

Local Law Number 1 Of 2008

County Of Ulster

A Local Law To Establish The Office Of Conflict Defender Within The County Of Ulster

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1: LEGISLATIVE BACKGROUND AND PURPOSE.

(1.1) The County of Ulster has a responsibility to provide legal counsel to persons charged with a crime and to those persons entitled to counsel pursuant to Section 262 and section 1120 of the Family Court Act and Section 407 of the Surrogate's Court Procedure Act in those circumstances where such persons are financially unable to obtain counsel. Prior to the adoption of this local law, such responsibility was fulfilled through funding of the office of the Ulster County Public Defender and whenever the Public Defender was disqualified from acting in a particular case through a panel of attorneys who were appointed by the Court as assigned counsel pursuant to Article 18-b of the County Law. However, this Legislature is also mindful of its obligation to the citizens of the County of Ulster to provide public services in a manner that is as cost effective and efficient as practicable. Accordingly, and because of the substantial, and largely unreimbursed, increase in costs as a consequence of the mandated increase in fees payable to assigned counsel pursuant to Section 722-b of the County Law, as amended by the New York State Legislature (via Chapter 62 of the Laws of 2003, effective January 1, 2004), the Ulster County Legislature hereby finds and determines that it is in the best interest of the citizens of the County of Ulster to establish the position of Conflict Defender in and for the County of Ulster.

SECTION 2: POSITION CREATED.

(2.1) The position of Conflict Defender be, and the same hereby is, created in and for the County of Ulster, pursuant to subsection 4.(a) of Section 400 of the County Law and Section 10 of the Municipal Home Rule Law. The position of Conflict Defender shall be a part-time position.

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SECTION 3: APPOINTMENT AND TERM.

(3.1) The Conflict Defender shall be appointed by the Ulster County Legislature by resolution. The Conflict Defender shall serve at the pleasure of the Ulster County Legislature, and the term of office of the Conflict Defender shall be coextensive with that of the Ulster County Legislature by whom he or she was appointed. Commencing January 1, 2009, the effective date of the County Charter of the County of Ulster, and thereafter, the Conflict Defender shall be appointed by the County Executive, subject to confirmation by the County Legislature, and shall serve at the pleasure of the County Executive. At the time of such appointment and throughout his or her term of office, the Conflict Defender shall be appointed on the basis of his or her legal experience and other qualifications, and shall be and remain an attorney and counselor at law duly admitted to practice law in the courts of the State of New York, and shall have such other qualifications as may be required by law.

SECTION 4: POWERS AND DUTIES.

(4.1) The Ulster County Conflict Defender shall exist and function separately from, and independently of, the office of the Ulster County Public Defender and any other County legal office. Subject to the approval of the applicable trial court, the Conflict Defender shall serve in the place and stead of the Ulster County Public Defender whenever the Public Defender is disqualified from representing a party in criminal or family law matters.

(4.2) Furthermore, nothing contained herein shall obligate the Conflict Defender to perform any legal service with respect to which the Conflict Defender itself has a conflict of interest.

(4.3) The Conflict Defender shall further have and exercise all powers, and perform all duties, now or hereafter otherwise conferred or imposed upon such position by applicable law.

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**SECTION 5: POSITIONS OF THE OFFICE: Deputy and Assistant Conflict
Defenders and Staff**

(5.1) The Conflict Defender shall have the power to appoint such Deputy and Assistant Conflict Defenders, investigators and employees of his or her department as shall be appropriated and authorized by the County Legislature. At the times of their appointments, and throughout their terms of office, all Deputy and Assistant Conflict Defenders shall be and remain duly licensed and entitled to practice law in the State of New York. All Deputy and Assistant Conflict Defenders, investigators and employees of the department shall be directly responsible to, and serve at the pleasure of, the Conflict Defender, except as otherwise provided by applicable law.

SECTION 6: ADDITIONAL EXPENSES.

(6.1) In order to furnish appropriate representation, the Conflict Defender shall be provided suitable funding as authorized by the Ulster County Legislature for office supplies, stationery, investigation, expert witnesses, transcription fees, and continued legal education (CLE), as well as other expenses relating to the Conflict Defender carrying out his or her responsibilities and duties accordingly. Notwithstanding the foregoing, this shall not preclude any Court from ordering any services in any action or proceeding, the same of which shall be an expense of the County.

SECTION 7: VALIDITY AND SEVERABILITY.

(7.1) If any section or part of this local law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional, then such adjudication shall not invalidate or impair the validity or force or effect of any other section or part of this local law or the application of this local law, or any section, provision, or part thereof, to other persons or circumstances.

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SECTION 8: EFFECTIVE DATE.

(8.1) This Local Law shall take effect upon the appointment by the Ulster County Legislature of a Conflict Defender by resolution adopted subsequent to the date of adoption of this Local Law and compliance with the requirements of law.

Adopted: February 19, 2008