

TITLE IX - PUBLIC PEACE, SAFETY AND WELFARE

DIVISION 9

PROHIBITIONS AGAINST DISCRIMINATION

Chapter 1 - Humboldt County AIDS Anti-Discrimination Ordinance

- § 991-1. Findings.
- § 991-2. Application.
- § 991-3. Definitions.
- § 991-4. Unlawful Practices.
- § 991-5. Civil Liability.
- § 991-6. Enforcement.
- § 991-7. Criminal Liability.
- § 991-8. Limitation of Actions.
- § 991-9. Non-Waiverability.
- § 991-10. Severability.

TITLE IX - PUBLIC PEACE, SAFETY AND WELFARE

DIVISION 9

PROHIBITIONS AGAINST DISCRIMINATION

CHAPTER 1

HUMBOLDT COUNTY AIDS ANTI-DISCRIMINATION ORDINANCE

991-1. FINDINGS.

The Board of Supervisors has studied documents and heard testimony, and makes the following findings: (Ord. 1959, § 1, 02/18/1992)

(a) Acquired Immune Deficiency Syndrome (AIDS) is a chronic life threatening disease which affects a significant number of Humboldt County residents. (Ord. 1959, § 1, 02/18/1992)

(b) AIDS is caused by infection with Human Immunodeficiency Virus (HIV, "AIDS virus"), which is transmitted through exposure to blood, semen and vaginal secretions. The Human Immunodeficiency Virus cannot be transmitted through casual contact or through the handling of food by infected persons. (Ord. 1959, § 1, 02/18/1992)

(c) Nevertheless, unreasonable fear of contracting HIV has caused landlords, employers and providers of services to discriminate or retaliate against persons believed to be infected with the AIDS virus and people associated with HIV infected people. (Ord. 1959, § 1, 02/18/1992)

(d) Such discrimination causes additional burdens to be placed on those persons or entities who do not discriminate, particularly on public and private non-profit groups engaged in providing health and social services to persons with AIDS. (Ord. 1959, § 1, 02/18/1992)

(e) Such discrimination is against the public policy of the State of California and the United States, but state and federal enactments do not address all aspects of such discrimination, nor do they preempt local legislation. Local action is therefore necessary to address the local impacts of such discrimination. (Ord. 1959, § 1, 02/18/1992)

(f) Such discrimination discourages individuals from obtaining medical treatment, counseling, education and other essential services. In order to encourage such persons to seek diagnosis and treatment and to reduce the risk of HIV transmission to others, the Board of Supervisors of the County of Humboldt intends to prohibit discrimination against such persons in matters affecting employment, real property transactions, business practices and education. (Ord. 1959, § 1, 02/18/1992)

(g) It is not the intention, nor shall this ordinance be construed to abrogate or conflict with any federal or state law requirements or exceptions with respect to the subject matter covered by this ordinance (i.e. screening of donors to blood banks, etc.). To the extent that the provisions of this ordinance are more protective of persons subject to discrimination than the provisions of federal and state law, the provisions of this ordinance shall govern except to the extent that federal or state law supersedes or preempts such provisions. (Ord. 1959, § 1, 02/18/1992)

991-2. APPLICATION.

(a) The provisions of this ordinance shall apply within the unincorporated area of Humboldt County. (Ord. 1959, § 1, 02/18/1992)

(b) To the extent permitted by public bidding and contracting laws, the County of Humboldt shall require that all contract suppliers of goods or services comply with the provisions of this ordinance. (Ord. 1959, § 1, 02/18/1992)

991-3. DEFINITIONS.

(a) Business Establishment. In this ordinance, "business establishment" means any entity, however organized, which provides goods, services, or accommodations, to the general public. An otherwise qualifying entity which has membership requirements furnishes services to the general public if its membership requirements: (1) consist only of payment of fees; or (2) consist of requirements under which 5% or more of the residents of the County could qualify. (Ord. 1959, § 1, 02/18/1992)

(b) Discrimination. In this ordinance, "discrimination" means any act, policy or practice which, regardless of intent, has the effect of subjecting anyone to different treatment as a result of that person's medical condition. The phrase "different treatment" includes any limitation on a person's full, unsegregated and equal access to or enjoyment of employment, education, real estate transactions, business establishments and county services. (Ord. 1959, § 1, 02/18/1992)

(c) Person, Anyone. In this ordinance, "person" and "anyone" mean any natural person, firm, corporation, partnership or other organization, association or group however organized. (Ord. 1959, § 1, 02/18/1992)

(d) Real Estate Transactions. In this ordinance "real estate transaction" includes the sale, repair, improvement, lease, rental, or occupancy or any interest or portion of any interest in real property, and the extension of credit, financing, insurance or services in connection with the sale, repair, improvement, lease, rental, or occupancy or any interest in real property. (Ord. 1959, § 1, 02/18/1992)

(e) Medical Condition. In this ordinance, "medical condition" means Acquired Immune Deficiency Syndrome (AIDS), AIDS related conditions (ARC), or any other medical condition which a person contracts as a result of having AIDS or an ARC. "Medical Condition" further includes infection or suspected infection with the infectious agent, known as Human Immunodeficiency Virus (HIV). It covers anyone who has such a medical condition or anyone who is regarded as having or believed to have such a condition. (Ord. 1959, § 1, 02/18/1992)

(f) Educational Institution. In this ordinance, "educational institution" means any corporation, partnership or business or any other entity engaged in training, classes or education of adults or children. (Ord. 1959, § 1, 02/18/1992)

991-4. UNLAWFUL PRACTICES.

