



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 15-3088, Version: 1

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY HUMAN RIGHTS ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 42 - HUMAN RELATIONS, ARTICLE II - HUMAN RIGHTS of the Cook County Code is hereby amended as Follows:

Sec. 42-30. - Short title.

This article shall be known and may be cited as the Cook County Human Rights Ordinance.

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 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 the status or expression, whether actual or perceived, of heterosexuality, homosexuality, or bisexuality.

Source of income means the lawful manner by which an individual supports himself or herself and 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, military discharge status, source of income, gender identity or housing status; or the actual or perceived association with such a person.

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.

(c) *Exceptions.* The prohibitions contained in section 42-35(b) shall not apply to any of the following:

- (1) *BFOQ.* Hiring or selecting between individuals for bona fide occupational qualifications.
- (2) *Military discharge status.* Use of an individual's unfavorable discharge from military service as a valid employment criterion where:
 - a. Authorized by Federal law or regulation;
 - b. Where the affected position of employment involves the exercise of fiduciary responsibilities and the reasons for the unfavorable discharge relate to the individual's fiduciary capacity; or
 - c. Where the reasons for the unfavorable discharge specifically relate to criteria which constitute a bona fide occupational qualification for a particular job.
- (3) *Veterans.* Giving preferential treatment to veterans and their relatives as required by Federal or State law or regulation.
- (4) *Religion.* Giving preference in employment by a religious corporation, association, educational institution, or society to individuals of a particular religion to help carry out the religious activities of such corporation, association, educational institution or society.

(d) *Religious accommodation.*

- (1) No employer shall refuse to make all reasonable efforts to accommodate the religious beliefs, observances, and practices of employees or prospective employees unless the employer demonstrates that the employer is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.
- (2) Reasonable efforts to accommodate include, but are not limited to, allowing an employee:
 - a. To take a day of paid leave or vacation, where applicable under the employee's employment agreement;
 - b. To be excused from work without pay and without discipline or other penalty; or
 - c. To elect to take the day off with pay in order to practice the employee's religious beliefs, and to make up the lost work time at a time and date consistent with the operational needs of the employer's business. Any employee who elects such deferred work shall be compensated at the employee's regular rate of pay, regardless of the time and date at which the work is made up. The employer may require that any employee who plans to exercise this option provide the employer with notice of the employee's intention to do so, no less than five days prior to the date of absence.

(e) *Sexual harassment.*

- (1) No employer, employee, agent of an employer, employment agency, or labor organization (hereinafter referred to collectively in this section as "employer") shall engage in sexual harassment.
- (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 employment;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or
 - c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

An employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. An employer is responsible for acts of sexual harassment between co-employees in the workplace where the employer (or its agents or supervisory employees) knew or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. An employer may also be responsible for the acts of nonemployees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knew or should have known of the conduct and failed to take immediate and appropriate corrective action.

- (f) *National origin.* No employer may discriminate based on national origin under the guise of discrimination based on an individual's foreign education or training. Nothing in this article shall be construed to conflict with Federal or State licensing or certification requirements.

(g) Credit History.

- 1) Except as otherwise provided in section 42-35(g), no employer, agent of an employer or employment agency shall do any of the following:
 - a. Fire or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, classification, grading, discipline, selection for training and apprenticeship, compensation, or other term, condition, or privilege of employment because of the individual's credit history or credit report.
 - b. Inquire about an employee's credit history.
 - c. Order or obtain an employee's credit report from a consumer reporting agency.

- 2) The prohibitions contained in section 42-35(g)(1) shall not prevent an inquiry or employment action if a satisfactory credit history is an established bona fide occupational requirement of a particular position or a particular group of employees. A satisfactory credit history is not a bona fide occupational requirement unless at least one of the following circumstances is present:
 - a. State or federal law requires bonding or other security covering an individual holding the position.
 - b. The duties of the position include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. For the purpose of this exception (b), "marketable assets" means company property that is specifically safeguarded from the public and to which access is only entrusted to managers and other select employees. "Marketable assets" do not include the fixtures, furnishings, or equipment of an employer.
 - c. The duties of the position include signatory power over business assets of \$100 or more per transaction.
 - d. The position is a managerial position which involves setting the direction or control of the business.
 - e. The position involves access to personal or confidential information, financial information, trade secrets, or state or national security information. For the purposes of this exception, the following definitions apply:
 - i. Personal or confidential information means sensitive information that an employee, customer, client, or service recipient gives explicit authorization for another person to obtain, process, and keep; that an organization entrusts only to managers and a select few employees; or that is stored in secure repositories not accessible by the public or non-designated employees.
 - ii. Financial information means non-public information on the overall financial direction of an organization, including, but not limited to, company taxes or financial reports.
 - iii. Trade secrets mean sensitive information regarding a company's overall strategy or business plans. This does not include general proprietary information such as

handbooks, policies or general business strategies.

iv. State or national security information means information only offered to select employees because it may jeopardize the security of the state or the nation if it were entrusted to the general public.

f. The position meets criteria in administrative rules, if any, that the U.S. Department of Labor or the Illinois Department of Labor has promulgated to establish the circumstances in which a satisfactory credit history is a bone fide occupational requirement.

g. The employee's credit history is otherwise required by or exempt under other applicable law.

3) The prohibitions contained in section 42-35(g)(1) shall not apply to any of the following:

a. Any bank holding company, financial holding company, bank, savings bank, savings and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, which is authorized to do business under the laws of Illinois or of the United States.

b. Any company authorized to engage in any kind of insurance or surety business pursuant to the Illinois Insurance Code, including any employee, agent, or employee of an agent acting on behalf of a company engaged in the insurance or surety business.

c. Any municipal law enforcement, investigative unit or municipal agency which requires use of the employee's credit history or credit report including without limitation the Chief Judge, the Cook County Independent Inspector General, the Cook County Auditor, the Cook County Sheriff and the Cook County State's Attorney.

d. Any entity that is defined as a debt collector under federal or state statute or county ordinance.

4) Nothing in section 42-35(g) shall prohibit employers from conducting a thorough background investigation, which may include obtaining a report without information on credit history or an investigative report without information on credit history, or both, as permitted under the Fair Credit Reporting Act.

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