

PUBLIC SAFETY AND LAW ENFORCEMENT COMMITTEE

August 2, 2012 – 4:30 p.m.

**Committee Members: Cora Edwards, Chair; Gene Benson, Vice-Chair;
Kathy LaBuda, Ira Steingart, Alan Sorensen**

PLEDE OF ALLEGIANCE

ROLL CALL

REPORTS

- Update: Public Safety/Emergency Management Richard Martinkovic, Commissioner
 - Alex Rau E-911

- Update: Law Enforcement
 - District Attorney's Office Jim Farrell, District Attorney
 - Probation Department Jeffrey Mulinelli, Director
 - Sullivan County Sheriff's Office Michael A. Schiff, Sheriff

DISCUSSION:

- 1. Proposed Local Law in relation to Preventing the Consumption of Alcohol and/or Drugs by Minors at Private Premises.**
- 2. Proposed Local Law Prohibiting the Sale and Possession of Synthetic Cannabinoids and the Operation of a Motor Vehicle While Under the Influence of Synthetic Cannabinoids.**

RESOLUTIONS :

- 1. To create the Law Enforcement Review Panel.**

PUBLIC COMMENT

LOCAL LAW NO. ___ OF 2012

A LOCAL LAW in relation to preventing the consumption of alcohol and/or drugs by minors at private premises.

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

Section 1. Short title.

This law shall be known as the Social Host Law.

Section 2. Legislative intent.

This legislature finds that underage drinking and drug use is a significant societal problem that has generated widespread concern in Sullivan County. Although the New York state legislature has acted to proscribe the unlawful giving, selling and possessing of alcohol or drugs in relation to minors, it has not regulated the situation where a person eighteen (18) years of age or older knowingly permits the consumption of alcohol or drugs by a minor in his or her home or premises controlled by him. The underage consumption of alcohol or drugs, whether at a party or a smaller gathering, poses an immediate threat to the public health, safety and welfare of the residents of Sullivan County, often leading to alcohol and drug abuse by minors, physical altercations, accidental injuries, neighborhood vandalism, excessive noise disturbances requiring the intervention of local law enforcement and the commission of violent crimes including sexual offenses and serious assaults. A recent survey conducted by the Recovery Center determined that the average age of a child first using alcohol in Sullivan County is 13.2 years. In addition, the survey found that Sullivan County was above the 7 state norm in Parental Attitudes Favorable towards Alcohol, Tobacco and Other Drug Use, a significant risk factor, in grades 10 and 11 and at the 7 state norm for grades 9 and 12; and that Sullivan County youth are predominantly drinking at their home (30%) or someone else's home (32%). A Prevention First NY and Sullivan County Care Corps survey from June 2011 to January 2012 found that 93.7% of adult respondents in Sullivan County, ages 18-83, supported a social host law. This local law will serve to deter the consumption of alcoholic beverages or drugs by minors by holding those eighteen (18) years of age or older, responsible and accountable when they permit the consumption of alcoholic beverages or drugs by minors at premises under their control.

Section 3. Definitions. For purposes of this local law the following terms shall be defined as follows:

- a. "Alcohol" shall mean ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever means produced.
- b. "Alcoholic beverage" shall mean any liquor, wine, beer, spirits, cider or other liquid, or solid, patented or not, composed of, or containing, alcohol or spirits, whether or not brewed,

fermented or distilled, and capable of being consumed by a person, except that confectionary containing alcohol as provided by subdivision twelve of section two hundred of the New York State Agriculture and Markets Law shall not be regarded as an alcoholic beverage within the meaning of this section.

c. "Control" – The ability to exercise direction over, the authority to regulate, direct or dominate.

d. "Drug" – Includes any substance listed in Section 3306 of the Public Health Law.

e. "Knowingly" shall mean aware of, or having reason to be aware of, the consumption of alcohol by a minor.

f. "Minor" shall mean any person under the age of twenty-one (21).

e. "Premises" shall mean any home, apartment, condominium, co-operative unit or other dwelling unit of any kind and public and private property, including yards and open areas adjacent thereto.

