



Office of the City Clerk

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Legislation Text

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Committee on Human Relations February 22,
2017

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 deleting the language stricken through and by inserting the language underscored, as follows:

CHAPTER 2-173

WELCOMING

005 Purpose CITY and ORDINANCE 2-173-010

Definitions.

2-173-020 Requesting information prohibited. ~~2-173-030~~ Dis

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Certifications for victims of certain criminal activity. 2-173-067 Information

regarding citizenship or immigration status.^ 2-173-070 Severability.

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. Furthermore, immigrant community members, whether documented citizens or not, should be treated with respect and dignity by all City employees and should not be subjected to physical abuse, threats or intimidation. One of the City's most important goals is to enhance the City's relationship with the immigrant 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 and to clarify what specific conduct by City employees is prohibited because such conduct significantly harms the City's relationship with immigrant communities. The purpose of this chapter is to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws and to identify conduct that City employees may not engage in when interacting with community members. (Added Coun. J. 9-12-12, p. 33041, § 1)

2-173-010 Definitions.

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

Administrative warrant. "Administrative warrant" means an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document, ~~City-issued~~ issued by ICE that can form the basis for an individual's arrest or detention for a civil immigration enforcement purpose. This definition does not include any criminal warrant issued upon a judicial determination of probable cause, and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution and Article I, Section 6 of the Illinois Constitution.

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.

Agent. "Agent" means any person employed by or acting on behalf of an agency.

Certification. "Certification" means any law enforcement certification or statement required by federal immigration law including, but not limited to, the information required by Section 1184(p) of Title 8 of the United States Code (including current United States Citizenship and Immigration Service Form 1-918, Supplement B, or any successor forms) for purposes of obtaining a U visa, or by Section 1184(o) of Title 8 of the United States Code (including current United States Citizenship and Immigration Service Form 1-914, Supplement B, or any successor forms) for purposes of obtaining a T visa.

Certifying agency. "Certifying agency" means a City law enforcement agency or other authority that has responsibility for the investigation or prosecution of criminal activity. "Certifying agency" includes any agency that has criminal investigative jurisdiction in its respective areas of expertise.

Citizenship or immigration status. "Citizenship or immigration status" means all matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United States,

Coercion. "Coercion" means the use of improper or unlawful force or threats, express or implied, in order to compel a person to act against his or her will. As defined herein, "coercion" includes compelling a person to make statements.

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Contact information. "Contact information" means home address, work address, telephone number, electronic mail address, social media contact information, or any other means of contacting an individual.

Eligible for release from custody. "Eligible for release from custody" means that the person may be released from custody because one of the following conditions has occurred:

- 1) All criminal charges against the person have been dropped or dismissed.
- 2) The person has been acquitted of all criminal charges filed against him or her.
- 3) The person has served all the time required for his or her sentence.
- 4) The person has posted a bond.
- 5) The person is otherwise eligible for release under state or local law, or local policy.

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

Immigration detainer. "Immigration detainer" means a request by ICE to a federal, state or local law enforcement agency to provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued pursuant to Sections 1226 or 1357 of Title 8 of the United States Code or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainers include but are not limited to DHS Form I-247D "Immigration Detainer - Request for Voluntary Action"; DHS I-247X "Request for Voluntary Transfer"; or DHS Form I-247N "Request for Voluntary Notification of Release."

Immigration enforcement operation. "immigration enforcement operation" means any operation that has as one of its objectives the identification or apprehension of a person or persons: 1) in order to subject them to civil immigration detention, removal proceedings and removal from the United States; or 2) to criminally prosecute a person or persons for offenses related to immigration status, including but not limited to violations of Sections 1253, 1304, 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code.

Qualifying criminal activity. "Qualifying criminal activity" means any activity involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting (as defined in Section 1351 of Title 18 of the United States Code); or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. This list of qualifying criminal activity is not a list of specific statutory violations, but instead a list of general categories of criminal activity. Activity not listed in the first sentence of this definition shall be presumed to be qualifying criminal activity when there is an articulable similarity to any qualifying criminal activity listed herein. Qualifying criminal activity that occurs during the commission of non-qualifying criminal activity shall be considered qualifying criminal activity regardless of whether criminal prosecution was sought for the qualifying criminal activity.

"Verbal abuse" means the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or perceived race, immigration status, color, ancestry, or national origin.

