

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 7-2 (2014)

LOCAL LAW NO. _____ (2015)

A Local Law in relation to the establishment of an Erie County Conditional Release Commission

Section 1: Legislative Intent

The purpose of this law is to establish a Conditional Release Commission in compliance with New York State Correction Law, Article 12. It is hereby declared to be the public policy of Erie County to adhere to New York State Laws that enable counties to establish a Local Conditional Release Commission that is responsible for determining who may be conditionally released, when they may be released, and under what conditions. It is the purpose of this local law to improve public safety by reducing the incidence of crime by assisting offenders with successful integration into the community while providing a continuing measure of protection to society.

Section 2: Establishment and Membership

There is hereby established an Erie County Conditional Release Commission, hereafter called the Commission. The Commission shall consist of five members to be appointed by the County Executive upon the advice and consent of the County Legislature. The Commission will have the authority to offer "conditional release" after serving 90 days of the sentence to local jail inmates serving a sentence of one year or less.

1. Each member of the Commission shall have graduated from an accredited four year college or university and shall have had at least five years of experience in the field of criminology, administration of criminal justice, law enforcement, probation, parole, law, social work, social science, psychology, psychiatry, or corrections.
2. The term of office of each member of such Commission shall be for four years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom the person is to succeed. Vacancies caused by expiration of term or otherwise shall be filled in the same manner as original appointments.
3. No member of the Commission shall serve as a representative of any political party on an executive committee or other governing body thereof, as an executive officer or employee of any political committee, organization, or association, nor be a judge or justice, a sheriff or district attorney.
4. Any member may be removed by the County Executive for cause, after notice and an opportunity to be heard.

5. The Commissioner of the Erie County Department of Probation, or such commissioner's designee, shall serve as an ex-officio, non-voting member of the Commission.
6. The Erie County Department of Probation shall assign staff support to the Commission.

Section 3: Powers and Duties of the Commission

The Commission shall:

1. Have the power and duty of determining which persons sentenced within the county, and serving a definite sentence of imprisonment and eligible for conditional release pursuant to subdivision two of section 70.40 of the penal law may be released on conditional release and when and under what conditions in accordance with section 273 of the New York State Correction Law;
2. Have the power to determine, as each inmate applies for conditional release, the need for supplemental investigation of the background of such inmate and cause such investigation as may be necessary to be made as soon as practicable. The Commission may require that the Erie County Department of Probation conduct such supplemental investigation. The results of such investigation together with all other information compiled by the local correctional facility and the complete criminal record and family court record of such inmate shall be readily available when the conditional release of such inmate is being considered. Such information shall include a complete statement of the crime for which the inmate is being considered, the circumstances of such crime, all pre-sentence memoranda, the nature of the sentence, the court in which such inmate was sentenced, the name of the judge and district attorney and copies of such probation reports as may have been made as well as reports as to the inmate's social, physical, mental, and psychiatric condition and history;
3. Have the legal custody of persons conditionally released and placed under the supervision of the Erie County Department of Probation for a period of one year, or until returned to the custody of the Erie County Sheriff, as the case may be;
4. Have the power to revoke the conditional release of any person in the legal custody of the Commission and to issue declarations of delinquency and authorize the issuance of a warrant for the re-taking of such person, as provided for in section two hundred seventy-four of the New York State Correction Law;
5. For the purpose of any investigation necessary in the performance of its duties, have the power to issue subpoenas, to compel the attendance of witnesses and the

production of books, papers, and other documents pertinent to the subject of its inquiry;

6. Upon establishment of the Commission, members shall meet within one month to adopt procedures for the review of applications for early release and hold monthly meetings to review applications submitted by inmates seeking to participate in the conditional release program. The minutes of all Commission meetings must be digitally audio recorded and minutes must be transcribed and manually recorded. Such records shall be retained according to applicable standards;
7. Have the power to authorize any members thereof to administer oaths and take the testimony of persons under oath;
8. Notify, in writing, the initial sentencing court, the district attorney and defense counsel within five business days of receipt of an application for a local conditional release filed under this article and provide a fifteen day period for comment on such application. Comments submitted under this subdivision shall be provided to the Commission and all parties;
9. Notify in writing the Erie County Department of Probation prior to release of a conditionally released person of such department's responsibilities to supervise such person. Such notice shall include the name and residence of the person, the date of release, the conditions of release, and all necessary records maintained on such person to aid the local probation department in the performance of its responsibilities;
10. Have the power to transfer the legal custody of persons conditionally released in accordance with New York State Correction Law;
11. Present an annual report to the Erie County Legislature, or its findings and actions on submitted applications.

Section 4: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or 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 law.

Section 5: Effective Date

This local law shall become effective upon filing with the Secretary of State.

Sponsored By:

Legislator Barbara Miller-Williams
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