Section 4. Unlawful consumption of alcohol by minor at premises.

a. It shall be unlawful for any person eighteen (18) years of age or older who owns, rents, or otherwise controls premises, to knowingly allow the consumption of alcohol or alcoholic beverages or drugs by any minor on such premises.

b. The provisions of subdivision a of this section shall not apply to: i) the consumption of alcohol or alcoholic beverages by a minor whose parent or guardian is present and has expressly permitted such consumption; or ii) the use and consumption of alcohol or alcoholic beverages by a minor for religious purposes; or iii) the possession or consumption of a drug for which the individual has a current, valid prescription or it otherwise permitted by any other applicable law.

Section 5. Penalties.

A violation of section four of this local law shall be punished as follows:

a. First offense. Failure to comply with section four of this Local Law, for the first time, shall constitute a violation and be punishable by a fine of five hundred dollars (\$500.00). The Court shall also order the completion of an alcohol awareness program and/or an appropriate amount of community service not to exceed thirty hours.

b. Second offense. Failure to comply with section four of this Local Law by a person who has previously been found guilty of failing to comply with this law, shall constitute an unclassified misdemeanor punishable by either a fine of one thousand dollars (\$1,000.00), and a term of imprisonment not to exceed one year in the Sullivan County Jail, or both such fine and imprisonment.

Section 6. Effect on other laws.

The provisions of section four of this local law shall not in any way affect the application of any other law, where appropriate, including but not limited to New York Penal Law section 260.10 (endangering the welfare of a minor) and section 260.20(2) (unlawfully dealing with a child).

Section 7. Severability.

If any clause, sentence, paragraph, or section of this local law shall be held invalid by any court of competent jurisdiction, or the application of this local law to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this local law directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this local law are hereby declared to be severable.

Section 8. Reverse Preemption

This Local Law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Local Law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Sullivan. The Sullivan County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 8. Effective date.

This local law shall take effect immediately after it shall have become a law.

LOCAL LAW NO. ____-2012

A LOCAL LAW OF THE COUNTY OF SULLIVAN PROHIBITING THE SALE AND POSSESSION OF SYNTHETIC CANNABINOIDS AND THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF SYNTHETIC CANNABINOIDS .

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SULLIVAN, STATE OF NEW YORK, AS FOLLOWS:

Section 1 – Purpose

(a) This Legislature hereby finds and determines that sale and possession of synthetic cannabinoids and operation of a motor vehicle while under the influence of synthetic cannabinoids poses a serious threat to the health, safety and welfare of the residents of Sullivan County.

The Legislature finds that synthetic drugs, those that mimic the effects of banned drugs have increasing become a public safety concern throughout the country. To circumvent state and federal drug laws, the manufacturers of these synthetic drugs market their products under the guise of being a commonly used product, such as bath salts or incense. Synthetic cannabinoids are being sold under such names as: K2, Spice, Blonde, Summit, Standard, Blaze, Red Dawn X, Citron and Scooby Snax, among others. In addition, the purveyors of these substances are constantly changing the chemical make-up of these synthetic compounds to stay one step ahead of the law prohibiting their possession, sale or use while driving.

The Legislature finds that on March 12, 2012, the New York State Commissioner of Health, Nirav R. Shah, M.D., authored a letter warning all New York healthcare providers of the emerging trend to public health from the use of synthetic cannabinoids. She reported that these products are marketed as legal and consist of plant material coated with chemicals that mimic THC, the active ingredient in marijuana and that the use of these products has been associated with a dramatic increase in the number of calls to the New York State Poison Control Center in 2012. These synthetic cannabinoids have caused severe and catastrophic effects to those who have consumed them, including death, acute renal failure, as well as other significant adverse health effects to the cardiovascular and central nervous system. She further reported that users report highs that last from 30 minutes to 2 hours, and, at times, describe out of body experiences. The most common symptoms from use of these substances are: tachycardia, paranoia, agitation/irritability, nausea and vomiting, confusion, drowsiness, headache, hypertension, electrolyte abnormalities, seizures, and loss of consciousness.

The Legislature finds that due to the imminent threat to public safety the Drug Enforcement Administration (DEA) has utilized its emergency powers to render these substances illegal for sale by including them as Schedule I controlled substances and is moving to permanently ban these substances.

