

**RESOLUTION CALLING ON MEMBERS OF THE NEW YORK STATE SENATE AND ASSEMBLY TO REFORM THE STATE'S COMPETENCY RESTORATION PROCESS AND SUPPORT THE PASSAGE OF S.1874 (BROUK) / A. 5063 (GUNTHER) IN THE 2024 LEGISLATIVE SESSION**

WHEREAS, section § 730 of the Criminal Procedure Law (CPL) provides that defendants charged with felonies who are mentally ill and/or developmentally disabled and who are determined by a court to be unable to understand the charges against them or participate in their own defense (often called "730's") are sent to New York State-operated forensic hospitals solely for the purpose of trying to restore them to competency so they can stand trial; and

WHEREAS, the origin of CPL § 730 dates back over five decades to the laws of 1970, and parts of it 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, many judges incorrectly believe that by ordering a 730 commitment, they are helping the mentally ill or developmentally disabled person to get treatment; and

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

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

WHEREAS, these lengthy confinements have been declared to be unconstitutional by the U.S. Supreme Court as shown in the 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 required 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

BE IT FUTURE RESOLVED, OMH will consistently follow their 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

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

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

BE IT FURTHER RESOLVED, MHL § 9.33 shall 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, MHL § 43.03 shall require Local Governmental Units (counties) to reinvest savings from these reforms into community mental health services; and

BE IT FURTHER RESOLVED, xxxx County calls on the State to support all provisions outlined in S.1874 (Brouk)/A.5063 (Gunther).