NYS Conference of Local Mental Hygiene Directors, Inc.

41 State Street, Suite 505, Albany, NY 12207 • (518) 462-9422 • www.clmhd.org

MEMORANDUM IN SUPPORT

S.1912 (Ritchie)/A.3254 (Ortiz)

An act to amend the mental hygiene law, in relation to fees for services rendered to patients in state inpatient mental hygiene facilities pursuant to court orders

The Conference of Local Mental Hygiene Directors **strongly supports S.1912/A.3254** which would place a 30-day limit on the fiscal responsibility of local governments for the payment of services provided by state-operated mental hygiene facilities for an individual held pursuant to an order of a criminal or family court. Currently such local governmental payments (often referred to as "chargebacks") occur when services or examinations for such court-ordered persons are provided by state-operated mental hygiene facilities. There are statutory exemptions of chargebacks for persons found "not responsible by reason of mental disease or defect" or adjudicated a "dangerous sex offender."

This bill would amend an anachronistic statutory provision under which counties continue to be billed for services provided by state-operated mental hygiene facilities to one solitary remaining cohort of inpatient. This provision is inconsistent with other laws and mechanisms enacted or authorized over the past thirty years, under which other similarly disabled state facility patients have their net costs of care fully paid by the state (or by the state and federal governments) without the imposition of any local charge.

These costs are predominantly either for care and treatment of persons found incompetent to stand trial or for psychiatric or mental status examinations to assist state courts to make judicial determinations. Charging local governments for such services is unreasonable and an exception to fiscal practice in general, and is the operational definition of an unfunded mandate. Charging local government when services exceed thirty continuous days for a patient is additionally unreasonable and punitive for the reasons set forth below:

1. When a person is continuously hospitalized in a psychiatric facility for more than thirty days, this is clinically considered care and treatment for a chronically mentally disabled person, traditionally a 100% state net charge under state law regardless of whether the treating facility is operated by the state, a county, or a not-for-profit entity --- chargebacks contradict this policy and practice.

2. When any inpatient service is provided by state-operated mental hygiene facilities, net operating costs are historically a 100% net state charge under state and federal laws and

rules regardless of the length of time a person is hospitalized --- chargebacks contradict this policy and practice.

3. Examinations and assessments subject to chargeback are ordered by judges to enable them to render judicial determinations in state court proceedings; closely-related state court services are ordinarily a 100% state net cost under state law --- chargebacks contradict this policy and practice.

4. State authorities exercise control over the judges, courts and mental hygiene facilities which direct or provide the chargeback services; counties do not exercise authority or control and cannot direct, approve, authorize, limit or plan for the chargeback services they are then required to pay for.

5. A particularly punitive consequence of chargebacks is that individual counties are frequently disparately and artificially cost-impacted; a rural county may be billed ten or more times the charges assessed a similarly populated neighboring county. The state should bear the risk of such widespread differential cost impacts as they are generated and controlled by state-operated agencies and personnel.

For all these reasons, the Conference of Local Mental Hygiene Directors **strongly supports S.1912/A.3254.**