The Legislature finds that the New York State Senate has passed legislation banning

synthetic cannabinoids but this legislation has died in the Assembly. This Legislature further finds and determines that, currently, no criminal sanctions exist, under the Penal Law and Vehicle and Traffic Law, for the possession, sale and use of these dangerous substances while driving and that local legislation is needed to address this emerging and substantial threat to public safety.

Section 2 – Definitions

a. "SYNTHETIC CANNABINOID" MEANS ANY CHEMICAL COMPOUND THAT IS CHEMICALLY SYNTHESIZED AND:

1. (i) HAS BEEN DEMONSTRATED TO HAVE A BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS; OR

(ii) IS A CHEMICAL ISOMER, SALT OR SALT OF AN ISOMER OF A COMPOUND THAT HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS; OR

(iii) IS A CHEMICAL ANALOG OR HOMOLOG OF A COMPOUND THAT HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY AT THE CANNABINOID RECEPTORS.

b. "SYNTHETIC CANNABINOID" INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING SUBSTANCES:

(i) HU-210: (6AR, 10AR)-9-(HYDROXYMETHYL)-6, 6-DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO[C]CHROMEN-1-OL;

(ii) HU - 211 : DEXANABINOL , (6 AS , 10 AS) - 9 - (HYDROXYMETHYL) - 6 , 6 - DIMETHYL - 3 - (2 - METHYLOCTAN - 2 - Y L) - 6 A , 7 , 1 0 , 10A-TETRAHYDROBENZO[C]CHROMEN-1-OL;

(iii) JWH-018: 1-PENTYL-3-(1-NAPHTHOYL)INDOLE;

(iv) JWH-073: 1-BUTYL-3-(1-NAPHTHOYL)INDOLE;

(v) JWH-081: 1-PENTYL-3-(4-METHOXY-1-NAPHTHOYL)INDOLE, ALSO KNOWN AS 4-METHOXYNAPHTHALEN-1-YL-(1-PENTYLINDOL-3-YL)METHANONE;

(vi) JWH -200 :1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL)INDOLE;

(vii) JWH - 250 :1-PENTYL-3-(2-METHOXYPHENYLACETYL)INDOLE, ALSO KNOWN AS 2-(2-METHOXYPHENYL)-1-(1-PETYLINDOL-3-YL)ETHANONE; AND

(viii) CP 47, 497, AND HOMOLOGUES: 2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-5-(2-METHYLOCTAN-2-YL)PHENOL.

c. "SYNTHETIC CANNABINOID" DOES NOT INCLUDE ANY PRODUCTS THAT HAVE BEEN APPROVED FOR MEDICAL USE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

d. "SYNTHETIC CANNABINOID ANALOG" MEANS ANY CHEMICAL THAT IS SUBSTANTIALLY SIMILAR IN CHEMICAL STRUCTURE TO A CHEMICAL COMPOUND THAT HAS BEEN DETERMINED TO HAVE BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS. IT DOES NOT INCLUDE ANY PRODUCTS THAT HAVE BEEN APPROVED FOR MEDICAL USE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

Section 3 - Conduct

Except as otherwise authorized by law, it shall be unlawful for any person to:

(a) possess or sell any synthetic cannabinoid or synthetic cannabinoid analog, as defined in Section 2;

(b) operate a motor vehicle on the public highways of the County of Sullivan, as those terms are defined in the Vehicle and Traffic Law, Article 31, while under the influence of a synthetic cannabinoid or synthetic cannabinoid analog, as defined in Section 2. A person is deemed to be operating a vehicle while under the influence of synthetic cannabinoids when the consumption of such substances impairs, to any extent, the physical and mental abilities which such person is expected to possess in order to operate a vehicle as a reasonable and prudent driver. All of the provisions of the Vehicle and Traffic Law with respect to arrest and testing and chemical test evidence shall apply to any such case brought under this subdivision.

Section 4 - Penalties.