Victim of qualifying criminal activity. "Victim of qualifying criminal activity" means any individual who has reported qualifying criminal activity to a law enforcement agency or certifying agency, or has otherwise participated in the detection, investigation, or prosecution of qualifying criminal activity, who has suffered direct or proximate harm as a result of the commission of any qualifying criminal activity and may include, but is not limited to, an indirect victim, regardless of the direct victim's immigration or citizenship status, including the spouse, children under 21 years of age, and, if the direct victim is under 21 years of age, deceased, incompetent or incapacitated, parents and unmarried siblings under 18 years of age of the direct victim. A bystander victim may also be considered as a "victim of qualifying criminal activity". More than one victim may be identified and provided with certification depending upon the circumstances. A "victim of qualifying criminal activity" may also include a victim of a severe form of trafficking in persons as defined in Section 7102 of Title 22 of the United States Code and Section 10-9 of the Illinois Criminal Code of 2012. For purposes of this definition, the term "incapacitated" means unable to interact with law enforcement agency or certifying agency personnel as a result of a cognitive impairment or other physical limitation, or because of physical restraint or disappearance.

(Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 9-12-12, p. 33041, § 1) 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 immigration status of any person unless such inquiry or investigation is required by Illinois State Statute, Article 35, Chapter 1, Section 1-1, order issued by a court of competent jurisdiction. 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. (Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 11-8-12, p. 38872, § 24)

2-173-025 Threats based on citizenship or immigration status prohibited.

No agent or agency shall coerce, including improper or unlawful threats of deportation, or engage in verbal abuse of any person based upon the person's or the person's family members' actual or perceived citizenship or immigration status. For purposes of this Section, "family member" means a person's (i) mother, father, spouse, brother or sister (including blood, step or half), son or daughter (including blood, step or half), father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent or grandchild; or (ii) court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or (iii) domestic partner or the domestic partner's mother, father, brother, sister (including blood, step, or half), son or daughter (including blood, step or half).

2-173-030 Discretionary enforcement

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~~f~~Added Coun. J. 3-20-06, p. 74325, § 1; Amend Coun. J. 11-8-12, p. 38672, § 25)41

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

- a) **No agent or agency shall condition the provision of City of Chicago benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.**
- b) **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 subsection (b) shall not apply to the completion of the federally mandated 1-9 forms.**
- c) In order to ensure that eligible persons are not deterred from seeking municipal benefits, services, or opportunities, all agencies shall review their confidentiality policies and identify any changes necessary to ensure that information collected from individuals is limited to that . necessary to perform agency duties and is not used or disclosed for any other purpose. Any necessary changes to those policies shall be made as expeditiously, as possible, consistent with agency procedures.
- d) The Corporation Counsel, in consultation with the appropriate stakeholders, shall publish model policies for public schools, libraries, hospitals, courthouses, and any other appropriate public facility to ensure that all public schools, libraries, hospitals, courthouses, and other public facilities remain safe and accessible to all Chicago residents, regardless of immigration status. All public schools, libraries, hospitals, courthouses, and other appropriate public facilities shall establish and make public policies that limit immigration enforcement operations on their premises to the fullest extent possible consistent with federal and state law.

(Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 11-8-12, p. 38872, § 26)

2-173-042 Civil immigration enforcement actions - Federal responsibility.fl

- (a) No agency or agent shall stop, arrest, detain, or continue to detain a person after that person becomes eligible for release from custody or is free to leave an encounter with an agent or agency, based on any of the following:
- 1) an immigration detainer;
 - 2) an administrative warrant (including but not limited to entered into the Federal Bureau of Investigation's National Crime Information Center database); or
 - (3) any other basis that is based 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.

(b) No agency or agent shall be permitted to accept requests by ICE or other agencies to support or assist in any capacity with immigration enforcement operations, including but not limited to requests to provide information on persons who may be the subject of immigration enforcement operations (except as provided under Section 2-173-067), to establish traffic perimeters, or to otherwise be present to assist or support an operation. In the event an agent receives a

request to support or assist in an immigration enforcement operation, he or she shall report the request to his or her supervisor, who shall decline the request and document the declination in an interoffice memorandum to the agency director through the chain of command.

c) No agency or agent shall enter into an agreement under Section 1357(g) of Title 8 of the United States Code or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws.

d) Unless presented with a valid and properly issued criminal warrant, no agency or agent shall:

- (1) permit ICE agents access to a person being detained by, or in the custody of, the agency or agent;
- (2) transfer any person into ICE custody;
- 3) permit ICE agents use of agency facilities, information (except as provided under Section 2-173-067), or equipment, including any agency electronic databases, for investigative interviews or other investigative purpose or for purposes of executing an immigration enforcement operation; or
- 4) expend the time of the agency or agent in responding to ICE inquiries or communicating with ICE regarding a person's custody status, release date, or contact information.

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(Added Coun. J. 9-12-12, p. 33041, § 1)

2-173-050 No private cause of action.

