

RESOLUTION NO. 2022-2207

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA ADOPTING A POLICY RELATING TO THE USE OF GENETIC INFORMATION IN EMPLOYMENT DECISIONS; PROVIDING FOR THE PROHIBITION OF DISCRIMINATION IN EMPLOYMENT DECISIONS BASED UPON GENETIC INFORMATION; PROVIDING RESTRICTIONS ON THE ACQUISITION OF GENETIC INFORMATION OF EMPLOYEES; PROVIDING FOR MAINTENANCE AND CONFIDENTIALITY OF GENETIC INFORMATION OF EMPLOYEES; PROVIDING DEFINITIONS OF TERMS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Port Richey desires to establish a policy prohibiting discrimination in employment decisions based upon genetic information; and

WHEREAS, Congress passed the Genetic Information Nondiscrimination Act of 2008 (42 USC 2000ff – “GINA”) prohibiting employment decisions made upon genetic information; and

WHEREAS, the City Council of the City of New Port Richey finds the adoption of the a policy prohibiting employment discrimination based upon genetic information in the best interests of the employees of the City; and

WHEREAS, the City Council hereby finds that this Resolution is in the best interests of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of New Port Richey, Florida, that the employment policies set forth herein are hereby adopted by the City and shall be applied to the employment practices of the City.

SECTION 1. **Discrimination Prohibited.** No city officer or official shall:

(1) fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

(2) limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

SECTION 2. **Acquiring Genetic Information of Employees.** No city officer or official shall require, or purchase genetic information with respect to an employee or a family member of the employee except:

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where:

(A) health or genetic services are offered by the employer, including such services offered as part of a wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 2613 of Title 29 United States Code or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if:

(A) the employer provides written notice of the genetic monitoring to the employee;

(B) (i) the employee provides prior, knowing, voluntary, and written authorization; or
(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with:

(i) any federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests or requires genetic information of such employer's employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

SECTION 3. Maintenance of Genetic Information of Employees. Any genetic information pertaining to employees in the possession of the City shall be maintained on separate forms and in separate medical files and shall be treated as a confidential medical record of the employee.

SECTION 4. Confidentiality of Genetic Information of Employees. No City officer or official shall disclose genetic information concerning an employee, except:

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that:

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this chapter if the information is relevant to the investigation;

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 2613 of Title 29 United States Code or such requirements under State family and medical leave laws; or

(6) to a federal, state, or local public health agency only with regard to information that is described in section 2000ff(4)(A)(iii) Title 42 USC and that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, and that the employee whose family member or family members is or are the subject of a disclosure under this paragraph is notified of such disclosure.

SECTION 5. **Definitions.** All terms used herein shall have the meanings set forth in Title 42 USC §2000ff.

DONE AND RESOLVED on the 19th day of April, 2022.

ATTEST:

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor

Approved as to form:

Timothy P. Driscoll, City Attorney