

1 **2021 NYSAC Fall Seminar**  
2 **Standing Committee on Public Health/Mental Health**  
3 **Resolution #3**

4 **Resolution Calling on Governor Kathy Hochul to Restore the State-County**  
5 **Share of the Cost of 730.20 Competency Restoration Services and Make**  
6 **Reforms to the Program Thereto**

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

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

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

15 **WHEREAS**, this statute no longer reflects the current mental hygiene system or the  
16 NYS Unified Court System and needs to be updated to be consistent with other statutes  
17 that makes the State responsible for its own costs for the treatment of mentally ill  
18 individuals in State-operated Forensic Psychiatric Centers; and

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

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

25 **NOW, THEREFORE, BE IT RESOLVED**, the New York State Association of  
26 Counties (NYSAC) calls on the State to restore the historic 50/50 state/county share of  
27 mental health competency restoration services; and

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

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

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

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**BE IT FURTHER RESOLVED**, CPL § 730.20 must 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 tells 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**, NYSAC calls on NYS to ensure that county directors of community services have timely access to any patient clinical information necessary to effectively manage the county directors of community services’ responsibilities under mental hygiene law.

**BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the counties of New York State acknowledging the work of our national partner; and

**BE IT FURTHER RESOLVED**, NYSAC shall forward copies of this resolution to Governor Kathy Hochul and the New York State Legislature encouraging them to support these reforms to Part 730.20 Competency Restoration Services.