This chapter does not create or form the basis for liability on the part of the City, its agents, or agencies. The exclusive remedy for violation of this chapter shall be through the City's disciplinary procedures for officers and employees under regulations including but not limited to this City personnel rules, union contracts, civil service commission rules, or any other agency rules and/or regulations. A person alleging a violation of this chapter against a member of the Chicago Police Department shall forward a complaint to the Independent Police Review Authority, or any successor independent police review agency; all other complaints shall be forwarded to the Office of the Inspector General ("Inspector General") who shall process it in accordance with the complaint-processing procedures established in Chapter 2-56 of this Code except that if the complaint is against any member of the City Council or any employee or staff person of any City Council committee, the Inspector General shall promptly transmit said complaint to the chairman of the City Council Committee on Committees, Rules and Ethics for processing or such successor committee having jurisdiction over said matters (Added Coun. J. 3-29-06, p. 74325, § 1)

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 immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted within 60 days of the passage of this ordinance.
(Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 11-8-12, p. 38872, § 27)

2-173-062. Calls related to immigration enforcement operations.
"311 City Services" or its successor agency shall establish a system and protocol for routing 311

calls related to immigration enforcement operations to an appropriate civil society organization that can provide information on an individual's constitutional and civil rights and otherwise monitor immigration enforcement operations to ensure protection of persons fundamental constitutional and civil rights. The City shall ensure that all limited English proficient residents have meaningful access to the 311 system and to information described in this section provided through this system.

2-173-065. Certifications for victims of certain criminal activity.

a) A certifying agency shall execute any certification requested by any victim of qualifying criminal activity or representative of the victim including, but not limited to, the victim's attorney, accredited representative, or domestic violence service provider, within 90 days of receiving the request. If the victim seeking certification is in federal immigration removal proceedings, the certifying agency shall execute the certification no later than 14 days after the request is received by the agency. If the victim or the victim's children would lose any benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of having reached the age of 21 years within 90 days after the certifying agency receives the certification request, the certifying agency shall execute the certification no later than 14 days before the date on which the victim or child would reach the age of 21 years. Requests for expedited certification must be affirmatively raised by the victim.

b) If a certifying agency fails to certify within the time limit prescribed in subsection (a) of this Section, or a victim of qualifying criminal activity disputes the content of a certification, then the victim of qualifying criminal activity may bring an action in circuit court to seek certification or amend the certification. The court shall award court costs and reasonable attorneys' fees to any person who brings a proceeding brought pursuant to this subsection who prevails.

c) The head of each certifying agency shall perform, or designate an agent, who performs a supervisory role within the agency, to perform the following responsibilities:

- 1) respond to requests for certifications;
- 2) provide outreach to victims of qualifying criminal activity to inform them of the agency's certification process; and
- 3) keep written records of all certification requests and responses.

d) All certifying agencies shall implement a language access protocol for non-English speaking victims of qualifying criminal activity.

e) A certifying agency shall reissue any certification within 90 days of receiving a request from the victim of qualifying criminal activity or representative of the victim including, but not limited to, the victim's attorney, accredited representative, or domestic violence service provider.

f) Notwithstanding any other provision of this section, a certifying agency's completion of a certification shall not be considered conclusory evidence that the victim has met eligibility

requirements for a U or T visa and completion of a certification by a certifying agency shall not be construed to guarantee that a victim will receive federal immigration relief. It is the exclusive responsibility of federal immigration officials to determine whether a victim of qualifying criminal activity is eligible for a U or T visa. Completion of a certification by a certifying agency merely verifies factual information relevant to the immigration benefit sought including information relevant for federal immigration officials to determine eligibility for a U or T visa. By completing a certification, the certifying agency attests that the information is true and correct to the best of the certifying official's knowledge. If after completion of a certification, the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, then the certifying agency may notify the United States Citizenship and Immigration Service in writing.

2-173-066 Federal registry programs

No agency or agent shall expend any time, facilities, equipment, information, or other resources of the agency or agent to facilitate the creation, publication, or maintenance of any federal program to register individuals present in the United States based on their race, color, ancestry, national origin, or religion, or the participation of any City residents in such a registry.

2-173-067 Information regarding citizenship or immigration status.

Nothing in this chapter prohibits any municipal agency from sending to, or receiving from, any local, state, federal agency, information regarding an individual's citizenship or immigration status. All municipal agents shall be instructed that federal law does not allow any such prohibition. "Information regarding an individual's citizenship or immigration status," for purposes of this section, means a statement of the individual's country of citizenship or a statement of the individual's immigration status.

2-173-070 Severability.

If any provision, clause, section, part, or application of this chapter to any person or circumstance is declared

invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance. It is hereby declared that the legislative intent of the City Council that this chapter would have been adopted had such invalid provision, clause, section, part or application not been included herein. (Added Coun. J. 3-29-06, p. 74325, § 1)

Scott Waguespack Alderman, 32nd Ward
Ricardo Munoz Alderman, 22nd Ward

Chicago City Council Co-Sponsor Addition/Change

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- City Clerk

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