STATE OF NEW YORK

6564

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health

AN ACT to amend the general construction law, the banking law, the correction law, the civil practice law and rules, the debtor and creditor law, the domestic relations law, the mental hygiene law, the real property actions and proceedings law, the New York City civil court act, the uniform city court act, the uniform district court act, and the uniform justice court act, in relation to replacing certain instances of the word "mentally ill person" with "person with a mental disability"; and to repeal certain provisions of the general construction law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 28 of the general construction law is REPEALED and a new section 28 is added to read as follows:

§ 28. Mental disability. The term mental disability shall have the same meaning as it is defined pursuant to section 1.03 of the mental hygiene law.

§ 2. Paragraph (a) of subdivision 3 of section 100 of the banking law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

(a) As guardian, receiver, trustee, committee or conservator of the estate of any minor, [~~mentally ill~~] person **with a mental disability**, mentally retarded person, person of unsound mind, alcohol abuser or conservatee or in any other fiduciary capacity;

§ 3. Subdivision 3 of section 100-a of the banking law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

3. Committee of incompetent or conservator of a conservatee. Any court having jurisdiction to appoint a trustee, guardian, receiver, committee of the estate of a [~~mentally ill~~] person **with a mental disability**, mentally retarded person or alcohol abuser or conservator of the estate of a conservatee, or to make any fiduciary appointment, may appoint any trust company to be such trustee, guardian, receiver, committee or conservator, or to act in any other fiduciary capacity.

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

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§ 4. Section 402 of the correction law, as added by chapter 766 of the laws of 1976, subdivision 3 as amended by chapter 789 of the laws of 1985, subdivisions 9 and 12 as amended by chapter 164 of the laws of 1986, subdivisions 10 and 11 as renumbered by chapter 551 of the laws of 1978, and subdivision 13 as added by chapter 7 of the laws of 2007, is amended to read as follows:

§ 402. Commitment of [~~mentally ill~~] inmates **with a mental disability**.

1. Whenever the physician of any correctional facility, any county penitentiary, county jail or workhouse, any reformatory for women, or of any other correctional institution, shall report in writing to the superintendent that any person undergoing a sentence of imprisonment or adjudicated to be a youthful offender or juvenile delinquent confined therein [~~is~~] **has**, in his opinion, [~~mentally ill~~] **a mental disability**, such superintendent shall apply to a judge of the county court or justice of the supreme court in the county to cause an examination to be made of such person by two examining physicians. Such physicians shall be designated by the judge to whom the application is made. Each such physician, if satisfied, after a personal examination, that such inmate [~~is mentally ill~~] **has a mental disability** and in need of care and treatment, shall make a certificate to such effect. Before making such certificate, however, he shall consider alternative forms of care and treatment available during confinement in such correctional facility, penitentiary, jail, reformatory or correctional institution that might be adequate to provide for such inmate's needs without requiring hospitalization. If the examining physician knows that the person he is examining has been under prior treatment, he shall, insofar as possible, consult with the physician or psychologist furnishing such prior treatment prior to making his certificate.

2. In the city of New York, if the physician of a workhouse, city prison, jail, penitentiary or reformatory reports in writing to the superintendent of such institution that a prisoner confined therein, serving a sentence of imprisonment, [~~is~~] in his opinion [~~mentally ill~~] **has a mental disability**, the superintendent of said institution shall either transfer said prisoner to Bellevue or Kings county hospital for observation as to his mental condition by two examining physicians or shall secure two examining physicians to make such examination in his institution. Each such physician, if satisfied after a personal examination and observation that the prisoner [~~is mentally ill~~] **has a mental disability** and in need of care and treatment, shall make a certificate to such effect. Before making such certificate, however, he shall consider alternative forms of care and treatment available during confinement in such correctional facility, penitentiary, jail, reformatory or correctional institution that might be adequate to provide for such inmate's needs without requiring hospitalization. If the examining physician knows that the person he is examining has been under prior treatment, he shall, insofar as possible, consult with the physician or psychologist furnishing such prior treatment prior to making his certificate.

