

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)
of Erie

FILED
STATE RECORDS

JUL 23 2019

DEPARTMENT OF STATE

Local Law No. 3 of the year 2019

A local law entitled "ERIE COUNTY CORRECTIONS SPECIALIST ADVISORY BOARD" in relation to establishing an advisory board for the Erie County Jail Management Division

Be it enacted by the Erie County Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one.)
of Erie

as follows:

Be it enacted by the Legislature of the County of Erie as follows:

SECTION 1. LEGISLATIVE INTENT AND OVERVIEW

It is the Erie County Legislature's intention to establish the Erie County Corrections Specialist Advisory Board (the "Advisory Board") to provide advice to, and oversight over the Erie County Sheriff Office's Jail Management Division which administers the Erie County Holding Center and the Erie County Correctional Facility.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

In 2010 this Honorable Body created a Community Corrections Advisory Board (“CCAB”) via legislative resolution following evaluation and investigation and a lawsuit by the U.S. Department of Justice against Erie County and the Erie County Sheriff deeming federal oversight of the Erie County Holding Center and Correctional Facility as necessary and in the public interest due to a myriad of issues at both facilities. The CCAB’s purpose was “discussion of corrections facilities programs and services to offer suggestions and advice for the improvement of such programs at the Erie County Correctional Facility and the Erie County Holding Center.” The Legislature also desired that the CCAB could help prevent further improper treatment at the facilities, and devise solutions to improve procedures and operations and provide a mechanism for oversight.

One of the major issues plaguing the Jail Management Division involves mentally-ill inmates and prisoners who may be suicidal or who are in need of treatment while detained. The Erie County Department of Mental Health is administratively responsible for planning, directing, coordinating, and monitoring programs of prevention, treatment and rehabilitation involving detainees with mental health and/or intellectual or developmental disabilities and substance abuse services.

Over the intervening years, the state’s regulator over local jails, the New York State Commission of Correction, has issued a series of critical reports over the Holding Center and Correctional Facility due to inmate escapes from custody, facility conditions, assaults on prisoners, mental health and healthcare deficiencies, and the deaths of prisoners or detainees in the custody of the Erie County Division of Jail Management. This includes a February 2018 report entitled “The Worst Offenders Report: The Most Problematic Local Correctional Facilities of New York State”, that labeled the Holding Center and Correctional Facility as one of the “worst offenders for being in violation of state law.”

For a variety of reasons, the CCAB did not function as hoped and expected and in 2013 the CCAB functionally stopped meeting or acting and was not subsequently convened.

Section 2205 of the Erie County Charter states: “Advisory boards shall meet at least four times per year, and meetings shall be held in compliance with the Open Meetings Law. If a board fails to hold the minimum number of meetings, the creating authority shall investigate why, and is authorized to remove an ineffective chair or any inactive members, or to recommend that the legislature abolish the board.

Because the CCAB has not met since 2013, and due to the host of problems, issues and concerns over the Erie County Holding Center and Correctional Facility, it is recommended that the Legislature create a new robust and inclusive corrections advisory board comprised of current and/or retired professionals who have expertise in criminal justice, public safety, restorative justice and reducing recidivism that will more effectively serve the people of Erie County.

The Advisory Board is intended to focus on restorative justice, serve as a bridge between the community, the Erie County Department of Mental Health, and the Erie County Sheriff's Office's Jail Management Division, and will be dedicated to enhancing the safety and conditions in the Erie County Holding Center and Correctional Facility. Its mission will be to bring leaders and professionals in our community together to help monitor and improve the County's correctional facilities, improve the lives of those who have left correctional facilities and reduce recidivism and help with re-entry to society, and work together for solutions to problems while continually looking for ways to improve internal operations and procedures in the correctional facilities.

SECTION 2. CREATION OF AND MEMBERSHIP OF THE ERIE COUNTY CORRECTIONS SPECIALIST ADVISORY BOARD

The Erie County Corrections Specialist Advisory Board is hereby established.

