



Legislation Text

File #: 31080, Version: 1

**Fiscal Note**

No appropriation is required. Any additional workload will be absorbed within existing staff resources.

**Title**

Amending Section 39.03 of the Madison General Ordinances to add unemployment as a protected class.

**Body**

DRAFTER'S ANALYSIS: This amendment prohibits discrimination in employment based on the fact that an individual is currently unemployed. It prohibits an employer from refusing to hire an unemployed person or to post any notice or advertisement relating to employment that indicates a preference for hiring someone who is currently employed.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (1) entitled "Declaration of Policy" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"(1) Declaration of Policy. The practice of providing equal opportunities in housing, employment, public accommodations and City facilities to persons without regard to sex, race, religion, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, arrest record, conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, genetic identity, political beliefs, familial status, student status, domestic partnership status, receipt of rental assistance, unemployment or status as a victim of domestic abuse, sexual assault, or stalking is a desirable goal of the City of Madison and a matter of legitimate concern to its government. Discrimination against any of Madison's residents or visitors endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of our democratic society, and adversely affects the general welfare of the community. Denial of equal opportunity in employment deprives the community of the fullest productive capacity of those of its members so discriminated against and denies to them the sufficiency of earnings necessary to maintain the standards of living consistent with their abilities and talents. Therefore, as a proper function of City government the City of Madison has provided in Sec. 39.02 for affirmative action in City employment to safeguard against discrimination. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in dwellings below the standards to which they are entitled. Denial of equal opportunity in public accommodations subjects those discriminated against to embarrassment and creates distress and unrest within the community. Provision for adequate safeguards against such discrimination is a proper and necessary function of City government. In order that the peace, freedom, safety and general welfare of all inhabitants of the City may be protected and ensured, it is hereby declared to be the public policy of the City of Madison to foster and enforce to the fullest extent the protection by law of the rights of all of its inhabitants to equal opportunity to gainful employment, housing, and the use of City facilities and public accommodations without regard to sex, race, religion, color, national origin or ancestry, citizenship status, age, handicap/disability, marital status, source of income, arrest record, conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, genetic identity, political beliefs, familial status, student status, domestic partnership status, unemployment or status as a victim of domestic abuse, sexual assault, or stalking. To fully effectuate this policy of promoting nondiscrimination, the City shall endeavor to eliminate all discrimination that may occur in its own employment, housing, and public accommodation practices and in the use of City facilities. By adopting Sec. 39.05 of these ordinances, the Common Council has attempted to make sure that City facilities and programs that receive City financial assistance are accessible to all persons, including persons

with disabilities. The City will deal positively and constructively with all claims of discrimination filed against it through utilization of the procedures outlined in this ordinance.”

2. Subdivision (oo) of Subsection (2) entitled “Definitions: of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance is created to read as follows:

“(oo) Unemployment means the status of not having a job or employment. It does not mean, nor is it unlawful discrimination to inquire into or to consider or act upon, the facts and circumstances leading to the status or condition of unemployment.”

3. Subdivisions (a) through (e) of Subsection (8) entitled “Employment Practices” of Section 39.03 entitled “Equal Opportunities Ordinance” of the Madison General Ordinance are amended to read as follows:

“(a) For any person or employer individually or in concert with others to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to her/his compensation, terms, conditions, or privileges of employment, because of such individual’s protected class membership, unemployment or credit history or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law. Provided, that an employer who is discriminating with respect to compensation in violation of this subsection, shall not, in order to comply with this subsection, reduce the wage rate of any employee.

(b) For any person or employer individually or in concert with others to limit, segregate, or classify his or her employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual’s protected class membership, unemployment or credit history; or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law.

(c) For any employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual on the basis of his or her protected class membership, unemployment or credit history; or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law.

(d) For any labor organization:

1. To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his or her protected class membership, unemployment or credit history or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law.

2. To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his or her status as an employee or as an applicant for employment, because of such individual’s protected class membership, unemployment or credit history or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law.

3. To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(e) For any person or employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on any protected class membership, unemployment or credit history or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, age, handicap, arrest or conviction record or national origin when religion, sex, age, handicap, or national origin is a bona fide occupational qualification for employment or when an employer may lawfully consider or rely upon such arrest or conviction record pursuant to Sections 39.03(8)(i)3. through 39.03(8)(i)6., MGO.”

4. Subdivision (l) of Subsection (8) entitled "Employment Practices" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"(l) Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity, or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of protected class memberships or unemployment, or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law."

5. Subdivision (m) of Subsection (8) entitled "Employment Practices" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"(m) Nothing contained in this section shall be interpreted to require any employer, employment agency or labor organization to grant preferential treatment to any individual or to any group because of the protected class membership or unemployment of any person or the fact that a person declines to disclose their Social Security Number when such disclosure is not compelled by state or federal law."

6. Paragraph 1. of Subdivision (b) of Subsection (10) entitled "Equal Opportunities Commission and Equal Opportunities Division" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"1. To study the existence, character, causes and extent of the denial of equal opportunity because of biases, prejudices, social or institutionalized passive and active forms of discrimination or harassment that occurs either in favor of or to the detriment of any protected class or other unfair classification in the greater Madison community."

7. Paragraph 2. of Subdivision (b) of Subsection (10) entitled "Equal Opportunities Commission and Equal Opportunities Division" of Section 39.03 entitled "Equal Opportunities Ordinance" of the Madison General Ordinance is amended to read as follows:

"2. To informally recommend solutions to individual problems that may arise which involve the denial of equal opportunities because of protected class or other class memberships."