42 income therefrom and any other income including governmental entitle-
43 ments to which the [mentally retarded or developmentally disabled]
44 person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY
45 DISABLED is entitled; and

46 7. any circumstances which the court should consider in determining
47 whether it is in the best interests of the [mentally retarded or devel-
48 opmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
49 IS DEVELOPMENTALLY DISABLED TO not be [be] present at the hearing if
50 conducted.

51 S 7. Section 1753 of the surrogate's court procedure act, as added by
52 chapter 675 of the laws of 1989, is amended to read as follows:

53 S 1753. Persons to be served

54 1. Upon presentation of the petition, process shall issue to:

55 (a) the parent or parents, adult children, if the petitioner is other
56 than a parent, adult siblings, if the petitioner is other than a parent,

1 and if the [mentally retarded or developmentally disabled] person WHO IS
2 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED is
3 married, to the spouse, if their residences are known;

4 (b) the person having care and custody of the [mentally retarded or
5 developmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR
6 PERSON WHO IS DEVELOPMENTALLY DISABLED, or with whom such person resides
7 if other than the parents or spouse; and

8 (c) the [mentally retarded or developmentally disabled] person WHO IS
9 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED if
10 fourteen years of age or older for whom an application has been made in
11 such person's behalf.

12 2. Upon presentation of the petition, notice of such petition shall be
13 served by certified mail to:

14 (a) the adult siblings if the petitioner is a parent, and adult chil-
15 dren if the petitioner is a parent;

16 (b) the mental hygiene legal service in the judicial department where
17 the facility, as defined in subdivision (a) of section 47.01 of the
18 mental hygiene law, is located if the [mentally retarded or develop-
19 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
20 IS DEVELOPMENTALLY DISABLED resides in such a facility;

21 (c) in all cases, to the director in charge of a facility licensed or
22 operated by an agency of the state of New York, if the [mentally
23 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
24 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED resides in such facility;

25 (d) one other person if designated in writing by the [mentally
26 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
27 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED; and

28 (e) such other persons as the court may deem proper.

29 3. No process or notice shall be necessary to a parent, adult child,
30 adult sibling, or spouse of the [mentally retarded or developmentally
31 disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVEL-
32 OPMENTALLY DISABLED who has been declared by a court as being incompe-
33 tent. In addition, no process or notice shall be necessary to a spouse
34 who is divorced from the [mentally retarded or developmentally disabled]
35 person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY
36 DISABLED, and to a parent, adult child, adult sibling when it shall
37 appear to the satisfaction of the court that such person or persons have
38 abandoned the [mentally retarded or developmentally disabled] person WHO
39 IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED.

40 S 8. Section 1754 of the surrogate's court procedure act, as added by
41 chapter 675 of the laws of 1989, is amended to read as follows:

42 S 1754. Hearing and trial

43 1. Upon a petition for the appointment of a guardian of a [mentally
44 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
45 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED eighteen years of age or
46 older, the court shall conduct a hearing at which such person shall have
47 the right to jury trial. The right to a jury trial shall be deemed
48 waived by failure to make a demand therefor. The court may in its
49 discretion dispense with a hearing for the appointment of a guardian,
50 and may in its discretion appoint a guardian ad litem, or the mental
51 hygiene legal service if such person is a resident of a mental hygiene
52 facility as defined in subdivision (a) of section 47.01 of the mental
53 hygiene law, to recommend whether the appointment of a guardian as
54 proposed in the application is in the best interest of the [mentally
55 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-

1 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED, provided however, that
2 such application has been made by:

- 3 (a) both parents or the survivor; or
- 4 (b) one parent and the consent of the other parent; or
- 5 (c) any interested party and the consent of each parent.