(a) The sale or possession of any synthetic cannabinoid or synthetic cannabinoid analog, as prohibited in Section 3(a), shall constitute a Class A misdemeanor and be exclusively prosecuted by the Sullivan County District Attorney's office and shall be subject to any sentence permitted for a class A misdemeanor under the Penal Law, including up to one (1) year in the Sullivan County Jail as provided in Section 60.01, Section 70.15 and Article 65 of the Penal Law of the State of New York.

(b) The operation of a motor vehicle while under the influence of a synthetic cannabinoid or synthetic cannabinoid analog, as prohibited in Section 3(b), shall constitute an unclassified misdemeanor and be exclusively prosecuted by the Sullivan County District Attorney's office and shall be subject to any sentence permitted for an unclassified misdemeanor under Vehicle and Traffic Law § 1193, including up to one (1) year in the Sullivan County Jail and revocation of the person's driver's license for six months.

Section 5 – Effective Date

(a) This local law shall be effective April 30, 2012, and upon filing in the Office of the Secretary of State as provided by Section 27 of the Municipal Home Rule Law.

**RESOLUTION NO. INTRODUCED BY THE PUBLIC SAFETY AND LAW
ENFORCEMENT COMMITTEE TO CREATE THE LAW ENFORCEMENT REVIEW
PANEL**

WHEREAS, the County Legislature has placed a priority on public safety, and

WHEREAS, the County Legislature hereby creates the Law Enforcement Review Panel with a primary purpose to comprehensively review the law enforcement needs of the County, including an inventory of available resources from the New York State Police and the Sheriff's Office, the District Attorney's Office and the Probation Department; and

WHEREAS the cost in the aggregate of the law enforcement agencies should be analyzed, prior to developing a plan to maintain sustainable revenue sources to comprehensively fund public safety for the future; and

WHEREAS, the Law Enforcement Review Panel would analyze the fiscal prudence of providing certain levels of law enforcement services at the County level, supported by county tax revenues, with the goal of maintaining and increasing the services of the New York State Police; and

WHEREAS, a study of the assignments of all levels of law enforcement would need to be charted to reduce potential waste of public resources, duplication of effort, and to improve efficiencies, and control the costs associated with Law Enforcement; and

WHEREAS, the need for law enforcement is known to protect the citizens of the county, the cost must be reviewed to keep the budget stable; and

WHEREAS, this Review Panel will provide advice and recommendations to the Sullivan County Legislature regarding the level of law enforcement services that would be provided at the County Government level in Sullivan County; and

WHEREAS, part of the mission would be to evaluate and provide advice and recommendations to the County Legislature on the level of adequate "Aid-to-Localities" from the New York State Legislature that may be appropriated to maintain and increase law enforcement services provided within Sullivan County by the New York State Police; and

WHEREAS, the Sullivan County Legislature wants to ensure that the way in which they are providing the services is the most effective.

NOW, THEREFORE, BE IT RESOLVED by the Sullivan County Legislature:

1. The Law Enforcement Review Panel is hereby created, with nine (9) members, whose membership shall serve without compensation at the pleasure of the Legislature.
2. The Law Enforcement Review Panel will comprehensively review the law enforcement needs throughout the County, starting with an inventory of available

resources from the New York State Police, the Sheriff's Office, the District Attorney Office, and District Attorney's Office and the Probation Department.

3. The cost in the aggregate of the law enforcement agencies should be analyzed, prior to developing a plan to maintain sustainable revenue sources to comprehensively fund public safety for the future.
4. The Law Enforcement Review Panel would analyze the fiscal prudence of providing certain levels of law enforcement services at the County level, supported by county tax revenues, with the goal of maintaining and increasing the services of the New York State Police.
5. A study of the assignments of all levels of law enforcement would need to be charted to reduce potential waste of public resources, duplication of effort, and to improve efficiencies, and control the costs associated with Law Enforcement.
6. Evaluate and provide advice and recommendations to the County Legislature on the level of adequate "Aid-to-Localities" from the New York State Legislature that may be appropriated to maintain and increase law enforcement services provided within Sullivan County by the New York State Police.
7. This Review Panel will provide advice and recommendations to the Sullivan County Legislature regarding the level of law enforcement services that would be provided at the County Government level in Sullivan County.
8. An initial scoping document shall be completed by September 1, 2012.
9. Final Report with recommendations due October 15, 2012.