

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 387

H.P. 267

House of Representatives, February 6, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.

Cosponsored by Representative RAND of Portland, Senator BUSTIN of Kennebec and Representative McKEEN of Windham.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Amend Employment Practices Regarding Employee
Personnel Files.**



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

2
4 26 MRSA §631, as amended by PL 1989, c. 178, is further amended to read:

6 **§631. Employee right to review personnel file**

8 The employer shall, upon written request from an employee or
10 former employee, provide the employee, former employee or duly
12 authorized representative with an opportunity to review and copy
14 the employee's personnel file if the employer has a personnel
16 file for that employee. The reviews shall and copying must take
18 place at the location where the personnel files are maintained
20 and during normal office hours unless, at the employer's
22 discretion, a more convenient time and location for the employee
24 are arranged. The cost of copying is paid by the person
26 requesting the copy. The--employer--may--at--the--employer's
28 discretion allow the review to take place at such other location
30 and time as would be more convenient for the employee. For the
32 purpose of this section, a personnel file shall ~~include~~ includes,
34 but is not be limited to, any formal or informal employee
36 evaluations and reports relating to the employee's character,
38 credit, work habits, compensation and benefits and nonprivileged
40 medical records or nurses' station notes relating to the employee
42 which the employer has in the employer's possession. Any
44 employer who, following a request pursuant to this section,
46 without good cause fails to provide an opportunity for review and
48 copying of a personnel file, within 10 days of receipt of that
50 request, ~~shall be~~ is subject to a civil forfeiture of \$25 for
52 each day that such a failure continues. The total forfeiture may
54 not exceed \$500. For the purposes of this section, the term
"nonprivileged medical records or nurses' station notes" means
all such 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 Commission or other administrative
tribunals.

40
42 **STATEMENT OF FACT**

44 The Maine Labor Relations Board and the Bureau of Labor
46 Standards have received numerous complaints from private sector
48 employees attempting unsuccessfully to obtain copies of their
50 personnel files. Currently, the employment practices laws
52 require employers to make personnel files available to employees
54 or their representatives for review. There is no explicit right
to obtain copies. Since the right to access records is often of
little value without the ability to prove the contents of the
records, the law covering private sector employees should be
amended explicitly to permit copying of one's personnel records.
The language makes clear that the employee and not the employer
will bear the expense.