

STATE OF NEW YORK

8514

2025-2026 Regular Sessions

IN ASSEMBLY

May 20, 2025

Introduced by M. of A. BERGER -- read once and referred to the Committee on Judiciary

AN ACT to amend the surrogate's court procedure act, in relation to authorizing certified school psychologists to participate in the certification of certain persons as intellectually disabled or developmentally disabled

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

1 Section 1. Subdivisions 1 and 2 of section 1750 of the surrogate's
2 court procedure act, as amended by chapter 198 of the laws of 2016, are
3 amended to read as follows:
4 1. For the purposes of this article, a person who is intellectually
5 disabled is a person who has been certified by one licensed physician
6 and one licensed psychologist, one licensed physician and one certified
7 school psychologist, or by two licensed physicians at least one of whom
8 is familiar with or has professional knowledge in the care and treatment
9 of persons with an intellectual disability, having qualifications to
10 make such certification, as being incapable to manage [~~him or herself~~
11 ~~and/or his or her~~] themselves and/or their affairs by reason of intel-
12 lectual disability and that such condition is permanent in nature or
13 likely to continue indefinitely.
14 2. Every such certification pursuant to subdivision one of this
15 section, made on or after the effective date of this subdivision, shall
16 include a specific determination by such physician and psychologist,
17 such physician and such certified school psychologist, or by such physi-
18 cians, as to whether the person who is intellectually disabled has the
19 capacity to make health care decisions, as defined by subdivision three
20 of section twenty-nine hundred eighty of the public health law, for
21 [~~himself or herself~~] themselves. A determination that the person who is
22 intellectually disabled has the capacity to make health care decisions
23 shall not preclude the appointment of a guardian pursuant to this

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

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1 section to make other decisions on behalf of the person who is intellec-
2 tually disabled. The absence of this determination in the case of guard-
3 ians appointed prior to the effective date of this subdivision shall not
4 preclude such guardians from making health care decisions.

5 § 2. Subdivisions 1 and 2 of section 1750-a of the surrogate's court
6 procedure act, as amended by chapter 198 of the laws of 2016, are
7 amended to read as follows:

8 1. When it shall appear to the satisfaction of the court that a person
9 is a person who is developmentally disabled, the court is authorized to
10 appoint a guardian of the person or of the property or of both if such
11 appointment of a guardian or guardians is in the best interest of the
12 person who is developmentally disabled. Such appointments shall be made
13 pursuant to the provisions of this article, provided however that the
14 provisions of section seventeen hundred fifty of this article shall not
15 apply to the appointment of a guardian or guardians of a person who is
16 developmentally disabled. For the purposes of this article, a person who
17 is developmentally disabled is a person who has been certified by one
18 licensed physician and one licensed psychologist, one licensed physician
19 and one certified school psychologist, or by two licensed physicians at
20 least one of whom is familiar with or has professional knowledge in the
21 care and treatment of persons with developmental disabilities, having
22 qualifications to make such certification, as having an impaired ability
23 to understand and appreciate the nature and consequences of decisions
24 which result in such person being incapable of managing [~~himself or~~
25 ~~herself and/or his or her~~] themselves and/or their affairs by reason of
26 developmental disability and that such condition is permanent in nature
27 or likely to continue indefinitely, and whose disability:

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

30 (b) is attributable to any other condition of a person found to be
31 closely related to intellectual disability because such condition
32 results in similar impairment of general intellectual functioning or
33 adaptive behavior to that of persons with intellectual disabilities; or

34 (c) is attributable to dyslexia resulting from a disability described
35 in [~~subdivision one~~] paragraph (a) or [~~two~~] (b) of this [~~section~~] subdi-
36 vision or from intellectual disability; and

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

40 2. Notwithstanding any provision of law to the contrary, for the
41 purposes of subdivision two of section seventeen hundred fifty and
42 section seventeen hundred fifty-b of this article, [~~a~~] any reference
43 made to a person who is intellectually disabled [~~and his or her guardi-~~
44 ~~an~~] and/or such person's guardian shall [~~also~~] mean or include a person
45 [~~and his or her~~] and/or such person's guardian appointed pursuant to
46 this section; provided that such person has been certified, by the
47 physicians [~~and/or psychologists~~] or by the physician and the psychol-
48 ogist or the certified school psychologist, as specified in subdivision
49 one of this section, as (i) having an intellectual disability, or (ii)
50 having a developmental disability, as defined in section 1.03 of the
51 mental hygiene law, which (A) includes intellectual disability, or (B)
52 results in a similar impairment of general intellectual functioning or
53 adaptive behavior so that such person is incapable of managing [~~himself~~
54 ~~or herself, and/or his or her~~] themselves and/or their affairs by reason
55 of such developmental disability.

56 § 3. This act shall take effect immediately.