STATE OF NEW YORK

7279

2025-2026 Regular Sessions

IN SENATE

April 8, 2025

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed 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:

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

1. For the purposes of this article, a person who is intellectually disabled is a person who has been certified by one licensed physician and one licensed psychologist, **one licensed physician and one certified school psychologist,** or by two licensed physicians at least one of whom is familiar with or has professional knowledge in the care and treatment of persons with an intellectual disability, having qualifications to make such certification, as being incapable to manage [~~him or herself and/or his or her~~] **themselves and/or their** affairs by reason of intellectual disability and that such condition is permanent in nature or likely to continue indefinitely.

2. Every such certification pursuant to subdivision one of this section, made on or after the effective date of this subdivision, shall include a specific determination by such physician and psychologist, **such physician and such certified school psychologist,** or by such physicians, as to whether the person who is intellectually disabled has the capacity to make health care decisions, as defined by subdivision three of section twenty-nine hundred eighty of the public health law, for [~~himself or herself~~] **themself**. A determination that the person who is intellectually disabled has the capacity to make health care decisions 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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section to make other decisions on behalf of the person who is intellectually disabled. The absence of this determination in the case of guardians appointed prior to the effective date of this subdivision shall not preclude such guardians from making health care decisions.

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

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

(a) is attributable to cerebral palsy, epilepsy, neurological impairment, autism or traumatic head injury;

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

(c) is attributable to dyslexia resulting from a disability described in [~~subdivision one~~] **paragraph (a)** or [~~two~~] **(b)** of this [~~section~~] **subdivision** or from 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~~] **any reference made to a** person who is intellectually disabled [~~and his or her guardian"~~] **and/or such person's guardian** shall [~~also~~] mean **or include** a person [~~and his or her~~] **and/or such person's** guardian appointed pursuant to this section; provided that such person has been certified**,** by the physicians [~~and/or psychologists~~] **or by the physician and the psychologist or the certified school psychologist**, **as** specified in subdivision one of this section, as (i) having an intellectual disability, or (ii) having a developmental disability, as defined in section 1.03 of the mental hygiene law, which (A) includes 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~~] **themself and/or their** affairs by reason of such developmental disability.

§ 3. This act shall take effect immediately.