3. Upon such certificates of the examining physicians being so made, it shall be delivered to the superintendent who shall thereupon apply by petition forthwith to a judge of the county court or justice of the supreme court in the county, annexing such certificate to his petition, for an order committing such inmate to a hospital for [~~the mentally ill~~] **persons with mental disabilities**. Upon every such application for such an order of commitment, notice thereof in writing, of at least five days, together with a copy of the petition, shall be served personally

upon the alleged [~~mentally ill~~] person **with a mental disability**, and in addition thereto such notice and a copy of the petition shall be served upon either the wife, the husband, the father or mother or other nearest relative of such alleged [~~mentally ill~~] person **with a mental disability**, if there be any such known relative within the state; and if not, such notice shall be served upon any known friend of such alleged [~~mentally ill~~] person **with a mental disability** within the state. If there be no such known relative or friend within the state, the giving of such notice shall be dispensed with, but in such case the petition for the commitment shall recite the reasons why service of such notice on a relative or friend of the alleged [~~mentally ill~~] person **with a mental disability** was dispensed with and, in such case, the order for commitment shall recite why service of such a notice on a relative or friend of the alleged [~~mentally ill~~] person **with a mental disability** was dispensed with. Copies of the notice, the petition and the certificates of the examining physicians shall also be given the mental hygiene legal service. The mental hygiene legal service shall inform the inmate and, in proper cases, others interested in the inmate's welfare, of the procedures for placement in a hospital and of the inmate's right to have a hearing, to have judicial review with a right to a jury trial, to be represented by counsel and to seek an independent medical opinion. The mental hygiene legal service shall have personal access to such inmate for such purposes.

4. The judge to whom such application for the commitment of the alleged [~~mentally ill~~] person **with a mental disability** is made may, if no demand is made for a hearing on behalf of the alleged [~~mentally ill~~] person **with a mental disability**, proceed forthwith on the return day of such notice to determine the question of mental illness and, if satisfied that the alleged [~~mentally ill~~] person [~~is mentally ill~~] **with a mental disability has a mental disability** and in need of care and treatment, may immediately issue an order for the commitment of such alleged [~~mentally ill~~] person **with a mental disability** to a hospital for a period not to exceed six months from the date of the order.

5. Upon the demand for a hearing by any relative or near friend on behalf of such alleged [~~mentally ill~~] person **with a mental disability**, the judge shall, or he may upon his own motion where there is no demand for a hearing, issue an order directing the hearing of such application before him at a time not more than five days from the date of such order, which shall be served upon the parties interested in the application and upon such other persons as the judge, in his discretion, may name. Upon such day or upon such other day to which the proceedings shall be regularly adjourned, he shall hear the testimony introduced by the parties and shall examine the alleged [~~mentally ill~~] person **with a mental disability**, if deemed advisable in or out of court, and render a decision in writing as to such person's mental illness and need for care and treatment. If such judge cannot hear the application, he may, in his order directing the hearing, name some referee who shall hear the testimony and report the same forthwith, with his opinion thereon, to such judge, who shall, if satisfied with such report, render his decision accordingly. If it be determined that such person [~~is mentally ill~~] **has a mental disability** and in need of care and treatment, the judge shall forthwith issue his order committing him to a hospital for a period not to exceed six months from the date of the order. Such superintendent shall thereupon cause such [~~mentally ill~~] person **with a mental disability** to be delivered to the director of the appropriate hospital as designated by the commissioner of mental hygiene and such [~~mentally ill~~]

person **with a mental disability** shall be received into such hospital and retained there until he is determined to be no longer in need of care and treatment by the director of such hospital or legally discharged or for the period specified in the order of commitment or in any subsequent order authorizing continued retention of such person in said hospital. Such superintendent, before delivering said [~~mentally ill~~] person **with a mental disability**, shall see that he is bodily clean. If such judge shall refuse to issue an order of commitment, he shall certify in writing his reasons for such refusal.

6. When an order of commitment is made, such order and all papers in the proceeding shall be presented to the director of the appropriate hospital at the time when the [~~mentally ill~~] person **with a mental disability** is delivered to such institution and a copy of the order and of each such paper shall be filed with the department of mental hygiene and also in the office of the county clerk of the county wherein the court is located which made the order of commitment. The judge shall order all such papers so filed in the county clerk's office to be sealed and exhibited only to parties to the proceedings, or someone properly interested, upon order of the court.

7. The costs necessarily incurred in determining the question of mental illness, including the fees of the medical examiners, shall be a charge upon the state or the municipality, as the case may be, at whose expense the institution is maintained, which has custody of the alleged [~~mentally ill~~] person **with a mental disability** at the time of the application for his commitment to the hospital under the provisions of this section.

8. During the pendency of such proceeding the judge may forthwith commit such alleged [~~mentally ill~~] person **with a mental disability** to a hospital for [~~the mentally ill~~] **persons with mental disabilities** upon petition and the affidavit of two examining physicians that the superintendent is not able to properly care for such person at the institution where he is confined and that such person is in immediate need of care and treatment. Any person so committed shall be delivered to the director of the appropriate hospital as designated in the rules and regulations of the department of mental hygiene.

