

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1008

L.D. 1318

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

DATE: June 9, 1995 (Filing No. S- 238)

LABOR

Reported by: The Minority of the Committee.

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 484, L.D. 1318, Bill, "An Act to Allow Employees to Recover Damages from Employers Who Refuse Access to Personnel Files"

Amend the bill by striking out the title and substituting the following:

'An Act to Allow Employees to Sue Employers Who Refuse Access to Personnel Files'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'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

COMMITTEE AMENDMENT

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 State of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. A civil action to enforce this section may be brought by either the affected employee or the Department of Labor. 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.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

STATEMENT OF FACT

This amendment replaces the original bill with language that permits an affected employee or the Department of Labor to file suit to enforce the Maine Revised Statutes, Title 26, section 631. The amendment removes the language contained in the original bill that increased the penalties and permitted the penalties and attorney's fees to be awarded to the employee. The amendment clarifies that the penalty is payable to the State. The amendment also adds a fiscal note to the bill.