

1 **2025 NYSAC Legislative Conference**
2 **Standing Committee on Public Health/Mental Health**
3 **Resolution #1**

4
5 **Resolution Calling for the SFY 2025-26 Enacted Budget to Include Reforms**
6 **for Determining the Capacity of a Defendant to Stand Trial**

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

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

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18 **WHEREAS**, competency restoration provides necessary medications but primarily
19 provides services such as courtroom training to familiarize the defendant with
20 courtroom procedures so they can participate in their trial; and

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

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25 **WHEREAS**, in the cases for which restoration is appropriate, most defendants can
26 generally be restored within 90-120 days; and

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28 **WHEREAS**, unfortunately, there are also numerous situations where defendants have
29 been kept in restoration for periods of three, six, or even 10 years; and

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

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36 **WHEREAS**, the Office of Mental Health (OMH) has diverged from agreements with
37 the county mental health commissioners/directors of community services to provide
38 specific and timely information on the clients/defendants ordered to restoration; and

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40 **WHEREAS**, the SFY 2020-21 budget required counties to pay 100 percent of the OMH
41 State Operations costs for individuals receiving court-ordered mental health
42 competency restoration services at State-operated Forensic Psychiatric Centers; and

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44 **WHEREAS**, as the full payors of these services, the commissioners must have access to
45 all client information deemed necessary to effectively manage their responsibilities
46 under the Mental Hygiene Law; and

1 **WHEREAS**, the county cost of these services is over \$1,300 per day, and current
2 statute does not require a timeline be established for when a defendant is unable to be
3 restored; and

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5 **WHEREAS**, counties, through the county tax levy, already bear an overwhelming
6 portion of the financial burden for supporting individuals suffering from serious mental
7 illness, and the requirement to assume 100 percent of 730.20 competency restoration
8 costs has taken away hundreds of millions of dollars from critical behavioral health
9 programming in the community; and

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11 **WHEREAS**, an analysis of competency restoration costs across New York counties
12 shows staggering increases between 2019 and 2024, with increases of over 6,000
13 percent in some smaller counties, such as Warren County (10,926 percent) and
14 Livingston County (6,549 percent); and

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16 **WHEREAS**, mid-sized counties have seen increases ranging from 121 percent to 695
17 percent, with St. Lawrence County costs rising by 695 percent and Ontario County by
18 271 percent; and

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20 **WHEREAS**, large counties are experiencing increases as high as 400 percent,
21 including Orange County at 409 percent and Dutchess County at 405 percent, with
22 some now facing annual costs exceeding \$5.3 million; and

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24 **WHEREAS**, given the advances in behavioral health and the modernization of the
25 criminal justice system, it is time for the State to reform the statutory authority
26 governing competency restoration to ensure that only individuals who are appropriate
27 subjects of 730 court orders are sent for restoration in accordance with the current state
28 of these two systems; and

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30 **WHEREAS**, the Legislature has introduced S.1004 (Brouk), which seeks to address the
31 reforms necessary to update the archaic requirements of current statute, many which
32 have been deemed unconstitutional and includes a critical requirement to reinvest any
33 savings derived by the counties back into the local mental hygiene systems of care.

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35 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of
36 Counties (NYSAC) calls upon the Governor and Legislature to enact S.1004 (Brouk) to
37 modify CPL § 730.10 to make clear that restoration is not mental health treatment, so
38 the judiciary is better informed that a 730 order does not treat underlying mental health
39 conditions; and

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41 **BE IT FURTHER RESOLVED**, CPL § 730.20 be reformed to establish specific
42 criteria for 730 examiners, streamlining the process to establish equity across the
43 system, and that the psychiatrist or psychologist conducting the psychiatric exam tell
44 the court whether or not there is a reasonable chance of restoration, thereby granting
45 the court an opportunity to allow diversion to mental health treatment; and

1 **BE IT FUTHER RESOLVED**, OMH consistently follow their agreements with the
2 county mental health commissioners/directors of community services to provide
3 specific and timely information on the clients/defendants ordered to restoration; and
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5 **BE IT FURTHER RESOLVED**, CPL § 730.20 adjust the fee for
6 reimbursing psychiatric examiners; and
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8 **BE IT FURTHER RESOLVED**, CPL § 730.50 limit the time defendants are ordered
9 for restoration services; and
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11 **BE IT FURTHER RESOLVED**, MHL § 9.33 allow individuals to be transferred to
12 Article 9 facilities if it is determined that a defendant is unable to be restored; and
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14 **BE IT FURTHER RESOLVED**, MHL § 43.03 require Local Governmental
15 Units (counties) to reinvest savings from these reforms into community mental health
16 services; and
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18 **BE IT FURTHER RESOLVED**, the New York State Association of Counties (NYSAC)
19 calls on the State to support all provisions outlined in S.1004 (Brouk); and
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21 **BE IT FURTHER RESOLVED**, copies of this resolution be sent to the counties of
22 New York encouraging member counties to enact similar resolutions; and
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24 **BE IT FURTHER RESOLVED**, NYSAC shall forward copies of this resolution
25 to Governor Kathy Hochul and the New York State Legislature encouraging them
26 to include these reforms in the SFY 2026 Enacted Budget.