9. Except as provided in subdivision two pertaining to prisoners confined in the city of New York, an inmate of a correctional facility or a county jail may be admitted on an emergency basis to the Central New York Psychiatric Center upon the certification by two examining physicians, including physicians employed by the office of mental health and associated with the correctional facility in which such inmate is confined, that the inmate suffers from a mental illness which is likely to result in serious harm to himself or others as defined in subdivision (a) of section 9.39 of the mental hygiene law. Any person so committed shall be delivered by the superintendent within a twenty-four hour period, to the director of the appropriate hospital as designated in the rules and regulations of the office of mental health. Upon delivery of such person to a hospital operated by the office of mental health, a proceeding under this section shall immediately be commenced.

10. If the director of a hospital for [~~the mentally ill~~] **persons with mental disabilities** shall deem that the condition of such [~~mentally ill~~] person **with a mental disability** requires his further retention in a hospital he shall, during the period of retention authorized by the last order of the court, apply to the supreme court or county court in the county where such hospital is located, for an order authorizing continued retention of such [~~mentally ill~~] person **with a mental disability**.

The procedures for obtaining any order pursuant to this subdivision shall be in accordance with the provisions of the mental hygiene law for the retention of involuntary patients.

11. If [~~a mentally ill~~] person **with a mental disability** whose commitment, retention or continued retention has been authorized pursuant to this section, or any relative or friend in his behalf, be dissatisfied with any such order, he may, within thirty days after the making of any such order, obtain a rehearing and a review of the proceedings already had and of such order, upon a petition to a justice of the supreme court other than the judge or justice presiding over the court making such order. Such justice shall cause a jury to be summoned and shall try the question of the mental illness and the need for care and treatment of the person so committed or so authorized to be retained. Any such [~~mentally ill~~] person **with a mental disability** or the person applying on his behalf for such review may waive the trial of the fact by a jury and consent in writing to trial of such fact by the court. No such petition for the hearing and review shall be made by anyone other than the person so committed or authorized to be retained or the father, mother, husband, wife or child of such person, unless the petitioner shall have first obtained the leave of the court upon good cause shown. If the verdict of the jury, or the decision of the court when jury trial has been waived, be that such person [~~is~~] **does** not [~~mentally ill~~] **have a mental disability**, the justice shall order the removal of such person from the hospital and such person shall forthwith be transferred to a state correctional facility, or returned to the superintendent of the institution from which he was received if such institution was not a state correctional facility. Where the verdict of the jury, or the decision of the court where a jury trial has been waived, be that such person [~~is mentally ill~~] **has a mental disability**, the justice shall certify that fact and make an order authorizing continued retention under the original order. Proceedings under the order shall not be stayed pending an appeal therefrom, except upon an order of a justice of the supreme court, and made upon notice and after hearing, with provision made therein for such temporary care and confinement of the alleged [~~mentally ill~~] person **with a mental disability** as may be deemed necessary.

12. The notice provided for herein shall be served by the sheriff of the counties of the state of New York, in which case the charges of such sheriff shall be a disbursement in such proceeding, or by registered mail on all persons required to be served, except that the superintendent of a correctional facility or the director of a hospital for [~~the mentally ill~~] **persons with mental disabilities**, or their designees, shall be authorized to personally serve notice upon an alleged [~~mentally ill~~] person **with a mental disability** or a [~~mentally ill~~] person **with a mental disability**, as provided in this section.

13. Notwithstanding any provision of law to the contrary, when an inmate is being examined in anticipation of his or her conditional release, release to parole supervision, or when his or her sentence to a term of imprisonment expires, the provisions of subdivision one of section four hundred four of this article shall be applicable and such commitment shall be effectuated in accordance with the provisions of article nine or ten of the mental hygiene law, as appropriate.

§ 5. Subparagraph (i) of paragraph b of subdivision 2 of section 508 of the correction law, as added by chapter 676 of the laws of 1974 and as renumbered by chapter 33 of the laws of 2009, is amended to read as follows:

(i) "Director" means (a) the director of a state hospital operated by the department of mental hygiene, or (b) the director of a hospital operated by any local government of the state that has been certified by the commissioner of mental hygiene as having adequate facilities to treat a [~~mentally ill~~] person **with a mental disability** or (c) the director of community mental health services or the designees of any of the foregoing. The appropriate director to whom a jailer or warden shall certify the need for involuntary care and treatment and who shall have the responsibility for such care and treatment shall be determined in accordance with rules jointly adopted by the judicial conference and the commissioner of mental hygiene.

