



## Legislation Text

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**File #: 0935-2011, Version: 1**

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The purpose of this legislation is to ensure consistency between Chapter 2331 of the Columbus City Codes, 1959, which prohibits discrimination and discriminatory practices against various protected classes of individuals and Title 39 of the Columbus City Codes, 1959, which promotes equal opportunity in contracting in the City. Title 39 contains a older definition of discrimination that omits the categories of age, disability, sex, gender identity or expression, familial status, and military status. Because it is the intention of the City to protect the categories of individuals that were added to Chapter 2331 in 2008, it is necessary to amend Title 39 to reflect this policy. Furthermore, it was discovered that that two definitions contained in Section 2331.01 were inadvertently missed in the 2008 revision to Chapter 2331. This ordinance will correct these errors.

Fiscal Impact: None.

To amend Section 2331.01 and various sections of Title 39 of the Columbus City Codes, 1959, to clarify the additional protected classes of individuals that are intended to be protected from discriminatory practices.

**WHEREAS, Columbus City Council passed Ordinance No. 1865-2008 in order to expand the categories of protected classes of individuals intended to be covered under Chapter 2331 of the Columbus City Codes, 1959, which prohibits discrimination and discriminatory practices; and**

**WHEREAS, Title 39 of the Columbus City Codes, 1959, which promotes equal opportunity in the area of contracting in the City of Columbus contains an outdated definition of discrimination in that it does not include the additional protected classes covered by the 2008 legislation; and**

**WHEREAS, in the course of reconciling these definitions of discrimination, it was discovered that there were some unintentional omissions contained in the newer version of Chapter 2331 that should be addressed; and**

**WHEREAS, this ordinance will reconcile these inconsistencies and demonstrate the intention of the City to protect all categories of individuals identified in Chapter 2331 from discrimination and discriminatory practices through the enforcement of Chapter 2331 as well as Title 39; now, therefore,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:

**Section 1.** That Section 2331.01 of the Columbus City Codes, 1959, be amended to read as follows:

2331.01 - Definitions.

(A)As used in Chapter 2331 of the Columbus City Codes:

(1)"Person" includes one (1) or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, lending institution; and the city of Columbus, and all political subdivisions, authorities, agencies, boards and commissions thereof.

(2)"Employer" means any person who employs four (4) or more persons, within the city of Columbus, including the city of Columbus, its departments, boards, commissions, and authorities.

(3)"Employee" does not include any individual employed in the domestic service of any person.

(4)"Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(5)"Employment agency" means any persons regularly undertaking with or without compensation, to procure opportunities for employment or to procure, recruit, refer, or place employees.

(6)"Discriminate and discrimination" includes segregate or separate and any difference in treatment based on ~~race, sex, sexual orientation, color, religion, ancestry, national origin or place of birth~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status.

(7)"Unlawful discriminatory practice" means any act prohibited by Title 23, Chapter 2331 of the Columbus City Codes.

(8)"Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land or water, theater, store, or other place for the sale of merchandise, or any other place of public accommodation or amusement where the accommodation, advantages, facilities, or privileges thereof are available to the public, or a private club which has more than two hundred (200) members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business. "Place of public accommodation" does not mean a benevolent corporation incorporated as such or a religious corporation incorporated as such under the laws of Ohio.

(9)"Housing accommodations" includes any building or structure or portion thereof which is used or occupied or is intended, arranged, or designed to be used or occupied as a home residence or sleeping place of one or more individuals, groups or families, whether or not living independently of each other; and any vacant land offered for sale or lease.

It also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesman, or agent, or by any other person pursuant to authorization of the owner, by the owner, or by such person's legal representative.

(10)"Restrictive covenant" means any specification in a deed, land contract or lease limiting the use of any housing because of ~~race, sex, sexual orientation, color, religion, national origin, or ancestry~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing ~~race, sex, sexual orientation, color, religion, national origin, or ancestry~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status as a condition of affiliation or approval.

(11)"Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including but not limited to, cemeteries owned and operated by the city of Columbus or companies or associations incorporated for cemetery purposes.