(a) In General. It is unlawful for anyone to do anything which has the effect of discriminating against anyone as a result of a person's medical condition in: (Ord. 1959, § 1, 02/18/1992)

1. Employment: any aspect of employment, opportunities for employment, or union membership; (Ord. 1959, § 1, 02/18/1992)

2. Education: any aspect of education, training or classes; (Ord. 1959, § 1, 02/18/1992)

3. Real Estate: any real estate transaction; (Ord. 1959, § 1, 02/18/1992)

4. Business Establishment: the availability of goods or services from any business establishment ; (Ord. 1959, § 1, 02/18/1992)

5. County Services and Facilities: The use or availability of any service or facility wholly or partially funded or otherwise supported by the County; (Ord. 1959, § 1, 02/18/1992)

6. County Supported Services and Facilities: the use or availability of any service or facility wholly or partially funded or otherwise supported by the County. (Ord. 1959, § 1, 02/18/1992)

(b) Exceptions. Employment: Bona Fide Occupational Qualifications. (Ord. 1959, § 1, 02/18/1992)

1. Occupational Qualifications: Nothing in Section 991-4(a)(1) prohibits selection or rejection based on a bona fide occupational qualification. (Ord. 1959, § 1, 02/18/1992)

2. Health and Safety: It is a bona fide occupational qualification for an individual to be able to perform her or his duties without endangering her or his health or safety, or the health or safety of others. (Ord. 1959, § 1, 02/18/1992)

3. Proof of Occupational Qualification: Anyone who claims that the absence of a medical condition is a bona fide occupational qualification in a particular case will have the burden of proving the claim. (Ord. 1959, § 1, 02/18/1992)

(c) Advertising. It is unlawful for any person to make, publish, or disseminate any notice or statement which indicates that a person is doing or will do anything which this ordinance prohibits. (Ord. 1959, § 1, 02/18/1992)

(d) Association. It is unlawful for any person to discriminate against anyone in any way because a person is associated with another person who has a medical condition covered by this ordinance. (Ord. 1959, § 1, 02/18/1992)

(e) Retaliation. It is unlawful for any person to discriminate or retaliate against any person because a person:

1. has opposed any act or practice made unlawful by this ordinance; (Ord. 1959, § 1, 02/18/1992)

2. has supported this ordinance and its enforcement; (Ord. 1959, § 1, 02/18/1992)

3. has filed a complaint with any person or agency pursuant to this ordinance; (Ord. 1959, § 1, 02/18/1992)

4. has testified, assisted, or participated in any way in any investigation or proceeding under this ordinance. (Ord. 1959, § 1, 02/18/1992)

(f) Testing.

1. In General: Except as otherwise provided by state or federal law, no person may require another person to take any test or undergo any medical procedure designed to show or help show that a person has a medical condition covered by this Article. (Ord. 1959, § 1, 02/18/1992)

2. Bona Fide Occupational Qualification: Subsection (f)(1) does not apply to any employer who can show that the absence of a medical condition is a bona fide occupational qualification. (Ord. 1959, § 1, 02/18/1992)

991-5. CIVIL LIABILITY.

Any person who violates any of the provisions of this Article or who assists in the violation of any of the provisions of this Article will be liable: (Ord. 1959, § 1, 02/18/1992)

(a) To the person whose rights were violated, for actual damages and a civil penalty. The penalty can be up to three times the amount of actual damages, but in no case will it be less than one thousand dollars (\$1,000.00); (Ord. 1959, § 1, 02/18/1992)

(b) For costs and attorney's fees; (Ord. 1959, § 1, 02/18/1992)

(c) Within the sound discretion of a judge or jury, for punitive damages; (Ord. 1959, § 1, 02/18/1992)

(d) For any equitable relief which the court thinks is appropriate to remedy the wrong to the individual whose rights were violated, or to prevent or end any action or practice which would violate this Article. (Ord. 1959, § 1, 02/18/1992)

991-6. ENFORCEMENT.

(a) Any aggrieved person may enforce the provisions of this Article by means of a civil action for damages, injunction, and such other relief as the court may allow. (Ord. 1959, § 1, 02/18/1992)

(b) Any person who permits, or who proposes to commit an action in violation of this Article may be enjoined therefrom by a court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by the County Counsel, District Attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class. (Ord. 1959, § 1, 02/18/1992)

991-7. CRIMINAL LIABILITY.

Anyone who violates Section 991-4, subparagraphs (a) through (f) of this ordinance, or who assists or incites a violation is guilty of a misdemeanor. (Ord. 1959, § 1, 02/18/1992)

991-8. LIMITATION OF ACTIONS.

Any action or complaint under this Article must be commenced within two years of the date upon which the alleged discriminatory act occurred. This time period shall not begin to run until the aggrieved person discovers or with reasonable diligence should have discovered the discriminatory act. (Ord. 1959, § 1, 02/18/1992)

991-9. NON-WAIVERABILITY.

Any written or oral agreement which waives any provision of this ordinance is against public policy and void. (Ord. 1959, § 1, 02/18/1992)

991-10. SEVERABILITY.

If any part of this ordinance or its application to any person or in any circumstance is held invalid, the remainder of the ordinance, (including the application of a part to other persons or in other circumstances) will not be affected and will continue in force. The provisions of this ordinance are severable. (Ord. 1959, § 1, 02/18/1992)