

Proposed Amendments to Bill No. 260057

Matter to be added by amendment in **Bold**
Matter to be deleted by amendment in ~~Strikethrough~~

AN ORDINANCE

Amending Title 21 of The Philadelphia Code by adding a new Chapter 21-3600 entitled “Non-Intervention with Respect to Immigration Enforcement” to establish certain limits on how personal information may be handled by the City with regard to immigration enforcement, create reporting requirements, and provide for remedies for violations, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 21 of The Philadelphia Code is hereby amended to read as follows:

TITLE 21. MISCELLANEOUS

* * *

CHAPTER 21-3600. Non-Intervention with Respect to Immigration Enforcement.

§ 21-3601. Definitions.

(X) Administrative warrant. A document issued by an immigration enforcement official, including those from the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE), or an administrative immigration judge (IJ), relating to suspected violations of immigration law, including an I-200 “Warrant for Arrest of Alien”, I-205 “Warrant of Removal/Deportation”, and any successor or similar forms. The term shall include civil administrative warrants, administrative subpoenas, detainer requests, removal orders, entries in databases maintained by National Crime Information Center or other entities, and any similar civil order for the arrest or detention of an individual or for information but shall not include a judicial warrant or court order.

*(X) (X) City ~~agency~~Agency. Any ~~City~~city department, **agency**, division, commission, council, committee, board, **or officer of the City of Philadelphia**, or other body established by authority of ordinance, executive order, or Charter., ~~including the Philadelphia Police Department.~~*

(X) City Designee. The highest-ranking manager or official designated by a City Agency to serve as the authorized representative for purposes of communicating with

immigration enforcement agents regarding requests under this Section, and at least one alternate manager or official to serve in their absence.

(X) Citizenship or immigration status. The status of a being a person who: (a) is a citizen or national of the United States, including a person who holds United States citizenship in addition to citizenship of another country; or (b) has migrated to and is neither a citizen nor national of the United States, including, but not limited to, persons with status as lawful permanent residents, refugees, asylees, unauthorized immigrants, and persons having temporary protected status.

*(X) Contractor or subcontractor. Any person or entity that receives City funds ~~and~~ **or** is party to, or a subcontractor for, an agreement to provide services or goods to, or on behalf of, the City.*

(X) Federal contractor. A person or entity providing goods or services under a Procurement Contract or subcontract with a federal agency.

(X) Immigration enforcement agent. Any federal employee or agent engaged in immigration enforcement operations, including, but not limited to, agents of United States Customs and Border Patrol (CBP), the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and members of the National Guard or United States Armed Forces, and federal contractors involved in immigration enforcement operations.

(X) Immigration enforcement operation. Any law enforcement activity that has as its main objective the identification or apprehension of a person or persons in order to subject them to civil immigration detention, removal or deportation proceedings, or removal or deportation from the United States, or to criminally prosecute a person or persons for offenses relating to immigration status, including, but not limited to, violations of Sections 1253, 1304(e), 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code, or violations of Sections 1028A or 1546 of Title 18 of the United States Code.

(X) Judicial warrant. A warrant based on probable cause and issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to Section 631 of Title 28 of the United States Code.

§ 21-3602. *City Handling of Information Related to Citizenship and Immigration Status.*

*(1) All City agencies, officials, and employees shall treat information that can be used to distinguish, ~~or~~ trace, **or determine** a person's citizenship or immigration status as confidential and personal information and shall handle, maintain, and secure such information according to the standards for confidential and personal information set forth in City policy.*

*(2) No City agency, official, employee, contractor or subcontractor shall enter into any contractual agreement or arrangement with **another city, county, or a federal agency or federal contractor** to provide access to any data, database, or dataset where the purpose of such access*

includes assisting or supporting immigration enforcement operations, unless otherwise required by state or federal law or a court order.

(3) Except as otherwise provided under by 8 U.S.C. § 1373 or other applicable federal or state law, no City agency, official, or employee shall disclose information regarding the citizenship or immigration status of any person, or information that can be used to distinguish or trace a person's citizenship or immigration status, either on its own or when combined with other information, unless required to do so by a judicial warrant or subpoena, 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.

*(4) Reporting. The Law Department, or such other agency as designated by the Mayor, shall file a report ~~annually~~ **quarterly** with the Department of Records that shall include:*

(a) The number of cooperation requests made by federal immigration enforcement agents or agencies and the nature of the City's response to such requests; and

(b) Any incidents in which City employees, contractors or subcontractors have acted in violation of this Chapter, and which agency, department, contractor or subcontractor has acted in violation.

§ 21-3603. Enforcement.

*(1) Private right of action. The City Solicitor or any individual aggrieved by a violation of this Chapter or any entity a member of which is aggrieved by a violation of this Chapter may bring a civil action in a court of competent jurisdiction against **a county, city, department or agency that employs a person violating this Chapter and no individual City employee or agent acting within the scope of their employment, and without authority as a City Designee shall be subject to liability under this subsection.** The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date the complainant knew or should have known of the alleged violation.*

(2) Remedies. A court of competent jurisdiction may order the following remedies:

(a) An order requiring the county, city, department or agency to cease and desist the unlawful practice;

(b) Payment of compensatory or punitive damages, provided that an aggrieved person shall make a reasonable effort to mitigate any damages;

(c) Payment of reasonable attorneys' fees;

(d) Payment of court costs;

(e) Payment of a fine not to exceed two thousand dollars for each violation (\$2,000); and

(f) Revocation of a contract with a City contractor or subcontractor, or the barment of future contracts for a period of time not to exceed five years; and

(g) Other equitable relief.

§ 21-3604. *Construction.*

(1) Nothing in this Chapter shall be construed to require or permit violations of federal law, including 8 U.S.C § 1644 and §1373(a).

(2) Severability. If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

* * *

SECTION 2. This Ordinance shall be effective immediately.