

HEALTH SERVICES COMMITTEE  
OFFICE OF COMMUNITY SERVICES/MENTAL HEALTH  
5/21/24

COMMITTEE MEMBERS: STRAINER, RUNYON, GILLIGAN, BRUNO, PATCHETT, WILD, THOMAS - *The Chair of the Board of Supervisors shall be an Ex-Officio member when needed in accordance with Section C(4) of the Rules of the Board.*

- I. Committee meeting called to order by Chair
- II. Approval of minutes of prior Committee Meeting
- III. Privilege of the floor and public comment
- IV. Action Agenda/New Business Items:
  1. Request: Request to transfer \$300,000 from the unexpended fund balance to pay court-ordered CPL 730 competency examination and restoration expenses. These are mandated county costs.  
Rationale: Additional funds are required to pay incurred court-ordered expenses as well as anticipated expenses through the remainder of the year.
  2. Request: Request for Warren County resolution calling for reforms for determining the capacity of a defendant to stand trial.  
Rationale: In 2023, the NYSAC Standing Committee on Public Health and Mental Health passed a resolution calling for the SFY 2024-25 Enacted Budget to include reforms for determining the capacity of a defendant to stand trial. The resolution encourages member counties to enact similar resolutions. A copy of the NYSAC resolution is attached.
- V. Discussion Items:
- VI. Referrals/Pending Items:
- VII. Privilege of the floor and public comment
- VIII. Motion to adjourn

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- Attachments:
1. Resolution Request Form No. 20
  2. Copy of Resolution # 69 of 2024
  3. Resolution Request Form No. 20
  4. Copy of 2023 NYSAC Legislative Conference  
Standing Committee on Public Health and Mental Health  
Resolution #2

# **RESOLUTION REQUEST FORM NO. 20**

## **MISCELLANEOUS**

*\*Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.  
Please attach any backup information available and be as detailed as possible.*

**DEPARTMENT NAME: Mental Health/Office of Community Services**

**DATE: 5/21/24**

- (a) Purpose of Request:  
**Request to transfer funds in the amount of \$300,000 from the unexpended fund balance to pay court-ordered NYS CPL 730 competency examination and restoration expenses.**
  
- (b) Details:  
**\$300,000 has been budgeted in 2024 (\$50,000 original + \$250,000 added in February). Expenses incurred through March are approximately \$364,000. Additional expenses are anticipated throughout the remainder of the year.**
  
- (c) Previous Resolution Number:  
**#69 of 2024 (attached)**
  
- (d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title\* and Amount:  
**Request transfer of \$300,000 from A.909.00 Unexpended Fund Balance to A.4390 435 Psychiatric Expense/Criminal.**

**Sample: A.8021 470 Planning & Community Development – Contract**

\* as listed in budget and LOGOS

# Warren County Board of Supervisors

## RESOLUTION NO. 69 OF 2024

**RESOLUTION INTRODUCED BY SUPERVISORS THOMAS, GERACI, MERLINO, MADAY, DRISCOLL, DICKINSON, STROUGH, BRUNO AND ETU**

**AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE GENERAL FUND UNAPPROPRIATED FUND BALANCE TO THE OFFICE OF COMMUNITY SERVICES BUDGET TO COVER THE COST OF COURT-ORDERED NEW YORK STATE CRIMINAL PROCEDURE LAW SECTION 730 COMPETENCY EXAMINATION AND RESTORATION EXPENSES; AND AMENDING 2024 WARREN COUNTY BUDGET**

RESOLVED, that the Warren County Board of Supervisors hereby approves the appropriation of funds to cover the cost of court-ordered New York State Criminal Procedure Law Section 730 competency examination and restoration expenses, in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) from the General Fund Unappropriated Fund Balance (A.909.00) to the following budget code:

CODE	DEPARTMENT	AMOUNT
A.4390 435	Psychiatric Exp./Criminal, Medical Fees	\$ 250,000.00

and be it further

RESOLVED, that the Warren County Budget for 2024 be, and hereby is, amended accordingly.