§ 6. Section 4519 of the civil practice law and rules, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

§ 4519. Personal transaction or communication between witness and decedent or [~~mentally ill~~] person **with a mental disability**. Upon the trial of an action or the hearing upon the merits of a special proceeding, a party or a person interested in the event, or a person from, through or under whom such a party or interested person derives his interest or title by assignment or otherwise, shall not be examined as a witness in his own behalf or interest, or in behalf of the party succeeding to his title or interest against the executor, administrator or survivor of a deceased person or the committee of a [~~mentally ill~~] person **with a mental disability**, or a person deriving his title or interest from, through or under a deceased person or [~~mentally ill~~] person **with a mental disability**, by assignment or otherwise, concerning a personal transaction or communication between the witness and the deceased person or [~~mentally ill~~] person **with a mental disability**, except where the executor, administrator, survivor, committee or person so deriving title or interest is examined in his own behalf, or the testimony of the [~~mentally ill~~] person **with a mental disability** or deceased person is given in evidence, concerning the same transaction or communication. A person shall not be deemed interested for the purposes of this section by reason of being a stockholder or officer of any banking corporation which is a party to the action or proceeding, or interested in the event thereof. No party or person interested in the event, who is otherwise competent to testify, shall be disqualified from testifying by the possible imposition of costs against him or the award of costs to him. A party or person interested in the event or a person from, through or under whom such a party or interested person derives his interest or title by assignment or otherwise, shall not be qualified for the purposes of this section, to testify in his own behalf or interest, or in behalf of the party succeeding to his title or interest, to personal transactions or communications with the donee of a power of appointment in an action or proceeding for the probate of a will, which exercises or attempts to exercise a power of appointment granted by the will of a donor of such power, or in an action or proceeding involving the construction of the will of the donee after its admission to probate.

Nothing contained in this section, however, shall render a person incompetent to testify as to the facts of an accident or the results therefrom where the proceeding, hearing, defense or cause of action involves a claim of negligence or contributory negligence in an action wherein one or more parties is the representative of a deceased or incompetent person based upon, or by reason of, the operation or ownership of a motor vehicle being operated upon the highways of the state, or the operation or ownership of aircraft being operated in the air

space over the state, or the operation or ownership of a vessel on any of the lakes, rivers, streams, canals or other waters of this state, but this provision shall not be construed as permitting testimony as to conversations with the deceased.

§ 7. Section 251 of the debtor and creditor law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

§ 251. Authority for committee or conservator to compromise claims. A court exercising jurisdiction over the property of a [~~mentally ill~~] person **with a mental disability**, mentally retarded person, alcohol abuser or conservatee may, upon the application of the committee of the property of such incompetent person or the conservator of the conservatee, and for good and sufficient cause shown, and upon such terms as it may direct, authorize the committee or conservator to sell, compromise or compound any claim or debt belonging to the estate of the incompetent person or conservatee. But such authority shall not prevent any party interested in the trust estate, from showing upon the final accounting of such committee or conservator that such debt or claim was fraudulently or negligently sold, compounded or compromised. The sale of any debt or claim heretofore made in good faith by any such committee or conservator, shall be valid, subject, however, to the approval of the court, and the committee or conservator shall be charged with and liable for, as a part of the trust fund, any sum which might or ought to have been collected by him.

§ 8. Subdivisions (c) and (f) of section 140 of the domestic relations law, as amended by chapter 550 of the laws of 1978, are amended to read as follows:

(c) Party a mentally retarded person or [~~mentally ill~~] person **with a mental disability**. An action to annul a marriage on the ground that one of the parties thereto was a mentally retarded person may be maintained at any time during the life-time of either party by any relative of a mentally retarded person, who has an interest to avoid the marriage. An action to annul a marriage on the ground that one of the parties thereto was a [~~mentally ill~~] person **with a mental disability** may be maintained at any time during the continuance of the mental illness, or, after the death of the [~~mentally ill~~] person **with a mental disability** in that condition, and during the life of the other party to the marriage, by any relative of the [~~mentally ill~~] person **with a mental disability** who has an interest to avoid the marriage. Such an action may also be maintained by the [~~mentally ill~~] person **with a mental disability** at any time after restoration to a sound mind; but in that case, the marriage should not be annulled if it appears that the parties freely cohabited as husband and wife after the [~~mentally ill~~] person **with a mental disability** was restored to a sound mind. Where one of the parties to a marriage was a [~~mentally ill~~] person **with a mental disability** at the time of the marriage, an action may also be maintained by the other party at any time during the continuance of the mental [~~illness~~] **disability**, provided the plaintiff did not know of the mental [~~illness~~] **disability** at the time of the marriage. Where no relative of the mentally retarded person or [~~mentally ill~~] person **with a mental disability** brings an action to annul the marriage and the [~~mentally ill~~] person **with a mental disability** is not restored to sound mind, the court may allow an action for that purpose to be maintained at any time during the life-time of both the parties to the marriage, by any person as the next friend of the mentally retarded person or [~~mentally ill~~] person **with a mental disability**.

