

Adopt Local Law No. 4 of the Year 2005: A Local Law Creating an Exception to the Residency Requirement for Assistant Public Defender Positions for Cortland County

Section 1. *Preface:* It is a strong desire of the Cortland County community to install Cortland County residents in the position of Assistant Public Defender of Cortland County. It is a strong belief of Cortland County that Cortland County residents are knowledgeable about and concerned with the affairs of Cortland County. As has been recognized by the Courts, we believe that a resident of our County has a stake in the life of this community that is not necessarily shared by a non-resident. A resident is more likely to be familiar with local problems, conditions and needs, and is better qualified to perform the duties of the relevant office in question. *DeHond v. Nyquest; (65 Misc. 2d 526, 529-530, 318 NYS2d (1971))*. At the same time, however, the complexity and breadth of Cortland County Government present a challenge with respect to staffing and recruitment. We recognize that the pool of candidates from which we draw in our County is responsible and caring, however, it is sometimes difficult to staff an office from the pool in Cortland County. This law is being passed based upon the existence of the residency requirement in Public Officer's Law § 3.

Section 2. *Purpose:* It is the purpose of this Local Law to confirm the commitment of Cortland County to hire residents who have the necessary qualifications and skills to meet the requirements of the position for Assistant Public Defender of Cortland County. This Law will permit Cortland County to alleviate the problem of staffing and recruitment by permitting Cortland County to solicit candidates for the office of Assistant Public Defender from the Counties contiguous to Cortland County in the event of an inability to recruit a sufficient number of qualified candidates from within Cortland County for this position.

Section 3. *Authority of Cortland County to Hire Applicants for the Position of Assistant Public Defender for Cortland County from Contiguous Counties to Cortland County:* Upon receipt of a written request from the Public Defender, to consider non-Cortland County residents for the position of Assistant Public Defender, the Personnel Officer shall determine if all the recruitment efforts have been adequately pursued, including soliciting applicants from the Cortland County Bar Association, and provide the Public Defender with an approval/denial to hire a non-Cortland County resident. Upon receiving the Personnel Officer's approval, the Public Defender shall be authorized to consider and hire applicants who are residents from any contiguous Counties to Cortland County to the position of Assistant Public Defender.

Section 4: *Effect:* This Local Law shall take effect upon filing pursuant to the provisions of Article 3 § 27 Municipal Home Rule Law

STATE OF NEW YORK }
COUNTY OF CORTLAND } ss:

This is to certify that I, the undersigned, Clerk of the Cortland County Legislature of the County of Cortland have compared the foregoing copy of Local Law No. 4 with the original Local Law No. 4 now on file in this office, and which was passed on the 22nd day of September 2005 and that the same is a correct and true transcript of such original Local Law No. 4 and of the whole thereof,

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the **CORTLAND COUNTY LEGISLATURE**, this 22nd day of September 2005.


Clerk of the Cortland County Legislature