

(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 Hamilton  
~~Town~~  
~~Village~~

Local Law No. 7 of the year 19 96

A local law providing for reimbursement of defense costs incurred by or or behalf  
(Insert Title) of County employees

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

County  
~~City~~ of Hamilton as follows:  
~~Town~~  
~~Village~~

SECTION 1. As used in this section, unless the context otherwise requires, the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the County of Hamilton, whether or not compensated, or a volunteer expressly authorized to participate in a County sponsored volunteer program, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

SECTION 2. (a) Upon compliance by the employee with the provisions of section 3 of this Local Law, and subject to the conditions set forth in paragraph (b) of this section, it shall be the duty of the County of Hamilton to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his or her defense of a criminal proceeding in any town, county, state or federal court arising out of any act which occurred while such employee was acting within the scope of his public employment or duties upon his acquittal or upon the dismissal of a criminal charge against him or reasonable attorneys' fees incurred in connection with an appearance before a grand jury which returns no true bill against the employee where such appearance was required as a result of any act which occurred while such employee was acting within the scope of his public employment or duties.

(b) Upon the application for reimbursement for reasonable attorneys' fees or litigation expenses or both made by or on behalf of an employee as provided in section 3 of this Local Law, the County Attorney shall determine, based upon his investigation and his review of the facts and circumstances, whether such reimbursement shall be paid. The County Attorney

(If additional space is needed, attach pages the same size as this sheet, and number each.)

shall notify the employee and the Chairman of the Hamilton County Board of Supervisors in writing of such determination. Upon a determination that such reimbursement shall be provided, the County shall pay to the employee such reimbursement upon the presentation of a fully executed County voucher approved by the Hamilton County Board of Supervisors. Any dispute with regard to entitlement to reimbursement or the amount of litigation expense or the reasonableness of attorneys' fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

Section 3. Reimbursement of reasonable attorneys' fees or litigation expenses or both by the county as prescribed by this section shall be conditioned upon (a) delivery to the County Attorney at Lake Pleasant, New York, by the employee a written request for reimbursement of expenses together with, in the case of a criminal proceeding, the original or a copy of the accusatory instrument within ten days after he is arraigned upon such instrument or, in the case of a grand jury appearance, written documentation or evidence of such appearance and (b) the full cooperation of the employee in the defense of any action or proceedings against the county based upon the same act, and in the prosecution of any appeal.

SECTION 4. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the county, or any right to defense and/or indemnification provided for any county officer or employee by, in accordance with, or by reason of any other provision of the county, state or federal statutory or common law.

SECTION 5. If any provisions of this Local Law or the application thereof to any person or circumstances be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of such unconstitutionality or invalidity shall in no way affect or impair any other provision of this Local Law, or the application of any such provision to any person or circumstance.

SECTION 6. This Local Law shall take effect immediately upon the filing with the Secretary of State's Office.