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City Council Document Tracking Sheet

Meeting Date: 7/25/2012

Sponsor(s): Emanuel, Rahm (Mayor)

Type: Ordinance

Title: Amendment of Title 2-173 of Municipal Code by adding new sections 2-173-005 and 2-173-042 regarding citizenship and immigration status

Committee(s) Assignment: Committee on Human Relations



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

July 25, 2012

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Superintendent of Police, I transmit herewith an ordinance amending Chapter 2-173 of the Municipal Code regarding citizenship and immigration status.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 2-173 of the Municipal Code of Chicago is hereby amended by adding new sections 2-173-005 and 2-173-042, by adding the language underscored and by deleting the language struck through, as follows:

CHAPTER 2-173

~~ACTIONS RELATED TO CITIZENSHIP OR RESIDENCY STATUS~~ WELCOMING CITY ORDINANCE

2-173-005 Purpose and Intent.

The vitality of the City of Chicago (the "City"), one of the most ethnically, racially and religiously diverse cities in the world, where one-out-of-five of the City's residents is an immigrant, has been built on the strength of its immigrant communities. The City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of protecting life and property, preventing crime and resolving problems. The City Council further finds that assistance from a person, whether documented or not, who is a victim of, or a witness to, a crime is important to promoting the safety of all its residents. The cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire City. One of the City's most important goals is to enhance the City's relationship with the immigration communities.

Due to the City's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of the immigrant communities; and to effectuate the City's goals, the City Council finds that there is a need to clarify the communications and enforcement relationship between the City and the federal government. The purpose of this chapter is to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws.

2-173-010 Definitions.

As used in this ordinance, the following words and phrases shall mean and include:

"Administrative warrant" means an immigration warrant issued by ICE, or a successor or similar federal agency charged with enforcement of civil immigration laws, used as a non-criminal, civil warrant for immigration purposes.

(a) Agency. "Agency" means every City department, agency, division, commission, council, committee, board, other body, or person established by authority of an ordinance, executive order, or City Council order.

(b) Agent. "Agent" means any person employed by or acting on behalf of an agency as defined in Section (a).

(c) Citizenship or residency immigration status. "Citizenship or residency immigration status" means all matters reading regarding questions of citizenship of the United States or any other country, ~~questions of the authority from the Department of Homeland Security—or federal entity charged with enforcing civil immigration laws—~~ to reside in or otherwise be present in the

United States, the time or manner of a person's entry into the United States, or any other civil immigration matter enforced by the Department of Homeland Security or a successor or other federal agency charged with the enforcement of civil immigration laws. ~~The use in this ordinance of the term "residency" shall not mean street address or location of residence in Chicago or elsewhere.~~

"ICE" means the United States Immigration and Customs Enforcement Agency and shall include any successor agency charged with the enforcement of civil immigration matters.

"Immigration detainer" means an official request issued by ICE, or other federal agency charged with the enforcement of civil immigration laws, to another federal, state or local law enforcement agency to detain an individual based on a violation of a civil immigration law.

2-173-020 Requesting information prohibited.

No agent or agency shall request information about or otherwise investigate or assist in the investigation of the citizenship or residency immigration status of any person, including the immigration status of crime victims, witnesses or others who call or approach the police seeking assistance, unless such inquiry or investigation is required by ~~Illinois State Statute, federal regulation, or a court order decision.~~ Notwithstanding this provision, the Corporation Counsel may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding in which the City is or may be a party.

2-173-030 Disclosing information prohibited.

~~Except as otherwise provided under applicable federal law, no~~ No agent or agency shall disclose information regarding the citizenship or residency immigration status of any person unless required to do so by legal process or such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or guardian.

2-173-040 Conditioning benefits, services, or opportunities on immigrant status prohibited.

No agent or agency shall condition the provision of City of Chicago benefits, opportunities, or services on matters related to citizenship or immigrant status unless required to do so by ~~statute, federal regulation, or a court order decision.~~ Where presentation of an Illinois driver's license or identification card is accepted as adequate evidence of identity; presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document) shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided an Illinois driver's license or identification card except that this sentence does not apply to the completion of the federally mandated I-9 forms.

2-173-042 Civil Immigration Enforcement Actions-Federal responsibility.

(a) Except for such reasonable time as is necessary to conduct the investigation specified in subsection (c) of this section, no agency or agent shall:

- (1) arrest, detain or continue to detain a person solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation;

(2) arrest, detain, or continue to detain a person based on an administrative warrant entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States, when the administrative warrant is based solely on a violation of a civil immigration law; or

(3) detain, or continue to detain, a person based upon an immigration detainer, when such immigration detainer is based solely on a violation of a civil immigration law.

(b) (1) Unless acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of civil immigration law, no agency or agent shall:

(A) permit ICE agents access to a person being detained by, or in the custody of, the agency or agent;

(B) ICE agents use of agency facilities for investigative interviews or other purposes; or

(C) while on duty, expend their time responding to ICE inquiries or communicating with ICE regarding an person's custody status or release date.

(2) An agency or agent is authorized to communicate with ICE in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law.

(c) The provisions of this section shall not apply when a investigation conducted by the agency or agent indicates that the person:

(1) has an outstanding criminal warrant;

(2) has been convicted of a felony in any court of competent jurisdiction;

(3) is a defendant in a criminal case in any court of competent jurisdiction where a judgment has not been entered and a felony charge is pending; or

(4) has been identified as a known gang member either in a law enforcement agency's database or by his own admission.

2-173-060 Exchanging file information.

All applications, questionnaires, and interview forms used in relation to City of Chicago benefits, opportunities, or services shall be promptly reviewed by the pertinent agencies and any questions regarding citizenship or residency immigration status other than those required by statute, ordinance, federal regulation, or a court order decision, shall be deleted within 60 days of the passage of this ordinance.

SECTION 2. This ordinance shall take effect after its passage and publication.