

**PROPOSED SECOND SUBSTITUTE TO FILE 23-2279 (This substitute replaces all other versions)
(Human Relations Committee 5/24/2023)**

Sponsored by: KEVIN B. MORRISSON, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

AN AMENDMENT TO CHAPTER 42, ARTICLE II, HUMAN RIGHTS

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42 - Human Relations, Article II - Human Rights, Sections 42-31, 42-35, and 42-38 of the Cook County Code is hereby amended as Follows:

Sec. 42-31. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Age means chronological age of not less than 40 years.

Credit history means a record of an individual's past borrowing and repaying, including information about late payments and bankruptcy.

Credit report means any written or other communication of any information by a consumer reporting agency that bears on a consumer's credit worthiness, credit standing, credit capacity, or credit history.

Credit transaction means the grant, denial, extension or termination of credit to an individual.

Disability means:

- (1) A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- (2) A record of such an impairment; or
- (3) Being regarded as having such an impairment. Excluded from this definition is an impairment relating to the illegal use, possession or distribution of "controlled substances" as defined in schedules I through V of the Controlled Substances Act (21 U.S.C. § 812).

Employee means:

- (1) Any individual whether paid or unpaid, engaged in employment for an employer; or
- (2) An applicant for employment.

Employer means:

- (1) Any person employing one or more employees, or seeking to employ one or more employees:

- a. If the person has its principal place of business within Cook County; or
 - b. Does business within Cook County.
- (2) The term "employer" does not mean:
- a. The government of the United States or a corporation wholly owned by the government of the United States;
 - b. An Indian tribe or a corporation wholly owned by an Indian tribe;
 - c. The government of the State or any agency or department thereof; or
 - d. The government of any municipality in Cook County.

Employment means the performance of services for an employer:

- (1) For remuneration;
- (2) As a volunteer; or
- (3) As a participant in a training or apprenticeship program.

Employment agency means a person that undertakes to procure employees or opportunities to work for potential employees, through interviews, referrals, or advertising, or any combination thereof.

Gender identity means the actual or perceived appearance, expression, identity, or behavior of gender(s) ~~of a person as being male or female~~, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

Housing status means the type of housing in which an individual resides, whether publicly or privately owned; an individual's ownership status with respect to the individual's residence; or the status of having or not having a fixed residence.

Labor organization includes any organization, labor union, or craft union, or any voluntary incorporated association designed to further the cause of the rights of union labor, which is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with an employer concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in connection with employment, including apprenticeships or applications for apprenticeships.

Marital status means the status of being single, married, divorced, separated, or widowed.

Military discharge status means the fact of having been discharged from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia other than by a "dishonorable discharge."

National origin means the place in which an individual or one of such individual's ancestors was born.

Parental status means the status of living with one or more dependent minors or disabled children.

Person means one or more individuals; partnerships, associations, or organizations; labor organizations, labor unions, joint apprenticeship committees, or union labor associations; corporations; recipients of County funds; legal representatives, trusts, trustees in bankruptcy, or receivers; state

governments other than that of Illinois; or commercial operations or entities controlled by governments other than those of Illinois, or of the United States.

Public accommodation means a person, place, business establishment, or agency that sells, leases, provides, or offers any product, facility, or service to the general public in Cook County, regardless of ownership or operation:

- (1) By a public body or agency;
- (2) For or without regard to profit; or
- (3) For a fee or not for a fee.

The term "public accommodation" also means an institution, club, association, or other place of accommodation in Cook County, whether or not open to the general public, that has more than 400 members and provides regular meal service and regularly receives payment for dues, fees, accommodations, facilities, or services from or on behalf of nonmembers for the furtherance of trade or business. "Public accommodation" also means any products, facilities, or services of a nonpublic accommodation that are made available in Cook County to the general public or to the customers or patrons of another establishment that is a public accommodation.

Religion means all aspects of religious observance and practice, as well as belief, or the actual identification with or perceived identification with a religion.

Sexual orientation means a person's actual or perceived sexual, romantic, and/or emotional attraction, or lack thereof, to another person or persons. ~~the status or expression, whether actual or perceived, of heterosexuality, homosexuality, or bisexuality.~~

Source of income means the lawful manner by which a person ~~an individual~~ supports themselves himself or herself and/or their ~~his or her~~ dependents.