6 2. When it shall appear to the satisfaction of the court that a parent
7 or parents not joining in or consenting to the application have aban-
8 doned the [mentally retarded or developmentally disabled] person WHO IS
9 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED or are
10 not otherwise required to receive notice, the court may dispense with
11 such parent's consent in determining the need to conduct a hearing for a
12 person under the age of eighteen. However, if the consent of both
13 parents or the surviving parent is dispensed with by the court, a hear-
14 ing shall be held on the application.

15 3. If a hearing is conducted, the [mentally retarded or develop-
16 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
17 IS DEVELOPMENTALLY DISABLED shall be present unless it shall appear to
18 the satisfaction of the court on the certification of the certifying
19 physician that the [mentally retarded or developmentally disabled]
20 person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY
21 DISABLED is medically incapable of being present to the extent that
22 attendance is likely to result in physical harm to such [mentally
23 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
24 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED, or under such other
25 circumstances which the court finds would not be in the best interest of
26 the [mentally retarded or developmentally disabled] person WHO IS INTEL-
27 LECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED.

28 4. If either a hearing is dispensed with pursuant to subdivisions one
29 and two of this section or the [mentally retarded or developmentally
30 disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVEL-
31 OPMENTALLY DISABLED is not present at the hearing pursuant to subdivi-
32 sion three of this section, the court may appoint a guardian ad litem if
33 no mental hygiene legal service attorney is authorized to act on behalf
34 of the [mentally retarded or developmentally disabled] person WHO IS
35 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED. The
36 guardian ad litem or mental hygiene legal service attorney, if
37 appointed, shall personally interview the [mentally retarded or develop-
38 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
39 IS DEVELOPMENTALLY DISABLED and shall submit a written report to the
40 court.

41 5. If, upon conclusion of such hearing or jury trial or if none be
42 held upon the application, the court is satisfied that the best inter-
43 ests of the [mentally retarded or developmentally disabled] person WHO
44 IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED
45 will be promoted by the appointment of a guardian of the person or prop-
46 erty, or both, it shall make a decree naming such person or persons to
47 serve as such guardians.

48 S 9. Section 1755 of the surrogate's court procedure act, as added by
49 chapter 675 of the laws of 1989, is amended to read as follows:

50 S 1755. Modification order

51 Any [mentally retarded or developmentally disabled] person WHO IS
52 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED eigh-
53 teen years of age or older, or any person on behalf of any [mentally
54 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
55 BLED OR PERSON WHO IS DEVELOPMENTAL DISABLED for whom a guardian has
56 been appointed, may apply to the court having jurisdiction over the

1 guardianship order requesting modification of such order in order to
2 protect the [mentally retarded or developmentally disabled person's]
3 PERSON WHO IS INTELLECTUALLY DISABLED'S, OR PERSON WHO IS DEVELOP-
4 MENTALLY DISABLED'S financial situation and/or his or her personal
5 interests. The court may, upon receipt of any such request to modify the
6 guardianship order, appoint a guardian ad litem. The court shall so
7 modify the guardianship order if in its judgment the interests of the
8 guardian are adverse to those of the [mentally retarded or develop-
9 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
10 IS DEVELOPMENTALLY DISABLED or if the interests of justice will be best
11 served including, but not limited to, facts showing the necessity for
12 protecting the personal and/or financial interests of the [mentally
13 retarded or developmentally disabled] person WHO IS INTELLECTUALLY DISA-
14 BLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED.

15 S 10. Section 1756 of the surrogate's court procedure act, as added by
16 chapter 675 of the laws of 1989, is amended to read as follows:
17 S 1756. Limited guardian of the property

18 When it shall appear to the satisfaction of the court that such
19 [mentally retarded or developmentally disabled] person WHO IS INTELLEC-
20 TUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED for whom an
21 application for guardianship is made is eighteen years of age or older
22 and is wholly or substantially self-supporting by means of his or her
23 wages or earnings from employment, the court is authorized and empowered
24 to appoint a limited guardian of the property of such [mentally retarded
25 or developmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR
26 PERSON WHO IS DEVELOPMENTALLY DISABLED who shall receive, manage,
27 disburse and account for only such property of said [mentally retarded
28 or developmentally disabled] person WHO IS INTELLECTUALLY DISABLED OR
29 PERSON WHO IS DEVELOPMENTALLY DISABLED as shall be received from other
30 than the wages or earnings of said person.

31 The [mentally retarded or developmentally disabled] person WHO IS
32 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED for
33 whom a limited guardian of the property has been appointed shall have
34 the right to receive and expend any and all wages or other earnings of
35 his or her employment and shall have the power to contract or legally
36 bind himself or herself for such sum of money not exceeding one month's
37 wages or earnings from such employment or three hundred dollars, which-
38 ever is greater, or as otherwise authorized by the court.

39 S 11. Section 1757 of the surrogate's court procedure act, as added by
40 chapter 675 of the laws of 1989, the section heading as amended by chap-
41 ter 290 of the laws of 1992, subdivision 2 as amended by chapter 260 of
42 the laws of 2009, and subdivision 3 as added by chapter 294 of the laws
43 of 2012, is amended to read as follows:

44 S 1757. Standby guardian of a [mentally retarded or developmentally
45 disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
46 IS DEVELOPMENTALLY DISABLED

47 1. Upon application, a standby guardian of the person or property or
48 both of a [mentally retarded or developmentally disabled] person WHO IS
49 INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED may be
50 appointed by the court. The court may also, upon application, appoint an
51 alternate and/or successive alternates to such standby guardian, to act
52 if such standby guardian shall die, or become incapacitated, or shall
53 renounce. Such appointments by the court shall be made in accordance
54 with the provisions of this article.

55 2. Such standby guardian, or alternate in the event of such standby
56 guardian's death, incapacity or renunciation, shall without further

1 proceedings be empowered to assume the duties of his or her office imme-
2 diately upon death, renunciation or adjudication of incompetency of the
3 guardian or standby guardian appointed pursuant to this article, subject
4 only to confirmation of his or her appointment by the court within one
5 hundred eighty days following assumption of his or her duties of such
6 office. Before confirming the appointment of the standby guardian or
7 alternate guardian, the court may conduct a hearing pursuant to section
8 seventeen hundred fifty-four of this article upon petition by anyone on
9 behalf of the [mentally retarded or developmentally disabled] person WHO
10 IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED or
11 the [mentally retarded or developmentally disabled] person WHO IS INTEL-
12 LECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED if such
13 person is eighteen years of age or older, or upon its discretion.

14 3. Failure of a standby or alternate standby guardian to assume the
15 duties of guardian, seek court confirmation or to renounce the guardian-
16 ship within sixty days of written notice by certified mail or personal
17 delivery given by or on behalf of the [mentally retarded or develop-
18 mentally disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO
19 IS DEVELOPMENTALLY DISABLED of a prior guardian's inability to serve and
20 the standby or alternate standby guardian's duty to serve, seek court
21 confirmation or renounce such role shall allow the court to:

22 (a) deem the failure an implied renunciation of guardianship, and
23 (b) authorize, notwithstanding the time period provided for in subdi-
24 vision two of this section to seek court confirmation, any remaining
25 standby or alternate standby guardian to serve in such capacity provided
26 (i) an application for confirmation and appropriate notices pursuant to
27 subdivision one of section seventeen hundred fifty-three of this article
28 are filed, or (ii) an application for modification of the guardianship
29 order pursuant to section seventeen hundred fifty-five of this article
30 is filed.

31 S 12. Section 1758 of the surrogate's court procedure act, as amended
32 by chapter 427 of the laws of 2013, is amended to read as follows:

33 S 1758. Court jurisdiction

34 1. The jurisdiction of the court to hear proceedings pursuant to this
35 article shall be subject to article eighty-three of the mental hygiene
36 law.

