

1 **2023 NYSAC Legislative Conference**
2 **Standing Committee on Public Safety**
3 **Resolution #1**

4
5 **Resolution Calling on Governor Kathy Hochul to Restore the State-County**
6 **Share of the Cost of 730.20 Competency Restoration Services and Make**
7 **Reforms to the Program by Enacting S.7461-A (Brouk) / A.8402-A**
8 **(Gunther)**
9

10 **WHEREAS**, the SFY 2020-21 budget required counties to pay 100 percent of the Office
11 of Mental Health (OMH) State Operations costs for individuals receiving court-ordered
12 mental health competency restoration services at State-operated Forensic Psychiatric
13 Centers; and

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15 **WHEREAS**, historically, counties paid 50 percent of the per diem rate set by OMH,
16 which has now reached an unsustainable cost burden on county budgets; and

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18 **WHEREAS**, the derivation of Section 43.03 of Mental Hygiene Law (MHL), dates back
19 to 1907 and allows the State to offset the costs of operating its Forensic Psychiatric
20 Centers at county expense; and

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22 **WHEREAS**, this statute no longer reflects the current mental hygiene system or the
23 New York State Unified Court System and needs to be updated to be consistent with
24 other statutes that makes the State responsible for its costs for the treatment of mentally
25 ill individuals in State-operated Forensic Psychiatric Centers; and

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27 **WHEREAS**, OMH has also taken the position that the county mental health
28 commissioners are to receive limited information on the clients ordered to restoration;
29 and

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31 **WHEREAS**, as the full payors of these services, the commissioners must have timely
32 access to any pertinent client information as deemed necessary to effectively manage
33 their responsibilities under the mental hygiene law.

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35 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of
36 Counties (NYSAC) calls on the State to restore the historic 50/50 state/county share of
37 mental health competency restoration services and enact permanent reforms by
38 enacting S.7461-A (Brouk) / A.8402-A (Gunther); and

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40 **BE IT FURTHER RESOLVED**, counties must be allowed to participate in the
41 restoration and planning process for an individual's restorative care during the duration
42 of their stay at an OMH facility; and

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44 **BE IT FURTHER RESOLVED**, there must be a statutory timeframe and
45 determination as to when an individual is unable to be restored through forensic
46 services (CPL § 730.50); and

1 **BE IT FURTHER RESOLVED**, that the Criminal Procedure Law (CPL) § 730.10 be
2 modified to make clear that restoration is not mental health treatment so the judiciary is
3 better informed that a 730 order does not treat underlying mental health needs; and

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

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11 **BE IT FURTHER RESOLVED**, NYSAC calls on the state to ensure county directors of
12 community services have timely access to any patient clinical information necessary to
13 effectively manage the county directors of community services' responsibilities under
14 mental hygiene law; and

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16 **BE IT FURTHER RESOLVED**, copies of this resolution be sent to the counties of
17 New York encouraging member counties to enact similar resolutions; and

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19 **BE IT FURTHER RESOLVED**, NYSAC shall forward copies of this resolution to
20 Governor Kathy Hochul and the New York State Legislature encouraging them to
21 support these reforms.