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Legislation Text

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OFFICE OF THE MAYOR

CITY OF CHICAGO

LORI E. LIGHTFOOT MAYOR

December 16, 2020

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

Ladies and Gentlemen:

At the request of the Mayor's Office of New Americans, I transmit herewith, together with Aldermen Rodriguez, Rodriguez-Sanchez, and Ramirez-Rosa, an ordinance amending Chapter 2-173 of the Municipal Code of Chicago.

Your favorable consideration of this ordinance will be appreciated.

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 the language underscored, and by deleting the language struck through, as follows:

2-173-010 Definitions.

For purposes of this Chapter, the following definitions shall apply:

(Omitted text is unaffected by this ordinance)

"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" means any information which assists in contacting an individual, including, but not limited to, telephone numbers, social media identifiers, electronic mail addresses, or home or work addresses.

"CPD" means the Chicago Department of Police.

(Omitted text is unaffected by this ordinance)

2-173-020 Requesting information prohibited Immigration enforcement prohibited.

(a) 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 court 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, participate in civil immigration enforcement operations or assist the civil enforcement of federal immigration law, unless required to disclose information as addressed in Section 2-173-030(a). Specifically, no agency or agent shall:

- 1) stop, arrest, detain, or continue to detain a person
 - A) 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) based upon an administrative warrant, including, but not limited to, those entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States.
 - C) based upon an immigration detainer.
- 2) permit ICE agents
 - A) access, including by telephone, to a person being detained by, or in the custody of, the agency or agent.
 - B) use of agency facilities for investigative interviews or other investigative purpose.
- 3) expend their time responding to ICE inquiries or communicating with ICE regarding a person's custody status, release date, or contact information. 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.

4) enter into an agreement under Section 1357(g) of Title 8 of the United States Code or any other provision of federal law that permits state or local governmental entities to enforce federal civil immigration law.

5) transfer any person into ICE custody for the sole purpose of civil immigration enforcement.

6) set up a traffic perimeter or provide on-site support to assist a civil immigration enforcement operation.

b) If CPD receives a request from ICE, HSI, CBP, or another successor agency to provide assistance with a civil immigration enforcement operation, a CPD supervising officer shall determine whether such request is to assist in the enforcement of civil immigration law. If the supervisor determines that the request is to assist in the enforcement of civil immigration law, the supervisor shall decline the request. The supervisor shall also notify the Office of Emergency Management and Communications with an identifier that indicates that the event is a request for assistance with civil immigration enforcement.

c) The Corporation Counsel, in consultation with appropriate stakeholders, shall develop model policies for public libraries, community mental health centers, administrative hearing facilities, and any other appropriate public facilities administered or operated by the City to ensure that all such facilities remain safe and accessible to all Chicago residents, regardless of immigration status. All such facilities shall establish

public policies that limit immigration enforcement operations on their premises to the fullest extent possible consistent with federal and state law. The Corporation Counsel shall review such policies when immigration law changes such that the policies may need to be changed. The City shall also make such policies available to facilities operated by Sister Agencies, including public schools and park district facilities.

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^A 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 Disclosing information prohibited Intentional collection and sharing of citizenship or immigration status information.

(a) Unless required to do so by statute, federal regulation, court order, or a lawfully issued judicial warrant,

(1) Except as otherwise provided under applicable federal law, no agent or agency shall request, maintain, or share ~~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. 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) no applications, questionnaires, or interview forms used in relation to City of Chicago benefits, opportunities, or services shall contain questions regarding citizenship or immigration status. Departments shall annually review such materials and amend them to conform with the requirements of this subsection. (b) No agency or agent shall enter into or renew any agreement providing direct access to any electronic database or other data-sharing platform maintained by any agency, or otherwise provide direct access to such database, to any federal agency, if the agency or agent determines that the purpose of such access is for the enforcement of civil immigration law.

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

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 I-9 forms.

c) No agent or agency shall coerce, including through the use of 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-).

2-173-042 [Reserved] 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) (4)-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.~~

2-173-043 [Reserved] Prohibited activities.

(a) No agency or agent shall assist ICE, HSI, CBP, or another successor agency with a civil immigration enforcement operation, including by being present to support or assist such an operation, establishing a traffic perimeter, or providing other on-site support.

~~{+)-If CPD receives a request from ICE, HSI, CBP, or another successor agency to provide such assistance, a CPD supervising officer shall determine whether such request is to assist in the enforcement of civil immigration law. If the supervisor determines that the request is to assist in the enforcement of civil immigration law, the supervisor shall decline the request. The supervisor shall also notify the Office of Emergency Management and Communications with an identifier that indicates that the event is a request for assistance with civil immigration enforcement.~~

~~(2) An agency or agent is authorized to communicate with ICE in order to determine whether~~

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

(g) After January 1, 2020, no agency or agent shall enter into or renew any agreement providing direct access to any electronic database or other data-sharing platform maintained by any agency, or otherwise provide direct access to such database, to any federal agency, if the agency or agent determines that the purpose of such access is for the enforcement of civil immigration law.

2-173-060 [Reserved.] 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.

2-173-065 [Reserved.] Policies for public facilities.

The Corporation Counsel, in consultation with appropriate stakeholders, shall develop model policies for public libraries, community mental health centers, administrative hearing facilities, and any other appropriate public facilities administered or operated by the City to ensure that all such facilities remain safe and accessible to all Chicago residents, regardless of immigration status. All such facilities shall establish public policies that limit immigration enforcement operations on their premises to the fullest extent possible consistent with federal and state law. The City shall also make such policies available to facilities operated by sister agencies, including public schools and park district facilities.

2-173-069 Reporting requirements.

a) In order to ensure compliance with this Chapter, starting July 1, 2020, CPD shall submit a quarterly report to the Office of the Mayor and the Office of the Inspector General describing its compliance with this Chapter in the preceding quarter, which shall include:

1) A list of the notifications made by CPD to the Office of Emergency Management and Communications with events describing a request for assistance with the enforcement of federal civil immigration law, as required under Section 2-173-0-13(b)(1)(D) 020(b).

- 2) With regard to immigration detainers or administrative warrants received by CPD that are related to enforcement of civil immigration law:
- A) The date that CPD received the immigration detainer or administrative warrant; and
 - B) Whether CPD transferred the individual subject to the immigration detainer or administrative warrant to a federal agency's custody and, if so, which agency.
- b) The Office of the Mayor and the Office of the Inspector General shall make such reports publicly available, including through the Internet.

SECTION 2. This ordinance shall take effect upon passage and approval.