37 2. After the appointment of a guardian, standby guardian or alternate
38 guardians, the court shall have and retain general jurisdiction over the
39 [mentally retarded or developmentally disabled] person WHO IS INTELLEC-
40 TUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED for whom such
41 guardian shall have been appointed, to take of its own motion or to
42 entertain and adjudicate such steps and proceedings relating to such
43 guardian, standby, or alternate guardianship as may be deemed necessary
44 or proper for the welfare of such [mentally retarded or developmentally
45 disabled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVEL-
46 OPMENTALLY DISABLED.

47 S 13. Section 1759 of the surrogate's court procedure act, as added by
48 chapter 675 of the laws of 1989, is amended to read as follows:

49 S 1759. Duration of guardianship

50 1. Such guardianship shall not terminate at the age of majority or
51 marriage of such [mentally retarded or developmentally disabled] person
52 WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED
53 but shall continue during the life of such person, or until terminated
54 by the court.

55 2. A person eighteen years or older for whom such a guardian has been
56 previously appointed or anyone, including the guardian, on behalf of a

1 [mentally retarded or developmentally disabled] person WHO IS INTELLEC-
2 Tually DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED for whom a
3 guardian has been appointed may petition the court which made such
4 appointment or the court in his or her county of residence to have the
5 guardian discharged and a successor appointed, or to have the guardian
6 of the property designated as a limited guardian of the property, or to
7 have the guardianship order modified, dissolved or otherwise amended.
8 Upon such a petition for review, the court shall conduct a hearing
9 pursuant to section seventeen hundred fifty-four of this article.

10 3. Upon marriage of such [mentally retarded or developmentally disa-
11 bled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOP-
12 MENTALLY DISABLED for whom such a guardian has been appointed, the court
13 shall, upon request of the [mentally retarded or developmentally disa-
14 bled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOP-
15 MENTALLY DISABLED, spouse, or any other person acting on behalf of the
16 [mentally retarded or developmentally disabled] person WHO IS INTELLEC-
17 Tually DISABLED OR PERSON WHO IS DEVELOPMENTALLY DISABLED, review the
18 need, if any, to modify, dissolve or otherwise amend the guardianship
19 order including, but not limited to, the appointment of the spouse as
20 standby guardian. The court, in its discretion, may conduct such review
21 pursuant to section seventeen hundred fifty-four of this article.

22 S 14. Section 1760 of the surrogate's court procedure act, as added by
23 chapter 675 of the laws of 1989, is amended to read as follows:

24 S 1760. Corporate guardianship

25 No corporation may be appointed guardian of the person under the
26 provisions of this article, except that a non-profit corporation organ-
27 ized and existing under the laws of the state of New York and having the
28 corporate power to act as guardian of [mentally retarded or develop-
29 mentally disabled persons] A PERSON WHO IS INTELLECTUALLY DISABLED OR
30 PERSON WHO IS DEVELOPMENTALLY DISABLED may be appointed as the guardian
31 of the person only of such [mentally retarded or developmentally disa-
32 bled] person WHO IS INTELLECTUALLY DISABLED OR PERSON WHO IS DEVELOP-
33 MENTALLY DISABLED.

34 S 15. Section 1761 of the surrogate's court procedure act, as added by
35 chapter 675 of the laws of 1989, is amended to read as follows:

36 S 1761. Application of other provisions

37 To the extent that the context thereof shall admit, the provisions of
38 article seventeen of this act shall apply to all proceedings under this
39 article with the same force and [affect] EFFECT as if an "infant", as
40 therein referred to, were a ["mentally retarded" or "developmentally
41 disabled person"] "PERSON WHO IS INTELLECTUALLY DISABLED" OR "PERSON WHO
42 IS DEVELOPMENTALLY DISABLED" as herein defined, and a "guardian" as
43 therein referred to were a "guardian of the [mentally retarded] person
44 WHO IS INTELLECTUALLY DISABLED" or a "guardian of a [developmentally
45 disabled] person WHO IS DEVELOPMENTALLY DISABLED" as herein provided
46 for.

47 S 16. This act shall take effect immediately.