

**A02125 Summary:**

BILL NO A02125A

SAME AS SAME AS

SPONSOR Abinanti

COSPNSR Fahy, Gottfried, Jaffee, Markey, Mayer, Paulin, Schimminger, Ra

MLTSPNSR Buchwald, Titus

Amd SCPA, generally

Relates to guardianship of people who are intellectually disabled and people who are developmentally disabled.

**A02125 Actions:**

BILL NO A02125A

01/15/2015 referred to judiciary

01/06/2016 referred to judiciary

03/22/2016 reported

03/24/2016 advanced to third reading cal.457

03/28/2016 passed assembly

03/28/2016 delivered to senate

03/28/2016 REFERRED TO JUDICIARY

06/07/2016 recalled from senate

06/07/2016 RETURNED TO ASSEMBLY

06/07/2016 vote reconsidered - restored to third reading

06/07/2016 amended on third reading 2125a

06/14/2016 substituted by s7132a

S07132 AMEND=A ORTT

03/30/2016 REFERRED TO JUDICIARY

05/10/2016 1ST REPORT CAL.793

05/11/2016 2ND REPORT CAL.

05/16/2016 ADVANCED TO THIRD READING

06/06/2016 AMENDED ON THIRD READING 7132A

06/09/2016 PASSED SENATE

06/09/2016 DELIVERED TO ASSEMBLY

06/09/2016 referred to judiciary

06/14/2016 substituted for a2125a

06/14/2016 ordered to third reading cal.457

06/14/2016 passed assembly

06/14/2016 returned to senate

07/13/2016 DELIVERED TO GOVERNOR

07/21/2016 SIGNED CHAP.198

**A02125 Text:**

## STATE OF NEW YORK

2125--A

Cal. No. 457

2015-2016 Regular Sessions

### IN ASSEMBLY

January 15, 2015

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 § 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 § 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.

LBD04196-03-6

A. 2125--A

2

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 § 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 § 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 indefinite-  
 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

A. 2125--A

3

1 (c) is attributable to dyslexia resulting from a disability described  
 2 in subdivision one or two of this section or from ~~mental retardation~~  
 3 intellectual disability; and

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

7 2. Notwithstanding any provision of law to the contrary, for the  
 8 purposes of subdivision two of section seventeen hundred fifty and  
 9 section seventeen hundred fifty-b of this article, "a person ~~with~~  
 10 ~~mental retardation~~ who is intellectually disabled and his or her guard-  
 11 ian" shall also mean a person and his or her guardian appointed pursuant  
 12 to this section; provided that such person has been certified by the  
 13 physicians and/or psychologists, specified in subdivision one of this  
 14 section, as (i) having ~~mental retardation~~ an intellectual disability,  
 15 or (ii) having a developmental disability, as defined in section 1.03 of  
 16 the mental hygiene law, which (A) includes ~~mental retardation~~ intel-  
 17 lectual disability, or (B) results in a similar impairment of general  
 18 intellectual functioning or adaptive behavior so that such person is  
 19 incapable of managing himself or herself, and/or his or her affairs by  
 20 reason of such developmental disability.

21 § 4. Section 1750-b of the surrogate's court procedure act, as added  
 22 by chapter 500 of the laws of 2002, subdivision 1 as amended by chapter  
 23 105 of the laws of 2007, the opening paragraph, paragraphs (a) and (b)  
 24 of subdivision 1, and the opening paragraph of subdivision 4 as amended  
 25 by chapter 8 of the laws of 2010, subparagraph (i) of paragraph (a) and  
 26 clause A of subparagraph (i) of paragraph (e) of subdivision 4 as  
 27 amended by section 18 of part J of chapter 56 of the laws of 2012, and  
 28 paragraph (d) of subdivision 5 as added by chapter 262 of the laws of  
 29 2008, is amended to read as follows:

30 § 1750-b. Health care decisions for ~~mentally-retarded~~ persons who are  
 31 intellectually disabled