Unlawful discrimination means discrimination against a person because of the actual or perceived status, practice, or expression of that person's race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, pregnancy status, military discharge status, source of income, gender identity, ~~or~~ housing status, bodily autonomy; or the actual or perceived association with such a person.

Bodily autonomy means self-governance over one's own reproductive options and gender identity status, including reproductive health care and gender-affirming care.

Reproductive health care means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. "Reproductive health care" includes, but is not limited to: contraception; sterilization; preconception care; assisted reproduction; maternity care; abortion care; and counseling regarding reproductive health care.

Assisted reproduction means a method of achieving a pregnancy through the handling of human oocytes, sperm, zygotes, or embryos for the purpose of establishing a pregnancy. "Assisted reproduction" includes, but is not limited to, methods of artificial insemination, in vitro fertilization, embryo transfer, zygote transfer, embryo biopsy, preimplantation genetic diagnosis, embryo cryopreservation, oocyte, gamete, zygote, and embryo donation, and gestational surrogacy.

Gender-affirming care means all services, supplies, drug therapies, and other care that an individual may receive to support and affirm the individual's gender identity.

Sec. 42-35. Employment.

(a) Coverage. The prohibitions against unlawful discrimination contained in this section apply as follows:

- (1) To employment that is or would be in whole or in part in the County; or
- (2) When the act of unlawful employment discrimination as described in this section takes place in the County.

(b) Prohibitions.

- (1) Employment. No employer shall directly or indirectly discriminate against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.
- (2) Employment agency. No employment agency shall directly or indirectly discriminate against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination. No employment agency shall publish or cause to be published, in print or on the internet, an advertisement for, or other posting of, any job opportunity which states any other preference, limitation, or discrimination prohibited by this ordinance.
- (3) Labor organizations. No labor organization shall limit, segregate, or classify its membership, or limit employment opportunities, selection, and training for apprenticeship in any trade or craft, or otherwise take, or fail to take, any action which affects adversely any individual's status as an employee, or as an apprentice, or as an applicant for apprenticeships, or wages, tenure, hours of employment, or apprenticeship conditions, on the basis of unlawful discrimination.
- (4) Discrimination related to the exercise of bodily autonomy. For the purposes of this section discrimination related to the exercise of bodily autonomy shall include discrimination based on individuals' decisions regarding their reproductive health and/or gender-affirming care as well as discrimination based on individuals' status relating to their reproductive health, including pregnancy, and their gender identity.

An employer shall not:

- a. Discriminate against any individual in hiring for employment because of, or on the basis of, the applicant's or applicant's family member's decision regarding the exercise of bodily autonomy.

- b. Discriminate nor take retaliatory personnel action against a worker with respect to compensation, terms, conditions, or privileges of employment because of, or on the basis of, the worker's or worker's family member's decision regarding the exercise of bodily autonomy.
- c. Require an applicant or a worker to sign a waiver or other document which purports to deny the individual or the individual's family member's the right to make their own decision regarding the exercise of bodily autonomy.
- d. Without the worker's informed affirmative written consent, access information about a worker's or worker's family member's decision regarding the exercise of bodily autonomy.
 - (1) "Informed affirmative written consent" is consent voluntarily given by the worker, in writing, after having the opportunity to review a document that asks the worker's permission for the employer to receive information related to reproductive health care and/or gender-affirming care, and after being informed in writing and orally that disclosure is voluntary, that the worker may revoke consent at any time, that none of the information will be disclosed to the employer prior to the worker signing the document, should the worker choose to sign, and the employer may not discriminate or retaliate against the worker should the worker refuse to provide consent or later revoke consent. The written and oral information shall be provided in the worker's primary language.
- e. For the purposes of this section, "family member" shall have the same meaning as in Article I, Section 42-2 of this Chapter.

Sec. 42-38. Housing.

- (a) Definitions. The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Conviction means a judgment of liability entered upon a plea, verdict or finding of guilt for an offense, rendered by a legally constituted jury, court or administrative authority of competent jurisdiction. Conviction excludes any "juvenile record" as defined below.

