



Legislation Text

File #: O-1-17, Version: 1

~~Non-Discrimination Foreign-Born Residents~~EQUAL PROTECTION - For the purpose of amending the Code of the City of Annapolis by EXTENDING IN ACKNOWLEDGEMENT THAT ALL PERSONS ARE DUE EQUAL rights PROTECTION UNDER LAW; and protections to all individuals; and recognizing THAT THE importance~~CITY SHALL TREAT A PERSON OR CLASS OF accommodating culturally diverse contributions of foreign-born residents to social, academic, religious, cultural, and economic life in Annapolis~~PERSONS THE SAME AS IT TREATS OTHER PERSONS OR CLASSES IN LIKE CIRCUMSTANCES.

CITY COUNCIL OF THE
City of Annapolis

Ordinance O-1-17

Introduced by: Alderman Littmann, Alderman Pfeiffer
Alderwoman Finlayson, Alderman Kirby, ~~and~~ Alderman Arnett AND ALDERMAN BUDGE

Referred to
Rules and City Government Committee

AN ORDINANCE concerning

~~Non-Discrimination of Foreign-Born Residents~~ EQUAL PROTECTION

FOR the purpose of amending the Code of the City of Annapolis by EXTENDING IN ACKNOWLEDGEMENT THAT ALL PERSONS ARE DUE EQUAL rights PROTECTION UNDER LAW; and protections to all individuals; and recognizing THAT THE importance~~CITY SHALL TREAT A PERSON OR CLASS OF accommodating culturally diverse contributions of foreign-born residents to social, academic, religious, cultural, and economic life in Annapolis~~PERSONS THE SAME AS IT TREATS OTHER PERSONS OR CLASSES IN LIKE CIRCUMSTANCES.

BY adding the following portions to the Code of the City of Annapolis, 2016 Edition
3.50.010
3.50.020
3.50.030
3.60.040

WHEREAS, the City of Annapolis has a culturally diverse population that includes many ~~foreign-born~~ residents AND VISITORS FROM DIFFERENT PARTS OF THE WORLD AND DIFFERENT CULTURAL BACKGROUNDS; and

WHEREAS, THE CITY HAS A COMPELLING INTEREST IN ADDRESSING PUBLIC SAFETY CONCERNS FOR ALL RESIDENTS AND VISITORS; AND

WHEREAS, PUBLIC SAFETY IS ENHANCED WHEN RESIDENTS AND VISITORS COOPERATE WITH CITY LAW ENFORCEMENT OFFICIALS IN THE INVESTIGATION OF CRIMES TO WHICH SUCH RESIDENTS OR VISITORS ARE VICTIMS OR WITNESSES; AND

WHEREAS, THE CITY OF ANNAPOLIS ENCOURAGES ALL INDIVIDUALS TO REPORT CRIMES TO CITY LAW ENFORCEMENT OFFICIALS; AND

WHEREAS, in particular, Hispanic and Latino populations are growing at a steady rate in the City of Annapolis and throughout the State of Maryland, rendering issues pertaining to foreign-born populations of ongoing importance to local and state government; and

WHEREAS, the Governor's Commission of Hispanic Affairs Annual Report, 2013, indicates that Maryland's Hispanic population has increased by over 35% since 2008; and

WHEREAS, it is the mission of the City of Annapolis to promote public trust in its government agencies and in its enforcement of laws; and

WHEREAS, the City of Annapolis encourages all individuals to report crimes to City law enforcement officials; and

WHEREAS, ~~the United States Constitution vests in~~ the Federal government ~~the~~RETAINS EXCLUSIVE authority to enact laws governing which foreign-born residents are granted entrance into the United States and determining who among them may stay.; AND

WHEREAS, THE CITY HAS THE AUTHORITY TO ENACT LAWS NOT IN CONFLICT WITH LAWS THROUGH WHICH THE FEDERAL GOVERNMENT RETAINS JURISDICTION OVER CERTAIN MATTERS.

NOW, THEREFORE,

SECTION 1: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

TITLE 3 - HUMAN RESOURCES

CHAPTER 3.50 - NONDISCRIMINATION ~~OF FOREIGN-BORN RESIDENTS~~

SECTION 3.50.010 - DEFINITIONS.

