



# Office of the City Clerk

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## Legislation Text

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Committee on Human Relations and Health City Council  
July 23, 2019

### ORDINANCE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO: Chapter 2-173 of the Municipal Code of the City of Chicago is hereby amended by deleting the language struck through and inserting the language underscored, as follows: (Omitted text is unaffected by this ordinance)**

#### CHAPTER 2-173

#### WELCOMING CITY ORDINANCE 2-173-005

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#### **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; Amend Coun. J. 10-5-16, p. 33830, § 2) 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, ~~any document 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 1, 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.

**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.

**Contact information.** "Contact information"<sup>1</sup> 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. An immigration detainer includes but is not limited to DHS Form

1- 247A 'immigration Detainer - Notice of Action.'

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.

"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.

(Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 9-12-12, p. 33041, § 1; Amend Coun. J. 10-5-16, p. 33830, §3)

## **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, federal regulation, or an order issued by a court of competent jurisdiction 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.

(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).

(Added Coun. J. 10-5-16, p. 33830, § 4)

## **2-173-030 Disclosing information prohibited.**

Except as otherwise provided under applicable federal law, no agent or agency shall disclose information regarding the citizenship or 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. (Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 11-8-12, p. 38872, § 25)

**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, health care and public health facilities, administrative hearing facilities, and any other appropriate public facility administered by the City of Chicago to ensure that all such facilities remain safe and accessible to all Chicago residents, regardless of immigration status. All such 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.**

(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 an administrative warrant 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, 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.

Cc) 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, or equipment 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.

e) No agency or agent shall enter into or maintain any agreement with the US Department of Homeland Security (DHS) or any agency within DHS regarding direct access to any electronic database or other data-sharing platform, or otherwise provide such direct access to DHS or any agency within DHS.

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 an agency or agent is acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of a 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) permit ICE agents use of agency facilities for investigative interviews or other investigative purpose; or

(C) while on duty, expend their time responding to ICE inquiries or communicating with ICE regarding a

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) This section shall not apply when an investigation conducted by the agency or agent indicates that the subject of the investigation:

- 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.

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

## **2-173-050 No private cause of action remedies.**

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 may submit forward a complaint to the Independent Police Review Authority Civilian Office of Police Accountability, or any successor independent police review agency. Other complaints shall be forwarded may be submitted 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. Nothing in this section shall be construed as limiting any other remedy for a violation of this chapter that may be available to a complainant under the law.

(Added Coun. J. 3-29-06, p. 74325, § 1; Amend Coun. J. 10-5-16, p. 33830, § 5) **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 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.

**2-173-070 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)

Carlos Ramirez-Rosa

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