(f) Incurable mental [~~illness~~] **disability** for five years. An action to annul a marriage upon the ground that one of the parties has been

incurably mentally [~~ill~~] **disabled** for a period of five years or more may be maintained by or on behalf of either of the parties to such marriage.

§ 9. Section 141 of the domestic relations law, as amended by chapter 550 of the laws of 1978, subdivision 1 as amended and subdivisions 2, 3 and 4 as renumbered by chapter 281 of the laws of 1980, is amended to read as follows:

§ 141. Action to annul marriage on ground of incurable mental [~~illness~~] **disability** for five years; procedure; support. 1. If the marriage be annulled on the ground of the mental [~~illness~~] **disability** of a spouse, the court may include in the judgment an order providing for his or her suitable support, care and maintenance during life from the property or income of the other spouse. The court shall specify the amount of such support, care and maintenance and, before rendering judgment, may exact security for such support, care and maintenance during life and shall order the filing and recording of the instrument creating such security in the office of the clerk of the county in which the action is brought and the filing of two certified copies thereof with the office of mental health at its Albany office. The provisions of the judgment relating to support, care and maintenance of the [~~mentally ill~~] spouse **with a mental disability** during his or her life and to security therefor may be modified or amended at any time by the court upon due notice to the other party and other interested parties as the court may direct and in proper case the value of the suitable support, care and maintenance to such spouse during the balance of his or her life based upon appropriate mortality tables may be adjudged and determined by the court in which the estate of a deceased spouse is being administered and the same may be recovered on behalf of the [~~mentally ill~~] spouse **with a mental disability** from the estate of the deceased spouse. If the [~~mentally ill~~] spouse **with a mental disability** is maintained in an institution or otherwise under the jurisdiction of the office of mental health, the suitable support, care and maintenance as required in the judgment, unless otherwise directed by the court, shall be the charge established by the commissioner of mental health and such charge may be recovered in the manner provided by law. Such amount shall continue to be so required for the support of the [~~mentally ill~~] spouse **with a mental disability** in the event of his or her removal from the custody of the office of mental health unless thereafter otherwise directed by the court. Any security exacted for the suitable support, care and maintenance during life of the [~~mentally ill~~] spouse **with a mental disability** shall be available to that spouse or any person on his or her behalf or to any person or agency providing support, care and maintenance for such spouse in the event that the required payments for such support, care and maintenance have not been made and upon application to the court the other spouse shall be ordered and directed to provide additional or further security.

2. Judgment annulling a marriage on such ground shall not be rendered until, in addition to any other proofs in the case, a thorough examination of the alleged [~~mentally ill~~] party **with a mental disability** shall have been made by three physicians who are recognized authorities on mental disease, to be appointed by the court, all of whom shall have agreed that such party [~~is incurably mentally ill~~] **has an incurable mental disability** and shall have so reported to the court. In such action, the testimony of a physician attached to a state hospital in the department of mental hygiene as to information which he acquired in attending a patient in a professional capacity at such hospital, shall be taken before a referee appointed by a judge of the court in which

such action is pending if the court in its discretion shall determine that the distance such physician must travel to attend the trial would be a great inconvenience to him or the hospital, or that other sufficient reason exists for the appointment of a referee for such purpose; provided, however, that any judge of such court at any time in his discretion, notwithstanding such deposition, may order that a subpoena issue for the attendance and examination of such physician upon the trial of the action. In such case a copy of the order shall be served together with the subpoena.

