

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 677

S.P. 218

In Senate, February 4, 1997

An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin.
Cosponsored by Senators: CATHCART of Penobscot, TREAT of Kennebec, Representatives:
BOLDUC of Auburn, HATCH of Skowhegan, LEMAIRE of Lewiston, SAMSON of Jay.

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Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §631, as amended by PL 1991, c. 885, Pt. D, §2, is further amended to read:

§631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy the employee's personnel file if the employer has a personnel file for that employee. The reviews and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the employee are arranged. The cost of copying is paid by the person requesting the copy. For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee ~~which~~ that the employer has in the employer's possession. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture payable to the employee or former employee of \$25 ~~\$50~~ for each day that a failure continues. ~~The total forfeiture may not exceed \$500. An employee or former employee may bring an action in the District Court or the Superior Court to recover the civil forfeiture provided to the employee or former employee by this section and for such other equitable relief, including an injunction, as the court may consider to be necessary and proper. The employer may also be required to reimburse the employee or former employee for costs of suit including a reasonable attorney's fee.~~ For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board or other administrative tribunals.

SUMMARY

This bill makes the following changes to the section of law that requires an employer to permit an employee or former employee to review and copy that employee's or former employee's personnel file.

2 1. It makes the civil forfeiture provided for a violation
of the section payable to the employee or former employee.

4 2. It provides that an employee or former employee may
bring an action in the District Court or the Superior Court to
6 recover the civil forfeiture provided to the employee or former
employee and for such other equitable relief, including an
8 injunction, as the court may consider to be necessary and proper.

10 3. It authorizes the court to order an employer to
reimburse the employee or former employee for costs of suit
12 including a reasonable attorney's fee.