32 1. Scope of authority. Unless specifically prohibited by the court  
 33 after consideration of the determination, if any, regarding a ~~mentally~~  
 34 ~~retarded-person's~~ person who is intellectually disabled's capacity to  
 35 make health care decisions, which is required by section seventeen  
 36 hundred fifty of this article, the guardian of such person appointed  
 37 pursuant to section seventeen hundred fifty of this article shall have  
 38 the authority to make any and all health care decisions, as defined by  
 39 subdivision six of section twenty-nine hundred eighty of the public  
 40 health law, on behalf of the ~~mentally-retarded~~ person who is intellec-  
 41 tually disabled that such person could make if such person had capacity.  
 42 Such decisions may include decisions to withhold or withdraw life-sus-  
 43 taining treatment. For purposes of this section, "life-sustaining treat-  
 44 ment" means medical treatment, including cardiopulmonary resuscitation  
 45 and nutrition and hydration provided by means of medical treatment,  
 46 which is sustaining life functions and without which, according to  
 47 reasonable medical judgment, the patient will die within a relatively  
 48 short time period. Cardiopulmonary resuscitation is presumed to be life-  
 49 sustaining treatment without the necessity of a medical judgment by an  
 50 attending physician. The provisions of this article are not intended to  
 51 permit or promote suicide, assisted suicide or euthanasia; accordingly,  
 52 nothing in this section shall be construed to permit a guardian to  
 53 consent to any act or omission to which the ~~mentally-retarded~~ person  
 54 who is intellectually disabled could not consent if such person had  
 55 capacity.

A. 2125--A

4

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  
 A. 2125--A 5

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

26 2015 and 2016 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-  
 A. 2125--A 6

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 eight-  
 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 twenty-  
 38 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  
 A. 2125--A 7

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  
 A. 2125--A 8

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

6 facility or program, the commissioner or ~~[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-  
 A. 2125--A 9

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 § 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 § 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  
A. 2125--A 10

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 § 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 § 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 § 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 § 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,  
A. 2125--A 11

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 § 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 § 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-

A. 2125--A 12

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

(c) any interested party and the consent of each parent.

2. When it shall appear to the satisfaction of the court that a parent or parents not joining in or consenting to the application have abandoned the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled or are not otherwise required to receive notice, the court may dispense with such parent's consent in determining the need to conduct a hearing for a person under the age of eighteen. However, if the consent of both parents or the surviving parent is dispensed with by the court, a hearing shall be held on the application.

3. If a hearing is conducted, the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled shall be present unless it shall appear to the satisfaction of the court on the certification of the certifying physician that the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled is medically incapable of being present to the extent that attendance is likely to result in physical harm to such ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled, or under such other circumstances which the court finds would not be in the best interest of the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled.

4. If either a hearing is dispensed with pursuant to subdivisions one and two of this section or the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled is not present at the hearing pursuant to subdivision three of this section, the court may appoint a guardian ad litem if no mental hygiene legal service attorney is authorized to act on behalf of the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled. The guardian ad litem or mental hygiene legal service attorney, if appointed, shall personally interview the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled and shall submit a written report to the court.

5. If, upon conclusion of such hearing or jury trial or if none be held upon the application, the court is satisfied that the best interests of the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled will be promoted by the appointment of a guardian of the person or property, or both, it shall make a decree naming such person or persons to serve as such guardians.

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

§ 1755. Modification order

Any ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled eighteen years of age or older, or any person on behalf of any ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled for whom a guardian has been appointed, may apply to the court having jurisdiction over the

guardianship order requesting modification of such order in order to protect the ~~mentally retarded or developmentally disabled person's~~ person who is intellectually disabled's, or person who is developmentally disabled's financial situation and/or his or her personal interests. The court may, upon receipt of any such request to modify the guardianship order, appoint a guardian ad litem. The court shall so modify the guardianship order if in its judgment the interests of the guardian are adverse to those of the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled or if the interests of justice will be best served including, but not limited to, facts showing the necessity for protecting the personal and/or financial interests of the ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled.

§ 10. Section 1756 of the surrogate's court procedure act, as added by chapter 675 of the laws of 1989, is amended to read as follows:

§ 1756. Limited guardian of the property

When it shall appear to the satisfaction of the court that such ~~mentally retarded or developmentally disabled~~ person who is intellectually disabled or person who is developmentally disabled for whom an application for guardianship is made is eighteen years of age or older 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 § 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 § 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  
 A. 2125--A 14

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 subdivi-  
 24 sion 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 § 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 § 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

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 § 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 § 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  
 A. 2125--A 15

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 § 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 § 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 § 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 § 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 § 16. This act shall take effect immediately.