

# MAINE STATE LEGISLATURE

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R.O.S.

L.D. 411

DATE: **3-26-03**

(Filing No. H-**54**)

**LABOR**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "**A**" to H.P. 319, L.D. 411, Bill, "An Act To Provide Employees Fair Access to Personnel Files"

Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 26 MRSA §631, as amended by PL 1999, c. 235, §1, 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. In each calendar year, the employer shall provide, at no cost to the employee, one copy of the entire personnel file when requested by the employee or former employee and, when requested by the employee or former employee, one copy of all the material added to the personnel file after the copy of the entire file was provided. The cost of copying any other material requested during that calendar year 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

**COMMITTEE AMENDMENT**

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

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**SUMMARY**

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This amendment limits the number of copies of a personnel  
file that must be provided at the employer's expense in each  
38 calendar year. The employer must provide a copy of the entire  
personnel file when the employee or former employee requests it,  
40 at no cost to the employee. Upon a second request in the same  
calendar year, the employer is required to provide at the  
42 employer's expense only a copy of material added to the personnel  
file between the time the entire file was copied and the time of  
44 the request. An employee or former employee may make other  
requests in the same calendar year, but the employee must pay the  
46 costs of copying any additional material requested.

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This amendment also deletes the requirement in the bill that  
a copy of a personnel file be provided within 5 days of a

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request. Current law requiring that the copy be provided within  
10 days will remain unchanged.

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**FISCAL NOTE REQUIRED**  
(See attached)

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**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 411**

**An Act To Provide Employees Fair Access to Personnel Files**

**LR 1499(02)**

**Fiscal Note for Bill as Amended by Committee Amendment**

**Committee: Labor**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - All Funds

**Fiscal Detail and Notes**

Costs associated with providing a copy of the personnel record of an employee can be absorbed by all departments and agencies within state government utilizing existing budgeted resources.