3. Except as provided in paragraph five **of this section**, when the person alleged to [~~be incurably mentally ill~~] **have an incurable mental disability** is confined in a state hospital for [~~the mentally ill~~] **persons with mental disabilities** of this state, one, and one only, of the physicians so appointed shall be a member of the resident medical staff of such hospital designated by the director thereof. If the alleged incurably [~~mentally ill~~] person **with a mental disability** is not confined in a state hospital for [~~the mentally ill~~] **persons with mental disabilities** of this state, one of the examining physicians named in pursuance of this section shall be the director of a state hospital for [~~the mentally ill~~] **persons with mental disabilities** if the alleged [~~mentally ill~~] person **with a mental disability** is within this state, or the superintendent or comparable officer of a state hospital for [~~the mentally ill~~] **persons with mental disabilities** of the state or country where the alleged [~~mentally ill~~] person **with a mental disability** is present if the alleged [~~mentally ill~~] person **with a mental disability** is outside of this state. The report of such superintendent or comparable officer of a state hospital for [~~the mentally ill~~] **persons with mental disabilities** of such other state or country shall not be received in evidence or considered by the court unless he shall be a well educated physician with at least five years of training and experience in the care and treatment of persons suffering from mental disorders.

4. When the plaintiff has been permitted to bring such action or prosecute the same as a poor person and the alleged incurably [~~mentally ill~~] defendant **with a mental disability** is present within this state, the court shall appoint three physicians who are examining physicians, as defined by section 1.05 of the mental hygiene law, in the employment of the department of mental hygiene. If the alleged [~~mentally ill~~] person **with a mental disability** be outside of this state, the court may, upon proof thereof, appoint three examining physicians who are qualified under the laws or regulations of the foreign state or country where the alleged [~~mentally ill~~] person **with a mental disability** is present and who have qualifications comparable to those specified in section 1.05 of the mental hygiene law of the state, provided, however, that one of such examining physicians shall be the superintendent or comparable officer of a state hospital for [~~the mentally ill~~] **persons with mental disabilities** of such foreign state or country with qualifications as specified in paragraph four. Such examiners shall make the examination of the alleged [~~mentally ill~~] party **with a mental disability** present in this state and file with the court a verified report of their findings and conclusions without costs to such plaintiff when the plaintiff is a poor person. Examination of an alleged [~~mentally ill~~] party **with a mental disability** present outside of this state shall be made at the expense of the plaintiff. Such report shall be received in evidence upon the trial of the action without the personal appearance or testimony of such examiners. If the court shall deem it necessary that the testimony of any such examiners be taken, the court may order the taking of such testimo-

ny by deposition only. The examiners so appointed by the court may be members of the resident medical staff of any state hospital, whether or not the alleged [~~mentally ill~~] person **with a mental disability** is being confined there.

§ 10. Section 142 of the domestic relations law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

§ 142. Dismissal of complaint in action by next friend to annul a marriage. Where the next friend of an infant, mentally retarded person or [~~mentally ill~~] person **with a mental disability** maintains an action annulling a marriage, the court may dismiss the complaint if justice so requires, although, in a like case, the party to the marriage, if plaintiff, would be entitled to judgment.

§ 11. The article heading of article 9 of the mental hygiene law, as renumbered by chapter 978 of the laws of 1977, is amended to read as follows:

HOSPITALIZATION OF [~~THE MENTALLY ILL~~] **PERSONS WITH MENTAL DISABILITIES**

§ 12. Section 9.03 of the mental hygiene law, as amended by chapter 558 of the laws of 1999, is amended to read as follows:

§ 9.03 Admission to a hospital.

Unless otherwise specifically provided for by statute, a [~~mentally ill~~] person **with a mental disability** shall be admitted to a hospital as an in-patient only pursuant to the provisions of this article, except that chemically dependent patients may be admitted to chemical dependence facilities operated by such hospitals under contract or agreement with the office of alcoholism and substance abuse services in accordance with the provisions of article twenty-two of this chapter. The section of the mental hygiene law under which a patient is admitted or under which any change of legal status is subsequently effected shall be stated in the patient's record.

§ 13. Section 9.35 of the mental hygiene law, as renumbered by chapter 978 of the laws of 1977, is amended to read as follows:

§ 9.35 Review of court authorization to retain an involuntary patient.

