

**Resolution No. \_\_\_\_\_**  
**Commission on Forensic Science**

**WHEREAS**, pursuant to Executive Law §995-a, there is hereby created a Commission on Forensic science (Commission); and

**WHEREAS**, pursuant to Executive Law §995-b(5), the Commission may require and receive from any agency of the State, including the Division of Criminal Justice Services, any assistance as may be necessary to enable the Commission to carry out its duties and functions; and

**WHEREAS**, as a public body the Commission is subject to the Open Meetings Law requirements; and

**WHEREAS**, by passing Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law; and

**WHEREAS**, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Commission to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

**WHEREAS**, Section 103-a(2)(a) requires the Commission to adopt a resolution authorizing the limited use of videoconferencing under such circumstances; and

**WHEREAS**, Section 103-a(2) allows for hybrid meetings by requiring “that a minimum number of members are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

**WHEREAS**, Section 103-a(2)(c) requires that members be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

**WHEREAS**, in accordance with Section 103-a(2)(d), any members attending by videoconference must be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

**WHEREAS**, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the Division of Criminal Justice Services website within five business days, and transcribed upon request; and

**WHEREAS**, pursuant to Section 103-a(2)(h), if videoconferencing is used to conduct a meeting, the Commission shall provide the opportunity for members of the public to view such meeting via video and to participate in proceedings via videoconference in real time where public comment or participation is authorized, and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony.

**WHEREAS**, per the Committee on Open Government, public bodies are still permitted to conduct its meetings at multiple physical locations from which members of the body may participate if those locations are open to in-person public attendance, regardless of extraordinary circumstances. The intent of the amendments to the Open Meetings Law was to expand the authority of a public body to allow its members to participate in a meeting using videoconferencing under limited circumstances when the member's location is not open to in-person public attendance. It was not the intent to limit the existing authority to virtually connect multiple public locations from which members and the public may attend through the use of videoconferencing technology.

**THEREFORE, BE IT RESOLVED**, that the Commission authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and

**BE IT FURTHER RESOLVED**, that the Commission shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022, which shall be incorporated into its by-laws.