Membership

The Advisory Board shall consist of eleven (11) voting members as follows:

- One member to be recommended by the Chair of the Erie County Legislature
- One member to be recommended by the Majority Leader of the Erie County Legislature
- One member to be recommended by the Minority Leader of the Erie County Legislature
- One member to be recommended by the Erie County Executive
- One member to be recommended by the Erie County Sheriff
- One member to be recommended by the Erie County Commissioner of Probation
- One member to be recommended by the Erie County Commissioner of Mental Health
- One member to be recommended by the Bar Association of Erie County
- One member with demonstrated experience in advocacy for prisoners to be recommended by an organization working on behalf of prisoners' rights
- One member with demonstrated experience with restorative justice to be recommended by an organization that is dedicated to restorative justice
- One member with demonstrated experience in assisting former offenders' transitions who is a former prisoner of a county or state holding/correctional facility to be recommended by an organization that is dedicated to ex-offender transition from jail/prison to life in the general public

Members shall be approved by a majority vote of the Erie County Legislature and shall serve without compensation.

Terms of Advisory Board Members

Advisory Board members shall serve three-year terms. No member may serve more than two (2) consecutive terms, including the completion of a term of another voting member. Those who have served two (2) consecutive terms may be eligible again after a two (2) year absence to serve on the Board.

SECTION 3. QUALIFICATIONS OF MEMBERS

All members must meet the minimum requirements set forth in Section 2205 of the Erie County Charter including:

- a. Each Advisory Board member shall be a resident of Erie County at the time of appointment and shall remain a resident of Erie County while holding a position as a member of the Advisory Board.
- b. Members of the Advisory Board may not hold elective office.

SECTION 4. MEETINGS

At the first meeting of the Advisory Board the Board shall elect a member as chairperson, and another member as vice-chairperson. The chairperson and vice-chairperson shall serve in such positions for two years and may not serve more than two consecutive terms. The vice-chairperson shall serve in the absence of the chairperson and in such other capacity as the chairperson shall delegate.

The Advisory Board shall establish a schedule of regular meetings for the year, but the Advisory Board shall meet a minimum of four (4) times per year.

Unless otherwise provided by law, a majority of the members shall constitute a quorum at any duly held meeting of the Advisory Board. The affirmative vote of a majority of all members shall be required for Advisory Board action on any matter.

At each meeting of the Advisory Board, time will be set aside for public comment on issues relevant to the stated intent in the adopted bylaws of the Advisory Board. If no such individuals or organizations have contacted the Chairperson of the Advisory Board to request time to testify, the Advisory Board will forgo the time for public comment at that meeting of the Board. Requests to testify can be made to the Chairperson of the Advisory Board by filing such request with the Clerk of the Erie County Legislature at least five (5) business days prior to the Meeting of the Advisory Board.

SECTION 5. PROCEDURES.

The Advisory Board shall adopt standards of conduct and disclosure of interests intended to ensure that the actions of the Advisory Board are carried out in an ethical manner. The ethical standards shall be consistent with the Erie County Code of Ethics.

The Advisory Board may adopt such bylaws and/or rules and procedures for the efficient and orderly conduct of its business as it deems necessary or appropriate under Section 2205 of the Erie County Charter. Such rules and procedures shall provide reasonable opportunity for public comment and engagement.

The Advisory Board shall adopt bylaws that are not in conflict with Section 2205 of the Erie County Charter or any provisions of this Local Law, and subject to the approval of the Erie County Legislature.

It is hereby established, this local law does charge the Advisory Board the ability to design and enforce the bylaws under which such board will function. Bylaws must be in writing, filed with the Erie County Legislature, and open to inspection by members of the Advisory Board, the Erie County Legislature, and other elected officials. Bylaws may include, but are not limited to, the procedures for the taking of meeting minutes, the procedures for submitting grievances, the procedure for recommending the use of the Legislature's subpoena power, and the procedure for writing and submitting reports to the Erie County Legislature. Bylaws must be filed with the Erie County Legislature at least thirty (30) days prior to the first Advisory board meeting. In order to establish bylaws, the members of the Advisory Board must be in quorum, and at least seven (7) affirmative votes submitted. Amendments to the bylaws must be passed in quorum, with the affirmative vote of at least seven Advisory Board members.