If a person who has been denied release or whose retention, continued retention, or transfer and continued retention has been authorized pursuant to this article, or any relative or friend in his behalf, be dissatisfied with any such order he may, within thirty days after the making of any such order, obtain a rehearing and a review of the proceedings already had and of such order upon a petition to a justice of the supreme court other than the judge or justice presiding over the court making such order. Such justice shall cause a jury to be summoned and shall try the question of the mental illness and the need for retention of the patient so authorized to be retained. Any such patient or the person applying on his behalf for such review may waive the trial of the fact by a jury and consent in writing to trial of such fact by the court. No such petition for rehearing and review shall be made by anyone other than the person so authorized to be retained or the father, mother, husband, wife, or child of such person, unless the petitioner shall have first obtained the leave of the court upon good cause shown. If the verdict of the jury, or the decision of the court when jury trial has been waived, be that such person [~~is~~] **does** not [~~mentally ill~~] **have a mental disability** or is not in need of retention the justice shall forthwith discharge him, but if the verdict of the jury, or the decision of the court where a jury trial has been waived, be that such person [~~is mentally ill~~] **has a mental disability** and **is** in need of retention the justice shall certify that fact and make an order authorizing continued

retention under the original order. Such order shall be presented, at the time of authorization of continued retention of such mentally ill person, to, and filed with, the director of the hospital in which the [~~mentally ill~~] person **with a mental disability** is authorized to be retained, and a copy thereof shall be forwarded to the department by such director and filed in the office thereof. Proceedings under the order shall not be stayed pending an appeal therefrom, except upon an order of a justice of the supreme court, made upon a notice and after a hearing, with provisions made therein for such temporary care or confinement of the alleged [~~mentally ill~~] person **with a mental disability** as may be deemed necessary.

§ 14. The section heading of section 9.47 of the mental hygiene law, as renumbered by chapter 978 of the laws of 1977, is amended to read as follows:

Duties of local officers in regard to their [~~mentally ill~~] **persons with mental disabilities**.

§ 15. Subdivision (a) of section 9.47 of the mental hygiene law, as designated by chapter 408 of the laws of 1999, is amended to read as follows:

(a) All directors of community services, health officers, and social services officials, as defined by the social services law, are charged with the duty of seeing that all [~~mentally ill~~] persons **with a mental disability** within their respective communities who are in need of care and treatment at a hospital are admitted to a hospital pursuant to the provisions of this article. Social services officials and health officers shall notify the director of community services of any such person coming to their attention. Pending the determination of the condition of an alleged [~~mentally ill~~] person **with a mental disability**, it shall be the duty of the director of community services and, if there be no such director, of the local health officer to provide for the proper care of such person in a suitable facility.

§ 16. The opening paragraph of section 9.47 of the mental hygiene law, as renumbered by chapter 978 of the laws of 1977, is amended to read as follows:

All directors of community services, health officers, and social services officials, as defined by the social services law, are charged with the duty of seeing that all [~~mentally ill~~] persons **with a mental disability** within their respective communities who are in need of care and treatment at a hospital are admitted to a hospital pursuant to the provisions of this article. Social services officials and health officers shall notify the director of community services of any such person coming to their attention. Pending the determination of the condition of an alleged [~~mentally ill~~] person **with a mental disability**, it shall be the duty of the director of community services and, if there be no such director, of the local health officer to provide for the proper care of such person in a suitable facility.

§ 17. Subparagraph (iii) of paragraph 1 of subdivision (b) of section 31.16 of the mental hygiene law, as added by chapter 196 of the laws of 1988, is amended to read as follows:

(iii) Suspend or limit or cause to be suspended or limited the payment of any governmental funds to the facility provided that such action shall not in any way jeopardize the health, safety and welfare of any [~~mentally ill~~] person **with a mental disability** in such program or facility.

§ 18. Subdivision 1 of section 1531 of the real property actions and proceedings law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

1. A final judgment in favor of either party, in an action brought as prescribed in this article, is conclusive, as to the title established in the action, against the other party, known or unknown, including an infant, a mentally retarded person, a [~~mentally ill~~] person **with a mental disability**, or an alcohol abuser, and also against every person claiming from, through or under that party, by title accruing after the filing of the judgment roll, or of the notice of the pendency of the action, as prescribed by law; also against each person not in being or ascertained at the commencement of the action, who by any contingency contained in a devise or grant or otherwise, could afterward become entitled to a beneficial estate or interest in the property involved, provided that every person in being who would have been entitled to such estate or interest if such event had happened immediately before the commencement of the action is a party thereto, or that a guardian ad litem is appointed, as prescribed by section 1513 **of this article**.

