

## Memorandum Urging Approval

NYSBA #34-GOV

June 28, 2016

S. 7132  
A. 2125

By: Senator Ortt  
By: M. of A. Abinanti  
Senate Committee: Judiciary  
Assembly Committee: Judiciary  
Effective Date: Immediately

**AN ACT** to amend the surrogate's court procedure act, in relation to people with intellectual disabilities.

The New York State Bar Association supports this bill and **URGES** its **APPROVAL**. The bill seeks to replace the outdated term “mental retardation” with the current terminology of “intellectual disability” and to otherwise correct the name of the New York State Office for People with Developmental Disabilities throughout the Surrogate's Court Procedure Act Article 17-A.

The bill is consistent with changes to federal law<sup>1</sup>, as well as changes within the medical community and common usage. The issue was highlighted in a recent decision in Kings County Surrogate's Court.<sup>2</sup> The bill is also consistent with recent changes to the New York State Mental Hygiene Law. Importantly, the language of the bill appropriately emphasizes the person first, i.e., a “person who is intellectually disabled” and a “person who is developmentally disabled”.

For all of the foregoing reasons, the New York State Bar Association supports this bill and respectfully **URGES** the Governor to **APPROVE** the measure, which was developed by its Trusts and Estates Law Section.

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<sup>1</sup> See Public Law 111-256.

<sup>2</sup> See *Matter of D.D.*, 2015 NY Slip Op 25364 (Oct. 28, 2015) (Lopez-Torres, J.) wherein the Court used the term “intellectual disability” instead of “mental retardation” when discussing an Article 17-A application and noted the change in terminology has been approved and used in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, one of the standard texts used by psychiatrists and mental health professionals in classifying mental disorders.