



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1383

H.P. 985

House of Representatives, February 18, 1999

An Act Promoting Technology in Business Recordkeeping.

Reference to the Committee on Labor suggested and ordered printed.

SOSEPH W. MAYO, Clerk

Presented by Representative BRAGDON of Bangor. Cosponsored by Representatives: BOLDUC of Auburn, BUMPS of China, MARVIN of Cape Elizabeth, MENDROS of Lewiston, SHOREY of Calais.

1

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

Sec. 1. 26 MRSA §631, as amended by PL 1997, c. 420, $\S1$, is 4 further amended to read:

6 §631. Employee right to review personnel file

The employer shall, upon written request from an employee or 8 former employee, provide the employee, former employee or duly 10 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 12 at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, 14 a more convenient time and location for the employee are 16 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 18 evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged 20 medical records or nurses' station notes relating to the employee 22 that the employer has in the employer's possession. Records in a personnel file may be maintained in any form including paper. 24 microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these 26 records. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for 28 review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture of \$25 for each 30 day that a failure continues. The total forfeiture may not exceed \$500. An employee or former employee may bring an action 32 in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may consider to be 34 necessary and proper. The employer may also be required to reimburse the employee or former employee for costs of suit 36 including a reasonable attorney's fee if the employee receives a judgment in the employee's favor. For the purposes of this 38 section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found 40 to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 42 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board other or administrative tribunals. 44

46

48

2

SUMMARY

This bill provides that records in a personnel file may be maintained in any form including paper, microfiche or electronic form. An employer shall take adequate steps to ensure the integrity and confidentiality of these records.