

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 411

H.P. 319

House of Representatives, February 4, 2003

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

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Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HATCH of Skowhegan.  
Cosponsored by Senator EDMONDS of Cumberland and  
Representatives: HUTTON of Bowdoinham, JACKSON of Fort Kent, Senator: HATCH of  
Somerset.

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

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4       **Sec. 1. 26 MRSA §631**, as amended by PL 1999, c. 235, §1, is further amended to read:

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

8       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.~~ An employer shall provide a copy of an employee's personnel record to the employee, without cost, within 5 business days of submission of a written request for the copy to the employer. For the purpose of this section, a personnel file 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 that the employer has in the employer's possession. Records in a personnel file may be maintained in any form including paper, microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these records. An employer maintaining records in a form other than paper shall have available to the employee, former employee or duly authorized representative the equipment necessary to review and copy the personnel file. 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 of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. An employee, former employee or the Department of Labor may bring an action in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may consider to be necessary and proper. The employer may also be required to reimburse the employee, former employee or the Department of Labor for costs of suit including a reasonable attorney's fee if the employee or the department receives a judgment in the employee's or department's favor, respectively. 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

2 similar rules adopted by the Workers' Compensation Board or other  
administrative tribunals.

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### SUMMARY

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8 This bill amends the law giving an employee the right to  
review that employee's personnel file by requiring the employer  
to furnish a copy of the personnel record without cost within 5  
10 days of the employee's written request for the copy.