

LOCAL LAW TO BE ENACTED BY
THE ERIE COUNTY LEGISLATURE
IN THE
COUNTY OF ERIE
LOCAL LAW INTRO. – NO. 3-1 - 2018
LOCAL LAW – NO. _____ - 2018

A Local Law banning individuals from holding elected offices or being appointed to certain boards or commissions who are convicted of certain felony charges.

SECTION 1. Legislative Intent

Erie County has an elected County Executive, County Clerk, County Comptroller, District Attorney, Sheriff and Legislature.

It is the intent of this law to ensure that individuals elected, or appointed, to any elected office in Erie County are fit to uphold their oath of office. To that end, this honorable body hereby determines that individuals convicted of certain felony crimes are unfit to hold elected office here in Erie County by the nature of the crime committed.

County boards and commissions, an extension of elected offices in Erie County, are often delegated a specific task or department to review. It is also the intent of this body to ensure county boards and commissions are held to the same standards as the offices that appoint them, especially those who have the responsibility of overseeing financial or ethical matter. To maintain the highest level of integrity on these boards this law also seeks to limit the participation of individuals convicted of certain felonies from some Erie County boards or commissions, as defined in this law.

Felonies triggering the provisions of this law shall include those involving the accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft, perjury, fraud, tax evasion or conspiracy to commit any of those crimes.

SECTION 2. Definitions

- 1) **“Board or Commission”** shall include any position on any entity in Erie County whose members are directly appointed by one or more Elected Office, as defined herein, and whose primary function is related to ethics, finance, or budgetary concerns. This definition includes, but is not limited to, the Board of Ethics, the Budget Review Commission, and the Citizens’ Salary Review Commission;
- 2) **“Conviction of a Felony”** includes a conviction of a felony for the crimes listed in Section 3 of this law in New York State, a conviction under the laws of any other state, the laws of the

United States, or the laws of any other country where the circumstances surrounding the conviction would more likely than not lead to a conviction in New York State; and

- 3) **“Elected Office”** shall include the offices of the County Executive, the County Clerk, the County Comptroller, the Sheriff, the District Attorney, and all County Legislators.

SECTION 3. Felony Disqualification

A person shall not be eligible to run for or be elected, or appointed, to any elected office in Erie County, or any appointed position on any board or commission in Erie County, if such person has been convicted of a felony involving the accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft, perjury, fraud, tax evasion or conspiracy to commit any of those crimes.

SECTION 4. Exemptions

This law shall not apply to any individual in the following circumstances:

- 1) When the individual in question, who would otherwise be subject to the provisions of this law, has received a pardon from the Governor of New York State, the governor or other officer authorized to grant pardons in another state, the President of the United States, or the officer of a foreign government or country authorized to grant pardons in that foreign jurisdiction;
- 2) If the board or commission’s primary function is not related to ethics, finance, or budgetary concerns; or
- 3) If ten (10) or more years have passed since the date of conviction.

SECTION 5. Due Process

All persons subject to the provisions of this Law shall be afforded full due process rights as provided through New York State’s laws and Constitution and any final determination under any provision of this law shall be appealable to any court of competent jurisdiction.

SECTION 6. Effective Date

This local law shall take effect upon filing with the Secretary of State.

SECTION 7. 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.

Sponsor: Legislator Rath