Covered criminal history means information regarding an individual's arrest, charge or citation for an offense; participation in a diversion or deferral of judgment program; record of an offense that has been sealed, expunged, or pardoned in accordance with applicable law; juvenile record; and conviction.

Evidence of rehabilitation means any information produced by the individual, or produced on their behalf, with respect to their rehabilitation or good conduct, including, but not limited to: the individual's satisfactory compliance with all terms and conditions of his or her sentence; court-issued certificates of good conduct; employer recommendations; educational attainment or vocational or professional training since the conviction; completion or active participation in rehabilitative treatment; and letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, religious institutions or leaders, or parole/probation officers who have observed the individual since his or her conviction.

Individualized assessment means a process by which a person considers all factors relevant to an individual's conviction history and whether that history negatively impacts the individual's ability to fulfill the responsibilities of tenancy, including, but not limited to:

conviction(s);

- (2) The nature of the individual's sentencing;
- (3) The number of the individual's convictions;
- (4) The length of time that has passed following the individual's most recent conviction;
- (5) The age of the individual at the time of the most recent conviction;
- (6) Evidence of rehabilitation; and
- (7) The individual's tenant history before and/or after the conviction.

Juvenile record means juvenile court records, as defined in 705 ILCS 405/1-3(8.1) or comparable state law, and juvenile law enforcement records, as defined in 705 ILCS 405/1-3(3.2) or comparable state law.

Offense means a violation of any penal statute, ordinance, law, or code of any jurisdiction.

Person shall mean any person as defined in Section 46-31(15) of this article that is also an owner, lessor, sublessor, assignor, managing agent, or other individual, firm, or corporation having the right to sell, rent, lease, or sublease any housing unit within Cook County, or any agent, broker, or other individual working on behalf of any such individual, firm, or corporation.

Real estate transaction means the sale, exchange, rental, occupancy, lease, sublease, or lease renewal of real property for residential purposes in Cook County or the provision of services or utilities in connection with such sale, exchange, rental, occupancy, lease, sublease, or lease renewal. The term "real estate transaction" also means with respect to activity conducted or property located in Cook County, the brokering or appraising of residential real property in Cook County and the making, purchasing, or guaranteeing of loans or mortgages or providing any other financial assistance either:

- (1) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (2) Secured by residential real property.
- (b) Prohibitions.
- (1) Terms and conditions. No person shall make any distinction, discrimination, or restriction in the price, terms, conditions, or privileges of any real estate transaction, including the decision to engage in or renew any real estate transaction, on the basis of unlawful discrimination or covered criminal history.
 - (2) Discriminatory communications. No person shall publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, sign or other writing of any kind relating to a real estate transaction which will indicate or express any unlawful limitation or discrimination on the basis of unlawful discrimination or covered criminal history.

- (3) Listings. No person shall deliberately and knowingly refuse examination of any listing of residential real property within Cook County to any individual because of unlawful discrimination or covered criminal history.
- (4) Representations. No person shall deliberately and knowingly represent to an individual that residential real property is not available for inspection, sale, rental, or lease in Cook County when in fact it is available, or fail to bring a residential real estate listing in Cook County to an individual's attention, or refuse to permit a person to inspect residential real property in Cook County because of unlawful discrimination or covered criminal history.
- (5) Blockbusting. No person shall solicit, for sale, lease, or listing for sale or lease, residential real property within Cook County on the grounds of loss of value due to the present or prospective entry into any neighborhood of any individual(s) of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status, or with any covered criminal history.
- (6) Encouragement of blockbusting. No person shall distribute or cause to be distributed written material or statements designed to induce any owner of residential real property in Cook County to sell or lease such owner's property because of any prospective change in the race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status of individuals in the neighborhood, or because of the presence or prospective entry into the neighborhood of any individual(s) with any covered criminal history.
- (7) Creating alarm. No person shall intentionally create alarm among residents of any community within Cook County by transmitting communication in any manner, including a telephone call whether or not conversation thereby ensues, with a design to induce any person within Cook County to sell or lease the person's residential real property within Cook County because of the present or prospective entry into the vicinity of the property of any individual(s) with any covered criminal history or of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status.
- (8) Preemptive inquiries. No person shall inquire about, consider, or require disclosure of covered criminal history when considering an application for admission to, or continuing occupancy of, residential real property until the individual has been determined qualified for admission to, or continuing occupancy of, residential real property.
- (9) Discrimination related to the exercise of bodily autonomy. For the purposes of this section discrimination related to the exercise of bodily autonomy shall include discrimination based on individuals' decisions regarding their reproductive health and/or gender-affirming care as well as discrimination based on individuals' status relating to their reproductive health, including pregnancy, and their gender identity.
 - a. No person shall discriminate nor take any retaliatory action against an individual with respect to housing because a decision regarding reproductive health care or gender-affirming care made by (i) the individual or (ii) anyone living in the dwelling with the individual or (iii) a family