§ 19. Subdivisions 1, 3 and 4 of section 1651 of the real property actions and proceedings law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

1. Where an infant, mentally retarded person, [~~mentally ill~~] person **with a mental disability**, alcohol abuser or conservatee holds real property, in joint tenancy or in common, the general guardian of the infant, or the committee of the mentally retarded person, [~~mentally ill~~] person **with a mental disability**, or alcohol abuser, or conservator of the conservatee, may apply to the supreme court or to the county court of the county wherein the real property is situated, for authority to agree to a partition of the real property. Where such application affects the interests of an incompetent person or a conservatee who has been committed to a state institution, and is an inmate thereof, notice of such application must be given to the superintendent, acting superintendent or state officer having special jurisdiction over the institution where the incompetent person or conservatee is confined. Irrespective of the location of any real property held by an infant in joint tenancy or in common, his general guardian may make such application to the surrogate's court which appointed such guardian. A certified copy of the decree entered in the surrogate's court on such application must be recorded in the office of the clerk of each county in which is situated property affected by such decree.

3. If, after due inquiry into the merits of the application, by a reference or otherwise, the court is of the opinion that the interests of the infant, or of the mentally retarded person, [~~mentally ill~~] person **with a mental disability**, alcohol abuser or conservatee, will be promoted by the partition proposed, it may make an order authorizing the petitioner to agree to the partition proposed, and in the name of the infant, or of the mentally retarded person, [~~mentally ill~~] person **with a mental disability**, alcohol abuser or conservatee, to execute releases of his right and interest in and to that part of the property which falls to the shares of the other joint-tenants or tenants in common. The court may, in its discretion, for the furtherance of the interests of said infant, mentally retarded person, [~~mentally ill~~] person **with a mental disability**, alcohol abuser or conservatee, direct partition to be so made as to set off to him or them his or their share in common with any of the other owners, provided the consent in writing thereto of such owners shall be first obtained.

4. Releases so executed have the same validity and effect, as if they were executed by the person in whose behalf they are executed, and as if the infant was of full age, or the mentally retarded person, [~~mentally ill~~] person **with a mental disability**, or alcohol abuser was of sound mind, and competent to manage his affairs, or the conservatee was competent to manage his affairs.

§ 20. Section 1804 of the New York city civil court act, as amended by chapter 650 of the laws of 1991, is amended to read as follows:

§ 1804. Informal and simplified procedure on small claims. The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 21. Section 1804-A of the New York city civil court act, as added by chapter 653 of the laws of 1987, is amended to read as follows:

§ 1804-A. Informal and simplified procedure on commercial claims. The court shall conduct hearings upon commercial claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in commercial claims procedure except upon order of the court on showing of proper circumstances. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 22. Section 1804 of the uniform city court act, as amended by chapter 650 of the laws of 1991, is amended to read as follows:

§ 1804. Informal and simplified procedure on small claims.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules

of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 23. Section 1804-A of the uniform city court act, as added by chapter 653 of the laws of 1987, is amended to read as follows:

§ 1804-A. Informal and simplified procedure on commercial claims.

The court shall conduct hearings upon commercial claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in commercial claims procedure except upon order of the court on showing of proper circumstances. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 24. Section 1804 of the uniform district court act, as amended by chapter 650 of the laws of 1991, is amended to read as follows:

§ 1804. Informal and simplified procedure on small claims.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or

professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 25. Section 1804-A of the uniform district court act, as added by chapter 653 of the laws of 1987, is amended to read as follows:

§ 1804-A. Informal and simplified procedure on commercial claims.

The court shall conduct hearings upon commercial claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in commercial claims procedure except upon order of the court on showing of proper circumstances. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 26. Section 1804 of the uniform justice court act, as amended by chapter 650 of the laws of 1991, is amended to read as follows:

§ 1804. Informal and simplified procedure on small claims.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and personal transactions or communications with a decedent or [~~mentally ill~~] person **with a mental disability**. An itemized bill or invoice, receipted or marked paid, or two itemized estimates for services or repairs, are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. Disclosure shall be unavailable in small claims procedure except upon order of the court on showing of proper circumstances. In every small claims action, where the claim arises out of the conduct of the defendant's business at the hearing on the matter, the judge or arbitrator shall determine the appropriate state or local licensing or certifying authority and any business or professional association of which the defendant is a member. The provisions of this act and the rules of this court, together with the statutes and rules governing supreme court practice, shall apply to claims brought under this article so far as the same can be made applicable and are not in conflict with the provisions of this article; in case of conflict, the provisions of this article shall control.

§ 27. This act shall take effect immediately, provided, however, that the amendments to subdivision (a) of section 9.47 of the mental hygiene law made by section fifteen of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 408 of the laws of 1999, as amended, when upon such date the provisions of section sixteen of this act shall take effect.