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CERTIFIED COPY OF RESOLUTION ADOPTED BY THE TIOGA COUNTY LEGISLATURE  
ADOPTED 6/11/2024

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REFERRED TO: LEGISLATIVE WORKSESSION

RESOLUTION NO. 195-24 RESOLUTION CALLING ON MEMBERS OF THE  
NEW YORK STATE SENATE AND ASSEMBLY TO  
REFORM THE STATE'S COMPETENCY  
RESTORATION PROCESS AND SUPPORT THE  
PASSAGE OF S.1874 (BROUK)/A.5063 (GUNTHER)  
IN THE 2024 LEGISLATIVE SESSION

WHEREAS: Section §730 of the Criminal Procedure Law (CPL) provides that defendants charged with felonies who are mentally ill and/or developmentally disabled and who are determined by a court to be unable to understand the charges against them or participate in their own defense (often called "730's") are sent to New York State-operated forensic hospitals solely for the purpose of trying to restore them to competency so they can stand trial; and

WHEREAS: The origin of CPL §730 dates back over five decades to the laws of 1970, and parts of it have been declared to be unconstitutional; and

WHEREAS: Competency restoration provides necessary medications but primarily provides services such as courtroom training to familiarize the defendant with courtroom procedures so they can participate in their trial; and

WHEREAS: Many judges incorrectly believe that by ordering a 730 commitment, they are helping the mentally ill or developmentally disabled person to get treatment; and

WHEREAS: In the cases for which restoration is appropriate, most defendants can generally be restored within 90-150 days; and

WHEREAS: Unfortunately, there are numerous situations where defendants have been kept in restoration for periods of three, six, or even 10 years; and

WHEREAS: These lengthy confinements have been declared to be unconstitutional by the U.S. Supreme Court as shown in the case of Jackson v. Indiana (1972), which provides that states may not indefinitely confine criminal defendants solely on the basis of incompetence to stand trial; and

RESOLVED: That CPL §730.20 shall be reformed to establish specific criteria for 730 examiners, streamlining the process to establish equity across the system, and that the psychiatrist or psychologist conducting the psychiatric exam tell the court whether or not there is a reasonable chance of restoration, thereby granting the court an opportunity to allow diversion to mental health treatment; and be it further

RESOLVED: That OMH will consistently follow their agreements with the county mental health commissioners/directors of community services to provide specific and timely information on the clients/defendants ordered to restoration; and be it further

RESOLVED: That CPL §730.20 shall adjust the fee for reimbursing psychiatric examiners; and be it further

RESOLVED: That CPL §730.50 shall limit the time defendants are ordered for restoration services; and be it further

RESOLVED: That MHL §9.33 shall allow individuals to be transferred to Article 9 facilities if it is determined that a defendant is unable to be restored; and be it further

RESOLVED: That MHL §43.03 shall require Local Government Units (counties) to reinvest savings from these reforms into community mental health services; and be it further

RESOLVED: That the Tioga County Legislature calls on the State to support all provisions outlined in S.1874 (Brouk)/A.5063 (Gunther); and be it further

RESOLVED: That the Clerk of the Legislature shall forward certified copies of this resolution to Governor Kathy Hochul, Senator Thomas F. O'Mara, Assemblyman Christopher S. Friend, Senator Samara Brouk, Chair of Committee on Mental Health, Assemblywoman Aileen M. Gunther, New York State Association of Counties (NYSAC) and all others deemed necessary and proper.