member of the individual or (iv) a family member of someone living in the dwelling with the individual.

b. For the purposes of this section, "family member" shall have the same meaning as in Article I, Section 42-2 of this Chapter.

- (c) Exceptions. The prohibitions in this section shall not apply to any of the following:
- (1) Age. Restricting rental or sale of a housing accommodation to an individual of a certain age group:
 - a. When such housing accommodation is authorized, approved, financed, or subsidized in whole or in part for the benefit of that age group by a unit of State, local, or Federal government; or
 - b. When the duly recorded initial declaration of a condominium or community association limits such housing accommodations to individuals 50 years of age or older, provided that an individual or members of the household of an individual owning or renting a unit in such housing accommodation prior to the recording of the initial declaration shall not be deemed to be in violation of the age restriction as long as the individual or household member continues to own or reside in the housing accommodation.
 - (2) Religion. Limitation by a religious organization, association, or society, or any not-for-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, of the sale, rental, or occupancy of a dwelling which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals.
 - (3) Single sex. Restricting the rental of rooms in a housing accommodation to individuals of one sex. The determination of an individual's sex or gender shall be based upon the sex or gender of that individual as reflected on any official identification of that individual recognized by the State, including a driver's license or State identification card.
 - (4) Private rooms. Rental of a room or rooms in a private home by an owner if the owner or a member of the owner's family resides therein or, while absent for a period of not more than 12 months, if the owner or a member of the owner's family intends to return to reside therein.
 - (5) Certain conviction history. Denying the admission to or continuing occupancy of residential real property on the basis of:
 - a. A current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction);
 - b. A current child sex offender residency restriction; or
 - c. A criminal conviction, provided that the person conducts an individualized assessment, and the individualized assessment shows that denial based on the criminal conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. The Cook County Commission on Human Rights shall promulgate rules to enforce this exception.
 - (6) Applicable law. Denying the admission to or continuing occupancy of residential real property on the basis of covered criminal history when federal or state law mandates such denial.

- (d) Sexual harassment.
 - (1) No person shall engage in sexual harassment in any real estate transaction.
 - (2) When used in this subsection, the term "sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when:
 - a. Submission to such conduct is an explicit or implicit term or condition of an individual's real estate transaction;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's real estate transaction; or
 - c. Such conduct has the purpose or effect of substantially interfering with an individual's real estate transaction or creating an intimidating, hostile, or offensive environment with respect thereto.
- (e) Notice and Opportunity to Dispute Conviction History.
 - (1) Before an owner may deny admission or continued occupancy on the basis of a conviction, the owner must first give the individual sufficient notice and an opportunity to dispute the accuracy and relevance of the conviction.
 - (2) To comply with subsection (1), the owner must:
 - a. Before denying admission or continued occupancy, provide the individual with a copy of the tenant selection criteria, a copy of any criminal background check relied upon, and an opportunity to dispute the accuracy and relevance of the conviction(s);
 - b. Upon denying admission or continued occupancy, notify the individual in writing the reasons why denial based on the conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction pursuant to Subsection 42-38(c)(5)c.;
 - c. Limit the use or dissemination of information about an applicant's criminal history obtained in conjunction with Subsection (2)(a) to the purpose of evaluating applicants in a manner consistent with this ordinance. Unless otherwise mandated by law, the owner must keep such information confidential.

Effective date: This ordinance shall be in effect immediately upon adoption.