The Advisory Board will produce, annually, a report on the progress of the Board for the previous year and their goals for the upcoming year. The report is to be filed with the Clerk of the Erie County Legislature and shall be reviewed by the Public Safety Committee of the Erie County Legislature.

SECTION 6. POWERS AND FUNCTIONS

Powers

The Advisory Board shall:

1. Function in an advisory capacity to the Erie County Legislature as well as to the Erie County's Sheriff's Office.

The Advisory Board may:

1. Recommend that the Chairperson of the Erie County Legislature utilize his/her subpoena power under Section 2607 of the Erie County Charter, as necessary, to compel the presence and testimony of persons or the production of records to the Advisory Board when other mechanisms to compel such presence or data are otherwise unsuccessful through the following procedure:
 - (a) A formal recommendation suggesting utilization of the Legislature's subpoena power may be submitted to the Erie County Legislature's Public Safety Committee. After which, members of the Public Safety Committee shall vote on whether to submit the request to the Chair of the Erie County Legislature. Requests that pass by a majority vote of the Public Safety Committee shall then be submitted to the Chair of the Erie County Legislature for a final decision on the potential utilization of subpoena power.

Functions

The Advisory Board may undertake functions and activities intended to:

1. Develop strategic plans and policies to be considered by the Legislature and the Sheriff's Office that will improve the conditions, systems and practices at the Erie County Holding Center and Correctional Facility and help reduce recidivism in Erie County.

2. Allow public comment on the issues related to the Erie County Holding Center and Erie County Correctional Facility
3. Make formal advisory recommendations to the County Legislature and the Erie County Sheriff's Office on the programs, funding and services for the correctional facilities in Erie County.
4. Receive complaints regarding the Erie County Holding Center and the Erie County Correctional Facility from the public and refer such complaints to the Public Safety Committee of the Legislature.

SECTION 7. STAFF SUPPORT

The Chair of the Erie County Legislature shall choose amongst the staff of the Legislature one person to serve as Clerk of the Advisory Board. Such staff member will communicate with members, and the public through notices, regarding meetings, agendas and items that are before the Advisory Board. The Clerk will be responsible for taking the roll, recording votes of the members at meetings and communicating with groups seeking to testify before the Advisory Board. The Clerk will also be responsible for disseminating the minutes of the meetings to Advisory Board members and working with the Chair of the Advisory Board to produce an Annual Report to be filed with the Clerk of the Erie County Legislature and reviewed by the Public Safety Committee of the Erie County Legislature.

SECTION 8. EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York Secretary of State.

SECTION 9. SEVERABILITY

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

SPONSORED BY:

**APRIL N. M. BASKIN
HOWARD JOHNSON
TIMOTHY MEYERS**

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 20¹⁹ of the (County) _____ of Erie was duly passed by the Erie County Legislature on June 20 20¹⁹, and was (approved)(~~not approved~~) (repassed after disapproval) by the Erie County Executive and was deemed duly adopted on July 19 20¹⁹, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

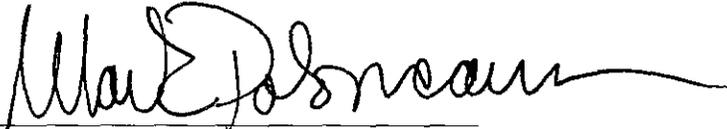
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: July 22, 2019

(Seal)

A Public Hearing was held on the foregoing **Local Law Intro. No. 7-2-2019** on **July 2, 2019** due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 19th day of July, 2019.



Mark C. Poloncarz

A Public Hearing was held on the foregoing **Local Law Intro. No. 7-2-2019** on **July 2, 2019** due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this ____ day of _____, 20____.

Mark C. Poloncarz