



NYS Association of Counties

2021 Legislative Priorities

POLICY BRIEF

Codes, Crime Victims and Corrections

December 30, 2020

Policy Snapshot

- Allow county-wide EMS services.
- Grant counties the flexibility to control mental health competency restoration costs (Reform Part 730 of the Mental Hygiene Law.)
- Allow and incentivize shared county jails.
- Grant counties the flexibility in establishing minimum jail staffing ratios.

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Background

New York State has implemented substantial justice reform initiatives over the past five years, including the “Say Our Name Agenda,” Raising the Age of Criminal Responsibility, and Bail, Discovery and Speedy Trial reforms. There are also several pending measures to provide additional reforms, some of which will impact on county government operations.

Counties operate and maintain 9-1-1 functions; county jails; road patrol and public safety functions through their sheriff departments and/or county police forces. Counties are also responsible for implementing the bail, discovery and Raise the Age reforms. The 2017 “Raise the Age” reforms created a new Adolescent Offender (AO) classification, established a new Youth Part in Superior Court, and required misdemeanor cases to be heard in Family Court. This law went into effect for 16-year-old offenders in 2018 and in 2019 for 17-year-old offenders.

Beginning on January 1, 2020, bail has only been available for “qualifying offenses.” In place of bail, counties have implemented pre-trial services in-house or on contract. These pretrial service agencies must be certified by OCA and court appearance reminders are mandated. ***There was no funding for counties to implement these reforms.*** q1

In terms of county 9-1-1 systems, the state/county funding mechanism used maintain and operate these critical systems is out of date and does not correspond to recent communication technology changes and requirements of the Federal NextGen 9-1-1 program. Too much funding is diverted by the State for non 9-1-1 purposes.

Counties incur substantial costs to construct and maintain jails in accordance with standards set by the New York State Commission of Correction (SCOC), which determines required staffing

levels. In addition, counties must hold state parole violators in county jails, even though the state eliminated reimbursements in the 209-2010 State Budget. Counties pay for medical, hospital and dental expenses of parole violators incarcerated in county jails. The sheriff's department also incurs expenses for transporting parole violators and court appearances.

County-Wide EMS Districts

Counties with rural populations have been exploring the creation of county-wide emergency medical services (EMS) districts. Currently, only a town or village board may create such a district and may only establish a joint district to provide EMS services when the territory is contiguous. This restriction creates difficulties for districts in communities with unique geography such as waterways or mountains, as transportation networks can be limited and response times unavoidably delayed. In addition, it is increasingly difficult for localities to recruit and retain volunteer crews in rural communities.

Recommendation

Amend state law to allow county-wide EMS services at a local option (not a mandate) to be implemented in areas where it will increase public health and safety and help local taxpayers.

Policy Recommendations:

- Reform Part 730 of the Mental Hygiene Law to require the NYS judiciary to recall on a quarterly basis individuals who have been evaluated and are in state custody and care so that the mental health condition can be evaluated and progress reports provided to counties of record.
- Allow and incentivize shared county jails. Change NYS statute, Commission on Corrections restraints, and use shared services dollars to enhance net savings of counties sharing a jail. ***Raising the Age of Criminal Responsibility and bail reforms were supposed to result in meaningful, sustained savings for counties. However, without the ability to reduce correctional facility staffing to meet the needs of the facility based on census, eliminates the possibility of meaningful local savings.***
- Enact A.10641 (Barrett) (2020), amending Section 45-6, paragraph 6 of the Corrections Law or make regulatory changes in the NYCRR to grant counties the flexibility in establishing minimum staffing ratios.
- Eliminate the requirement that there be a sentence of a conditional discharge or probation for Leandra's Law cases when a defendant has been sentenced to a definite jail term or a term of imprisonment.
- Eliminate the mandate that pre-sentence investigations must be conducted when a sentence of up 364 days in jail has been negotiated.
- Enact S.6802-A (Felder) / A.8817 (Gunther), raising the volunteer firefighters and EMS workers income tax credit.
- Enact S.1913 (Gaughran) /A.6712 (Stern), authorizing local governments the flexibility to grant property tax credits for volunteer firefighters and EMS workers.
- Enact S.7810 (Kennedy) / A.8251 (Lupardo), reforming STOP DWI fee collection processes.

- Grant counties the flexibility to create and authorize county-wide emergency medical services (EMS) taxing districts to create EMS districts to address underserved or unmet community need.
- Enact S.1368 (Ritchie) / A.3661 (Gunther), reimbursing counties for detaining parole violators.
- Provide state assistance to counties to aid in compliance with Executive Order 203 – Policing Reform & Collaborative
- Oppose S.1623 (Sepulveda) / A.2500 (Aubry), the HALT Act, without state funding to expand rehabilitative units and fund treatment costs.
- Authorize court consolidation.
- Oppose S.2161-B (Bailey) / A.833-B (Rosenthal), MAT expansion legislation due to the undo fiscal burden the legislation places upon county government.
- Grant counties the flexibility to create and authorize county-wide EMS taxing districts to create EMS districts to address underserved or unmet community needs.

Raise the Age Specific Reforms:

- Continue the commitment to fully fund 100 percent of all new costs associated with changing the age of criminal responsibility for counties and New York City to avoid the imposition of a new unfunded mandate on local taxpayers.
- The state should de-link adherence to the state property tax cap as an eligibility requirement for full state reimbursement of costs incurred to implement the new state mandate.
- Additionally, to ensure that diversion first rather than detention first can succeed, the state must invest in a myriad of prevention services, including:
 - Ensure that the Dormitory Authority of the State of New York (DASNY) continues to be a viable and efficient vehicle for bonding SSD expansion projects;
 - Raise the minimum age a youth can be charged as a Juvenile Delinquent from seven to twelve years old;
 - Mandate that the state’s evidence-based criteria should account for existing local best practice programs;
 - Allow Probation the ability to make an application for a temporary order of protection as a part of the adjustment process;
 - Authorize law enforcement agencies to issue appearance tickets, instead of physical arrest, when Adolescent Offenders and Juvenile Offenders are charged with most Class D felonies;
 - Allow law enforcement agencies to deliver Adolescent Offenders, Juvenile Offenders, and Juvenile Delinquents to detention facilities after business hours without a securing order until the next business day or until court is in session;
 - Eliminate the requirement of a sentence of a conditional discharge or probation for Leandra’s Law cases when a defendant has been sentenced to a definite jail term or a term of imprisonment;
 - Eliminate the mandate that pre-sentence investigations must be conducted when a sentence of up to 364 days in jail has been negotiated;
 - Remove fiscal caps for foster care and youth detention;
 - Restore the 65 percent state match for child welfare;

- Maintain state support for Persons In Need of Supervision (PINS);
- Restore prior state funding cuts for Supervision and Treatment Services for Juveniles Program (STSJP) and provide necessary increases in state funding support beyond the previous level;
- Provide a clear service needs plan and capital investment strategy to ensure there is sufficient provider capacity and detention space in all areas of the state;
- Bolster outreach and require engagement of the K-12 school system as a partner in these systemic reforms;
- Ensure judges receive appropriate training on alternatives that may be available in communities; and
- Develop a waiver process in the early transition years in regard to finding appropriate placement options for youth and families, especially in regard to the new specialized secure detention facilities for adolescent offenders (AOs).
- The state should consider using current state facilities to house AO until a sufficient supply of county units can be built and fully staffed as required under state regulations.