(12)"Sexual orientation" means a person's actual or perceived homosexuality; bisexuality; or heterosexuality, by orientation or practice, by and between consenting adults.

(13)"Racial profiling" means to stop, detain, investigate, search, seize or arrest an individual based on the racial or ethnic status of such individual except when based upon a physical description of a suspect in a criminal or traffic offense. The use of race or ethnicity as a factor for determining the existence of reasonable suspicion and/or probable cause in the absence of actual physical evidence or observations linking that individual to a crime constitutes a violation of Section 2331.07 of this chapter.

(14)"Age" means at least forty (40) years old.

(15)"Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a

record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

(16)

(a)"Except as provided in division (b) of this subsection, "physical or mental impairment" includes any of the following:

(i)Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine;

(ii)Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii)Diseases, blood disorders and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, sickle cell, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.

(b)"Physical or mental impairment" does not include any of the following:

(i)Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;

(ii)Compulsive gambling, kleptomania, or pyromania;

(iii)Psychoactive substance use disorders resulting from current illegal use of a controlled substance.

(17)"Sex" means male or female. The terms "because of sex" and "on the basis of sex" include pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions.

(18)"Gender identity or expression" means having or being perceived as having gender-related identity, appearance, expression, or behavior, whether or not that identity, appearance, expression, or behavior is different from that traditionally associated with the person's actual or perceived sex.

(19)"Familial status" means either of the following:

(i)One or more individuals who are under eighteen (18) years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;

(ii)Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen (18) years of age.

(iii)"Family" includes a single individual.

(20)"Military status" means a person's status in "service in the uniformed services" as defined in Section 5923.05 of the Ohio Revised Code.

(21)"Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia pursuant to Chapter 5923. of the Revised Code. "Service in the uniformed services" includes also the period of time for which a person is absent from a position of public or private employment for the purpose of an examination to determine the fitness of the person to perform any duty described in this division.

(22)"Uniformed services" means the armed forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the public health service, and any other category of persons

designated by the president of the United States in time of war or emergency.

**Section 2.** That Section 3909.01 of the Columbus City Codes, 1959, be amended to read as follows:

3909.01 - Equal Opportunity Clause.

(A)The contracting agencies of the city are directed to include the following equal opportunity clause in all contracts, as defined in C.C. 3901.01. The inclusion of this clause may be waived by the EBO Commission Office Executive Director where it is appropriate due to a similar clause requirement by state or federal law. The requirements contained in this clause will be considered by the Executive Director in determining whether a contractor is in compliance with this Article.

(B)Equal Opportunity Clause:

(1)The contractor will not discriminate against any employee or applicant for employment because of ~~race, color, religion, sex or national origin~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their ~~race, color, religion, sex, or national origin~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status. Such action shall include, but not be limited to, the following: employment up-grading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this Equal Opportunity Clause.

(2)The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal opportunity employer.

(3)It is the policy of the city of Columbus that business concerns owned and operated by minority and female persons shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the city.

(4)The contractor shall permit access to any relevant and pertinent reports and documents by the Executive Director for the sole purpose of verifying compliance with this Article, and with the regulations of the Contract Compliance Office. All such materials provided to the Executive Director by the contractor shall be considered confidential.

(5)The contractor will not obstruct or hinder the Executive Director or his deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Article I, Title 39

(6)The contractor and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. The contractor will take such action with respect to any subcontractor as is necessary as a means of enforcing the provisions of the Equal Opportunity Clause.

(7)The contractor agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Article I, Title 39

(8)Failure or refusal of a contractor or subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this contract.

**Section 3.** That Section 3953.01 of the Columbus City Codes, 1959, be amended to read as follows:

3953.01 - Equal employment policy.

It shall be the policy of the city of Columbus to provide equal opportunity without regard to ~~race, color, religion, sex, national origin or ancestry~~ race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status in hiring, tenure, training, terms, conditions or privileges of employment.

**Section 4.** That existing Sections 2331.01, 3909.01, and 3953.01 are hereby repealed.

**Section 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.