

(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 of Essex
Town
Village

Local Law No. 3 of the year 2023

A local law superseding the residency requirements of Public Officers Law §3 for the positions of Assistant Public Defenders and Assistant Conflict Defenders of Essex County.
(Insert Title)

Be It enacted by the Board of Supervisors of the
(Name of Legislative Body)

County
City of Essex as follows:
Town
Village

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 3 OF 2023

A local law superseding the residency requirements of Public Officers Law §3 for the positions of Assistant Public Defenders and Assistant Conflict Defenders of Essex County.

BE IT ENACTED by the Essex County Board of Supervisors as follows:

SECTION 1: LEGISLATIVE INTENT

The intent of this local law is to define the residency requirement as it pertains to the following public officers: Assistant Public Defenders and Assistant Conflict Defenders. It is the intent of this local law to supersede the provisions of the New York State Public Officers Law Section 3(1) with respect to said public officers.

SECTION 2: AUTHORITY

This local law is adopted pursuant to Municipal Home Rule Law §10(1)(i) and §10(1)(ii)(a)(1) which grants to local governments the authority to enact local laws pertaining to the qualifications of local officers. Moreover, the Board of Supervisors recognizes that the State Legislature has, on various occasions, for various offices, including that of Assistant Public Defender and Assistant Conflict Defender, in various municipalities, has amended Public Officers Law §3 so as to create exceptions to the general residency requirements as set forth in that statute, thereby rendering the statute to be a special law, rather than a general law, insofar as these offices are concerned. Accordingly, this Board may supersede, and amend, Public Officers Law §3 as regards the residency requirements for the appointed offices of Assistant Public Defender and Assistant Conflict Defender. (See N.Y. Opn. Atty. Gen. (Inf.) No. 2005-5).

SECTION 3: RESIDENCY REQUIREMENT

Assistant Public Defenders and Assistant Conflict Defenders. The provisions of Section

3(1) of the New York State Public Officers Law requiring a person to be a resident of the political subdivision of municipal corporation of the state for which he or she shall be chosen, or within which his or her official functions are required to be exercised, shall not prevent a person from holding the office of Assistant Public Defender of the County of Essex and Assistant Conflict Defender of the County of Essex, provided that such person resides in Essex County or a geographically adjoining county within the State of New York.

The provisions of this local law shall not apply to any person holding the office of First Assistant Public Defender or Deputy Public Defender, as the case may be, or holding the office of First Assistant Conflict Defender or Deputy Conflict Defender, as the case may be, the holders of which office would assume the duties of the Public Defender upon the Public Defender's absence from the County or upon the Public Defender's inability to perform his or her duties or the holder of which would assume the duties of the Conflict Defender upon the Conflict Defender's absence from the County or upon the Conflict Defender's inability to perform his or her duties.

This local law shall only apply to Assistant Public Defenders and Assistant Conflict Defenders.

SECTION 4: SEVERABILITY

If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph or section directly involved in the controversy in which judgment shall have been rendered.

SECTION 5: EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Article 3, §27 of the Municipal Home Rule Law."

(If additional space is needed, attach pages the same size as this sheet and number each.)(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 3 of 2023 of the (County)(City)(Town)(Village) of Essex was duly passed by the Board of Supervisors on May 1, 2023 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 _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)(repassed after *(Name of legislative Body)* disapproval) by the _____ and was deemed duly adopted on _____, 20 _____, *(Elective Chief Executive Officer*)* in accordance with the applicable provisions of law.

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 *(Name of legislative Body)* disapproval) by the _____ on _____, 20 _____. Such local law was submitted *(Elective Chief Executive Officer*)*

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 _____ of the (County)(~~City~~)(Town)(Village) of Essex was duly passed by the Board of Supervisors on _____ and was ~~(approved)(not approved)(repassed after~~ (Name of legislative body) ~~disapproval)~~ by the N/A on N/A, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 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 countywide 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 4 above.


Signature Judith A. Garrison
Title: Clerk of the Essex County Board of Supervisors
Date: May 1, 2023

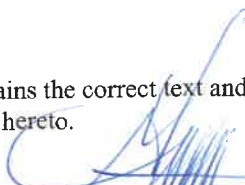
(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK

COUNTY OF ESSEX

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature Daniel T. Manning, Esq.
Title: Essex County Attorney
County _____
City of Essex
Town _____
Village _____
Date: May 1, 2023