FOR THE PURPOSES OF THIS CHAPTER, DISCRIMINATION MEANS ANY ~~VERBAL, PHYSICAL, NONVERBAL OR VISUAL INTERACTION, OR CONDUCT OF A DISCRIMINATORY NATURE, OR CONDUCT~~ BASED UPON AN INDIVIDUAL'S RACE, ~~COLOR~~, RELIGION, NATIONAL ORIGIN, IMMIGRATION STATUS, GENDER, SEXUAL ORIENTATION, ETHNICITY, AND/OR ABILITY TO SPEAK ENGLISH; WHICH, WHEN APPLIED TO THE CITY CODE OF ANNAPOLIS OR LAWS ENFORCEABLE BY THE CITY OF ANNAPOLIS, FAILS TO TREAT ALL PERSONS EQUALLY.

SECTION 3.50.020 - PROHIBITED CONDUCT.

A. DISCRIMINATION IS STRICTLY PROHIBITED. A VIOLATION OF THIS PROHIBITION INCLUDES, BUT IS NOT LIMITED TO, ANY OF THE FOLLOWING CIRCUMSTANCES:

1. A CITY EMPLOYEE INVESTIGATES OR QUESTIONS AN INDIVIDUAL SOLELY FOR THE PURPOSE OF DETERMINING WHETHER A SUSPECTED CIVIL VIOLATION OF FEDERAL IMMIGRATION LAW EXISTS, UNLESS SUCH INVESTIGATION IS REQUIRED BY LAW UTILIZES CITY MONIES, FACILITIES, PROPERTY, EQUIPMENT, OR PERSONNEL TO INVESTIGATE, ENFORCE, OR ASSIST IN THE INVESTIGATION OR ENFORCEMENT OF ANY FEDERAL PROGRAM REQUIRING REGISTRATION OF INDIVIDUALS ON THE BASIS OF RACE, GENDER, SEXUAL ORIENTATION, RELIGION, ETHNICITY, OR NATIONAL ORIGIN.
2. A CITY EMPLOYEE INQUIRES OF ANY INDIVIDUAL ABOUT THE IMMIGRATION STATUS OF ANY ALLEGED CRIME VICTIM, WITNESS OR OTHER INDIVIDUAL WHO CONTACTS ANY CITY EMPLOYEE SEEKING ASSISTANCE, UNLESS SUCH INQUIRY IS REQUIRED BY LAW.
3. A CITY EMPLOYEE CONDITIONS THE PROVISION OF CITY SERVICES OR CITY BENEFITS SOLELY ON THE IMMIGRATION STATUS OF AN INDIVIDUAL SEEKING THOSE SERVICES OR BENEFITS, UNLESS SUCH CONDITIONS ARE LAWFULLY IMPOSED BY LAW.
4. A CITY EMPLOYEE UTILIZES CITY MONIES, FACILITIES, PROPERTY, EQUIPMENT, OR PERSONNEL TO INQUIRE WITH ANY GOVERNMENTAL AGENCY REGARDING THE IMMIGRATION STATUS OF ANY INDIVIDUAL, UNLESS SUCH INQUIRY IS REQUIRED BY LAW IMMIGRATION AND CUSTOMS ENFORCEMENT (“ICE”) ABOUT AN INDIVIDUAL’S IMMIGRATION STATUS, UNLESS SUCH INQUIRY IS REQUIRED BY LAW.
- 4.5. A CITY EMPLOYEE ACCESSES CONFIDENTIAL INFORMATION ABOUT AN INDIVIDUAL, INCLUDING, BUT NOT LIMITED TO, THAT INDIVIDUAL’S RACE, GENDER IDENTIFICATION, SEXUAL ORIENTATION, RELIGION, ETHNICITY, NATIONAL ORIGIN, IMMIGRATION STATUS, AND/OR ABILITY TO SPEAK ENGLISH, UNLESS SUCH EMPLOYEE IS AUTHORIZED TO ACCESS SUCH INFORMATION AND DOES SO SOLELY FOR PURPOSES RELATED TO THE EXERCISE OF THEIR DUTIES AS A CITY EMPLOYEE.

B. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PROHIBIT A CITY EMPLOYEE FROM:

1. PARTICIPATING IN TASK FORCE ACTIVITIES WITH FEDERAL LAW ENFORCEMENT AUTHORITIES.
2. INVESTIGATING VIOLATIONS OF LAW, AS LONG AS SUCH INVESTIGATION IS NOT FOR THE PURPOSE OF FURTHERING AN INVESTIGATION BASED ON AN ALLEGED CIVIL VIOLATION OF FEDERAL IMMIGRATION LAW.
3. COOPERATING WITH FEDERAL IMMIGRATION AUTHORITIES WHO HAVE ESTABLISHED THAT PROBABLE CAUSE EXISTS TO APPREHEND AN UNDOCUMENTED FOREIGN-BORN

RESIDENT WHO HAS ENGAGED IN CRIMINAL ACTIVITY.

4. PURSUING CITY SANCTIONED INITIATIVES OR PROGRAMS WHEN INQUIRY INTO AN INDIVIDUAL'S IMMIGRATION OR CITIZENSHIP STATUS IS REQUIRED FOR THE SOLE PURPOSE OF ESTABLISHING ELIGIBILITY FOR SERVICES OR BENEFITS TO SUCH INDIVIDUALS AS LONG AS THE INFORMATION ABOUT SUCH INDIVIDUAL'S IMMIGRATION STATUS IS NOT USED FOR ANY PURPOSE RELATED TO IMMIGRATION ENFORCEMENT ACTIVITIES KEPT CONFIDENTIAL.
5. ~~DISCRIMINATING~~ TAKING ACTION BASED ON AN INDIVIDUAL'S RACE, COLOR, RELIGION, NATIONAL ORIGIN, IMMIGRATION STATUS, AND/OR ABILITY TO SPEAK ENGLISH IF, AND ONLY IF, IT IS REQUIRED FOR LAW ENFORCEMENT INVESTIGATIONS UNDER CITY JURISDICTION, FOR CITY EMPLOYMENT OR TO RECEIVE A PARTICULAR SERVICE OR BENEFIT AND SUCH ACTION COMPLIES WITH ALL RELEVANT STATE, LOCAL AND FEDERAL LAW.
- 5.6. COMPLYING WITH THE PROVISIONS OF 8 U.S.C. SECTION 1373 REGARDING THE VOLUNTARY EXCHANGE OF INFORMATION WITH FEDERAL IMMIGRATION AUTHORITIES, PROVIDED THAT SUCH EXCHANGE DOES NOT IMPERMISSIBLY UTILIZE CITY MONIES, FACILITIES, PROPERTY, EQUIPMENT, OR PERSONNEL.
7. SOLICITING A DESCRIPTION OF A PERSON INVOLVED WITH A CRIMINAL INVESTIGATION OR IN ANY OTHER WAY ENGAGING IN THE INVESTIGATION OF AN ALLEGED CRIMINAL OFFENSE, WHERE A SUSPECT OR OTHER INDIVIDUAL HAS BEEN DESCRIBED, IN PART, BY THEIR RACE, ETHNICITY, OR GENDER, PROVIDED THAT SUCH INVESTIGATION COMPLIES WITH ALL RELEVANT LOCAL, STATE AND FEDERAL LAW.

C. INFORMATION ABOUT AN INDIVIDUAL'S IMMIGRATION STATUS SHALL NOT BE RETAINED OR STORED IN ANY PUBLIC RECORD OR DATABASE, UNLESS IN FURTHERANCE OF A CITY SANCTIONED INITIATIVE OR PROGRAM REQUIRED BY LAW, AND IN THAT CASE SHALL BE KEPT CONFIDENTIAL FROM ANYONE NOT REQUIRED BY LAW TO HAVE SUCH INFORMATION.

3.50.030 - PENALTY.

EMPLOYEES WHO ~~HAVE BEEN DETERMINED TO BE IN VIOLATION OF~~ VIOLATE THIS CHAPTER SHALL BE SANCTIONED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM AND ARE SUBJECT TO APPLICABLE LAW.

3.50.040 - OTHER PENALTIES.

THE PROVISIONS OF THIS CHAPTER SHALL NOT PRECLUDE ANY PERSON FROM EXERCISING ANY RIGHTS OR PRIVILEGES GRANTED BY ANY LAW.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL THAT IF ANY PROVISION, CLAUSE, SECTION, PART OR APPLICATION OF THIS ORDINANCE 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 ORDINANCE WOULD HAVE BEEN ADOPTED HAD SUCH INVALID PROVISION, CLAUSE, SECTION, PART OR APPLICATION NOT BEEN INCLUDED HEREIN.

SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

Strikethrough indicates matter stricken from existing law.

Underlining indicates amendments