# **RESOLUTION REQUEST FORM NO. 20**

## **MISCELLANEOUS**

***\*Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.  
Please attach any backup information available and be as detailed as possible.***

**DEPARTMENT NAME: Mental Health/Office of Community Services**

**DATE: 5/21/24**

- (a) Purpose of Request:  
**Request for a Warren County resolution calling for reforms for determining the capacity of a defendant to stand trial. Such resolution to be modeled after a recent NYSAC resolution.**
  
- (b) Details:  
**In 2023, the NYSAC Standing Committee on Public Health and Mental Health passed a resolution calling for the SFY 2024-25 Enacted Budget to include reforms for determining the capacity of a defendant to stand trial. The resolution encourages member counties to enact similar resolutions. A copy of the NYSAC resolution is attached.**
  
- (c) Previous Resolution Number:  
**N/A**
  
- (d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title\* and Amount:  
**N/A**

**Sample: A.8021 470 Planning & Community Development – Contract**

\* as listed in budget and LOGOS

1 **2023 NYSAC Legislative Conference**  
2 **Standing Committee on Public Health and Mental Health**  
3 **Resolution #2**

4  
5 **Resolution Calling for the SFY 2024-25 Enacted Budget to Include Reforms**  
6 **for Determining the Capacity of a Defendant to Stand Trial**

7  
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

14  
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

17  
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

21  
22 **WHEREAS**, many judges incorrectly believe that by ordering a 730 commitment,  
23 they are helping the mentally ill or developmentally disabled person to get treatment;  
24 and

25  
26 **WHEREAS**, in the cases for which restoration is appropriate, most defendants can  
27 generally be restored within 90-150 days; and

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

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

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

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

1 **WHEREAS**, as the full payors of these services, the commissioners must have timely  
2 access to any pertinent client information as deemed necessary to effectively  
3 manage their responsibilities under the Mental Hygiene Law; and  
4

5 **WHEREAS**, the county cost of these services is over \$1,300 per day and current  
6 statute does not require a timeline be established for when a defendant is unable to be  
7 restored; and  
8

9 **WHEREAS**, the county cost of restoration for one defendant can be upwards of  
10 \$400,000 per year; and  
11

12 **WHEREAS**, in New York State, counties, through the county tax levy, already bear an  
13 overwhelming portion of the financial burden for supporting individuals suffering from  
14 serious mental illness, and the requirement to assume 100 percent of 730.20  
15 competency restoration costs has taken away millions of dollars from critical behavioral  
16 health programming in the community; and  
17

18 **WHEREAS**, given the advances in the behavioral health and the modernization of  
19 the criminal justice system, it is time for the State to reform the statutory authority  
20 governing competency restoration to ensure that only individuals who are  
21 appropriate subjects of 730 court orders are sent for restoration in accordance with the  
22 current state of these two systems; and  
23

24 **WHEREAS**, the Legislature has introduced S.1874 (Brouk)/A.5063 (Gunther), which  
25 seeks to address the reforms necessary to update the archaic requirements of current  
26 statute, many which have been deemed unconstitutional and includes a critical  
27 requirement to reinvest any savings derived by the counties back into the local mental  
28 hygiene systems of care.  
29

30 **NOW, THEREFORE, BE IT RESOLVED**, CPL § 730.10 shall be modified to  
31 make clear that restoration is not mental health treatment, so the judiciary is better  
32 informed that a 730 order does not treat underlying mental health conditions; and  
33

34 **BE IT FURTHER RESOLVED**, CPL § 730.20 shall be reformed to establish  
35 specific criteria for 730 examiners, streamlining the process to establish equity across  
36 the system, and that the psychiatrist or psychologist conducting the psychiatric exam  
37 tell the court whether or not there is a reasonable chance of restoration, thereby  
38 granting the court an opportunity to allow diversion to mental health treatment; and  
39

40 **BE IT FUTHER RESOLVED**, OMH will consistently follow their agreements with the  
41 county mental health commissioners/directors of community services to provide  
42 specific and timely information on the clients/defendants ordered to restoration; and  
43

44 **BE IT FURTHER RESOLVED**, CPL § 730.20 shall adjust the fee for  
45 reimbursing psychiatric examiners; and

1 **BE IT FURTHER RESOLVED**, CPL § 730.50 shall limit the time defendants  
2 are ordered for restoration services; and

3  
4 **BE IT FURTHER RESOLVED**, MHL § 9.33 shall allow individuals to be  
5 transferred to Article 9 facilities if it is determined that a defendant is unable to be  
6 restored; and

7  
8 **BE IT FURTHER RESOLVED**, MHL § 43.03 shall require Local Governmental  
9 Units (counties) to reinvest savings from these reforms into community mental health  
10 services; and

11  
12 **BE IT FURTHER RESOLVED**, the New York State Association of Counties (NYSAC)  
13 calls on the State to support all provisions outlined in S.1874 (Brouk)/A.5063  
14 (Gunther); and

15  
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

18  
19 **BE IT FURTHER RESOLVED**, NYSAC shall forward copies of this resolution  
20 to Governor Kathy Hochul and the New York State Legislature encouraging them to  
21 include these reforms in the SFY 2025 Enacted Budget.