## MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

### FIRST REGULAR SESSION-1995

Legislative Document

No. 1318

S.P. 484

In Senate, April 13, 1995

An Act to Allow Employees to Recover Damages from Employers Who Refuse Access to Personnel Files.

Reference to the Committee on Labor suggested and ordered printed.

MAY M. ROSS

Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin.

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

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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 The cost of copying is paid by the person requesting arranged. For the purpose of this section, a personnel file the copy. 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 the employer has in the employer's possession. 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 of \$25 \$50 for each day that a failure continues. forfeiture--may--not--exceed--\$500+ The employer may also be required to reimburse the 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.

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#### STATEMENT OF FACT

This bill increases the penalties for an employer who fails to provide an opportunity for a terminated employee to review and copy the personnel files of the employee.