

Surrogate's Court Procedure Act § 1750-a

§ 1750-a. Guardianship of developmentally disabled persons

1. When it shall appear to the satisfaction of the court that a person is a developmentally disabled person, 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 developmentally disabled person. 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 developmentally disabled person. For the purposes of this article, a developmentally disabled person is a person who has been certified by one licensed physician and one licensed 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 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 mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons; or
 - (c) is attributable to dyslexia resulting from a disability described in subdivision one or two of this section or from mental retardation; and
 - (d) originates before such person attains age twenty-two, provided, however, that no such age of origination shall apply for the purposes of this article to a person with traumatic head injury.
2. Notwithstanding any provision of law to the contrary, for the purposes of subdivision two of section seventeen hundred fifty and section seventeen hundred fifty-b of this article, "a person with mental retardation and his or her guardian" shall also mean a person and his or her guardian appointed pursuant to this section; provided that such person has been certified by the physicians and/or psychologists, specified in subdivision one of this section, as (i) having mental retardation, or (ii) having a developmental disability, as defined in section 1.03 of the mental hygiene law, which (A) includes mental retardation, or (B) results in a similar impairment of general intellectual functioning or adaptive behavior so that such person is incapable of managing himself or herself, and/or his or her affairs by reason of such developmental disability.