

Two **New** Protected Traits under the DC Human Rights Act

- as of October 1, 2022 -



Date: December 6, 2022

Background¹

Effective October 1, 2022, the D.C. Human Rights Act (“DCHRA”) was amended to add two new protected traits: homeless status² and sealed eviction records.³

New Protected Trait #1: Homeless Status as a Protected Trait

The Human Rights Enhancement Act of 2022 (the “Act”) protects individuals experiencing homelessness from discrimination by specifically adding “homeless status” as a protected trait under the D.C. Human Rights Act. The Act also, in part, requires that law enforcement officers are educated about the impact of enforcement decisions on people experiencing homelessness in the District of Columbia, the protections from discrimination based on homeless status available pursuant to the Act, and how to refer allegations of discrimination to the D.C. Office of Human Rights (“Office”) for evaluation.

Definition: The Act states that “homeless” has the same meaning as provided in section 2(18) of the Homeless Service Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Code § 4-751.01(18)). This definition is extensive, but in essence, “homeless status” refers to an individual, family, or unaccompanied youth who lacks, lost, or will imminently lose a fixed, regular, and adequate nighttime residence, which can include the result of escaping an unsafe environment.⁴

Enforcement Areas: The Act prohibits discrimination on the basis of homeless status in the following areas:

1. **Employment:** Employers may not take an adverse employment action against an employee or applicant based wholly or partially on their homeless status, as defined above;⁵
2. **Housing:** Housing providers may not make housing determinations based on an individual’s homeless status;⁶
3. **Public Accommodations or Government Services:** Places providing public services or accommodations may not deny - directly or indirectly - any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations based on an individual’s homeless status;⁷ and
4. **Educational Institutions:** Educational Institutions may not discriminate against any individual or bar entry or admission based on the individual’s homeless status.⁸

¹ This document is a factsheet provided by the D.C. Office of Human Rights (“OHR”) regarding legislative changes made to the D.C. Human Rights Act of 1977 (“DCHRA”) that was expanded to include “homeless status” and “sealed eviction records” as protected traits under the DCHRA. This document may be used for educational purposes only and not as legal advice to apply to a particular situation. Any person or entity in need of legal advice should contact an attorney.

² *Human Rights Enhancement Act of 2022* (the “Act”), effective September 21, 2022 (D.C. Law 24-0172; D.C. Code § 2-1401 *et seq.*).

³ *Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022* (“ERSFRA”) effective May 18, 2022 (D.C. Law 24-0115; D.C. Code § 42-3505.01 *et seq.*).

⁴ Public link to full text can be accessed here: <https://code.dccouncil.gov/us/dc/council/code/titles/4/chapters/7A/subchapters/1>.

⁵ D.C. Code § 2-1402.11(a).

⁶ D.C. Code § 2-1402.21(a).

⁷ D.C. Code § 2-1402.31(a).

⁸ D.C. Code § 2-1402.41(a).

New Protected Trait #2: Sealed Eviction Record as a Protected Trait

The Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022 (“ERSFRA”) would provide the Superior Court of the District of Columbia with the ability to seal eviction records in certain circumstances. Additionally, ERSFRA adds a “sealed eviction record” as a new protected trait under the DCHRA; meaning an individual may file a complaint before OHR should they believe they have been discriminated against based on their sealed eviction record.

Definition: Under ERSFRA, a “sealed eviction record” means an eviction record that has been sealed pursuant to section 509 of the Rental Housing Act of 1985 (“RHA”).⁹ Under the RHA, an eviction proceeding may be sealed automatically by the Superior Court of the District of Columbia for specific reasons, or upon motion by the tenant demonstrating that record sealing is warranted.¹⁰

Enforcement Areas: The Act prohibits discrimination on the basis of sealed eviction record in the following area:

1. **Housing:** it shall be unlawful for housing providers to make housing determinations regarding any real estate transaction based on an individual’s sealed eviction record.¹¹

This includes inquiring about the existence of or the content of a sealed eviction record or requiring the disclosure of their sealed eviction record as a requirement to:

- a. Enter into any transaction in real property;
- b. Include any clause or condition in the terms of the real property transaction or financing;
- c. Access the facilities, services, repairs, or improvements for a tenant or lessee; or
- d. Gain access to, membership of, or participation in any services, organizations, or facilities relating to the business of selling or renting residential real estate.¹²

What do I do if I believe I have been discriminated against because of my homeless status or my sealed eviction record?

You can submit an Intake Questionnaire to OHR if you believe your rights under the DCHRA have been violated.

The Intake Questionnaire must be filed within one year of the alleged discriminatory conduct or discovery thereof, except that allegations of employment discrimination claims against the District of Columbia government must be reported first to a certified EEO Counselor within 180 days of the alleged discriminatory conduct or discovery thereof.

Intake Questionnaires can be filed:

- **Online:** ohr.dc.gov
- **In-Person/Mail:** 441 4th Street NW, Suite 570N, Washington, DC 20010
- **Email:** intake@ohr.dc.gov
- **Fax:** (202) 727-9589

⁹ Effective July 17, 1985 (D.C. Law 6-10; D.C. Code § 42-3505.09).

¹⁰ D.C. Code § 42-3505.09.

¹¹ D.C. Code § 2-1402.21(a).

¹² D.C. Code § 2-1402.21(h)