

Warren County Board of Supervisors

RESOLUTION NO. 195 OF 2024

RESOLUTION INTRODUCED BY SUPERVISORS STRAINER, RUNYON, GILLIGAN, BRUNO, PATCHETT, WILD AND THOMAS

RESOLUTION CALLING FOR THE SFY 2024-25 ENACTED BUDGET TO INCLUDE REFORMS FOR DETERMINING THE CAPACITY OF A DEFENDANT TO STAND TRIAL

RESOLUTION WITHDRAWN

WHEREAS, section 730 of the Criminal Procedure Law (“CPL”) mandates defendants charged with felonies who are mentally ill and/or developmentally disabled and who are determined by court to be unable to understand the charges against them or participate in their own defense be sent to a New York State operated forensic hospital to restore their competency so they can stand trial, and

WHEREAS, parts of CPL § 730 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, several New York State Courts believe that by ordering a 730 commitment, they are ordering the treatment of mentally ill or developmentally disabled defendants, and

WHEREAS, in the cases where restoration is appropriate, most defendants can generally be restored within 90-150 days, and

WHEREAS, unfortunately, numerous defendants have been kept in restoration for periods up to 10 years, and

WHEREAS, these lengthy 730 confinements are unconstitutional as shown in the Supreme Court 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

WHEREAS, the Office of Mental Health (“OMH”) has diverged from 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

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

WHEREAS, as the full payors of these services, the commissioners must have timely access to any pertinent client information as deemed necessary to effectively manage their responsibilities under the Mental Hygiene Law, and

WHEREAS, the county cost for 730 commitments exceed \$1,300 per day or \$400,000 per year without a reasonable timeline of defendant's restoration or release, and

WHEREAS, Warren County, through the county tax levy, already bears an overwhelming portion of the financial burden for supporting individuals suffering from serious mental illness, and the requirement to assume 100 percent of 730.20 competency restoration costs and will take away millions of dollars from critical behavioral health programming in the community, and

WHEREAS, given the advances in the behavioral health and the modernization of the criminal justice system, it is time for New York State to reform the statutory authority governing competency restoration to ensure that only appropriate defendants are committed for restoration, and

WHEREAS, the Legislature has introduced S.1874 (Brouk)/A.5063 (Gunther), which seeks to address these reforms, now, therefore, be it

RESOLVED, the Warren County Board of Supervisors calls for CPL § 730.10 to be modified defining restoration and clarifying that restoration is not mental health treatment, and be it further

RESOLVED, the Warren County Board of Supervisors calls for an amendment to CPL § 730.20 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, the Warren County Board of Supervisors requests OMH provide specific and timely information on the clients/defendants ordered to restoration, and be it further

RESOLVED, the Warren County Board of Supervisors requests CPL § 730.20 shall adjust the fee for reimbursing psychiatric examiners, or to provide reimbursement by New York State, and be it further

RESOLVED, the Warren County Board of Supervisors calls for CPL § 730.50 to be amended limiting the time defendants are ordered for restoration services, and be it further

RESOLVED, the Warren County Board of Supervisors calls for an amendment to MHL § 9.33 to 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, the Warren County Board of Supervisors calls on the State to support all provisions outlined in S.1874 (Brouk)/A.5063 (Gunther), and be it further

RESOLVED, the Warren County Board of Supervisors calls for New York State to restore its prior practice of covering at least 50% of the costs related to CPL 730 competency exams and restoration related services, and be it further

RESOLVED, that the Clerk of the Board of Supervisors shall forward copies of this resolution to Governor Kathy Hochul, Senator Dan Stec, Assemblyman Matthew Simpson and the New York State Association of Counties.