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REPORT NO. R 18 - 0177
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REPORT RE:

**DRAFT ORDINANCE ADDING A NEW CHAPTER 32 TO DIVISION 22 OF THE
LOS ANGELES ADMINISTRATIVE CODE ESTABLISHING A CIVIL AND HUMAN
RIGHTS COMMISSION AND EXECUTIVE DIRECTOR POSITION, AND A NEW
ARTICLE 16 TO CHAPTER IV OF THE LOS ANGELES MUNICIPAL CODE
ESTABLISHING THE LOS ANGELES CIVIL AND HUMAN RIGHTS ORDINANCE**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 18-0086

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, which, when finalized, may be approved as to form and legality. The ordinance would add a new Chapter 32 to Division 22 of the Los Angeles Administrative Code establishing a Civil and Human Rights Commission and Executive Director, and a new Article 16 to Chapter IV of the Los Angeles Municipal Code establishing the Los Angeles Civil and Human Rights Ordinance.

Civil and Human Rights Commission

Section 1 of the draft ordinance establishes a Civil and Human Rights Commission, with the duties and responsibilities to investigate complaints of discrimination and provide remedies to such discrimination, to promulgate anti-discrimination policies and regulations, and to make recommendations to the Mayor and

City Council for the adoption of City laws pertaining to discrimination in the City. In connection with investigations and enforcement actions, this draft ordinance gives the Commission the power to issue subpoenas for the attendance and testimony of witnesses or the production of books, accounts, documents and electronic data in any relevant inquiry, investigation, hearing or proceeding. The ordinance also gives the Commission the power to adopt rules and regulations to carry out the provisions of the City's anti-discrimination law, including the power to further define and specify what constitutes unlawful and discriminatory conduct and the power to define, specify and expand upon the classes or traits of individuals that are to be protected under City law.

The draft ordinance establishes the position of the Civil and Human Rights Commission Executive Director, who shall have the power and duty to administer the affairs of the Civil and Human Rights Commission as its chief administrative officer and to investigate complaints of violations of this article, or initiate investigations of violations of this article on his or her own authority, and to make recommendations for enforcement of such violations, including administrative penalties and corrective actions, to the Commission.

Los Angeles Civil and Human Rights Ordinance

Section 2 of this draft ordinance creates the "Los Angeles Civil and Human Rights Ordinance." The draft ordinance makes it unlawful for any person to discriminate against another person, in private employment, housing, education or commerce, because of that person's actual or perceived race, color, ethnicity, creed, age, national origin, religion, citizenship status, gender, gender identity or expression, sexual orientation, disability, medical condition, genetic information, marital status, partnership status, employment status or income status. The ordinance also makes it unlawful for any person to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this article.

The ordinance provides the Commission with the authority to establish rules and regulations for the conduct of hearings and appeals. Any rules and regulations promulgated by the Commission would have the force and effect of law, and may be relied upon by all persons to determine their rights and responsibilities under this ordinance.

The draft ordinance offers a series of remedies, including the creation of a private right of action for victims of discrimination in civil court; administrative penalties enforced by the Commission and Executive Director and, if a person willfully resists, obstructs or interferes with the implementation of the law, criminal prosecution by the City Attorney.

A substantial portion of the draft ordinance serves to create a system whereby the Executive Director is tasked with receiving and investigating reports of discrimination. The ordinance gives the Executive Director access to all business sites,

housing locations and places of labor subject to this ordinance during business hours to inspect books and records, interview employees and any other relevant witnesses. The ordinance provides that the Director shall investigate such matters as necessary or appropriate and may request the Commission to issue a subpoena for the attendance and testimony of witnesses and for the production of books, papers, records, or other items relevant to the enforcement of this article.

When a finding of violation is made, the Director is empowered to impose administrative penalties and corrective actions. The Director is also empowered to impose additional penalties when the Director finds that an unlawful discriminatory act was the result of a person's harassing or violent act. Penalty amounts in the enclosed ordinance have been left blank so that the City Council can, as a policy matter, determine the appropriate penalty structure.

Penalties for violations of similar ordinances in other cities vary widely. In New York City, penalties for standard violations are capped at \$125,000 while penalties for aggravated violations have a cap of \$250,000. Chicago's human rights ordinance states that violations shall be fined not less than \$100 and not more than \$500 for each offense and that every day a violation continues shall constitute a separate and distinct offense. San Francisco, generally speaking, does not impose civil fines or penalties. Instead, San Francisco makes violations of its human rights ordinance a misdemeanor punishable by a fine of not more than \$2,000 or by imprisonment for a period of not more than six months, or both.

The ordinance also leaves blank the breakdown of how any administrative penalties recovered pursuant to this section shall be paid. City Council could award all or most of the recovered penalties to the victim, with a portion paid to the General Fund or even to special funded purposes to recoup the City's costs or further antidiscrimination goals.

In addition, under the ordinance, any person found by the Executive Director to have committed a violation may request an administrative hearing before an administrative law judge (ALJ). The Director is tasked with representing his or her finding of violation before the ALJ. Similarly, both sides are afforded the right to administratively appeal any ruling of the ALJ to the Commission. The decision of the Commission on the administrative appeal is considered to be the final order on the matter.

Finally, the draft ordinance states that it intended to promote the investigation of and enforcement against discrimination between and against private parties. Nothing in this ordinance is intended to create a private right of action against, or authorize the Commission or the Director to investigate allegations of discrimination by, public officials, employees or agencies in federal, state or local government.

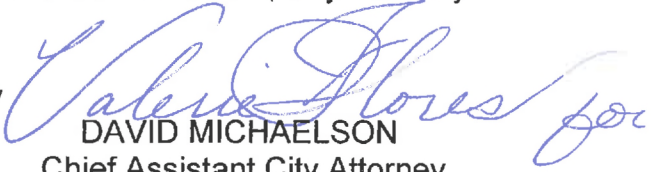
Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the City Administrative Officer and Chief Legislative Analyst with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Michael Dundas at (213) 978-8130. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal