

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Personnel Record Review Act is amended by changing Sections 2, 9, 10 and 12 as follows:

(820 ILCS 40/2) (from Ch. 48, par. 2002)

Sec. 2. Open records.

(a) Upon request in writing to their employer, every employee has a right under this Act to inspect, copy, and receive copies of the following documents: ~~Every employer shall, upon an employee's request which the employer may require be in writing on a form supplied by the employer, permit the employee to inspect~~

(1) any personnel documents which are, have been or are intended to be used in determining that employee's qualifications for employment, promotion, transfer, additional compensation, benefits, discharge, or other disciplinary action, except as provided in Section 10;

(2) any employment-related contracts or agreements that the employer maintains are legally binding on the employee;

(3) any employee handbooks that the employer made available to the employee or that the employee

acknowledged receiving; and

(4) any written employer policies or procedures that the employer contends the employee was subject to and that concern qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action.

The inspection right encompasses personnel documents in the possession of a person, corporation, partnership, or other association having a contractual agreement with the employer to keep or supply a personnel record. An employee does not have a right under this Act to the documents categorized ~~may request all or any part of his or her records, except as provided~~ in Section 10.

(b) The employer, upon an employee's written request, shall grant at least 2 inspection requests by an employee in a calendar year to inspect, copy, and receive copies of records to which that employee has a right under this Act. Requests shall be: when requests are

(1) made at reasonable intervals, unless otherwise provided in a collective bargaining agreement; and-

(2) made to a person responsible for maintaining the employer's personnel records, including the employer's human resources department, payroll department, the employee's supervisor or department manager, or to an individual as provided in the employer's written policy.

(c) A written request shall:

(1) identify what personnel records the employee is requesting or if the employee is requesting all of the records allowed to be requested under this Section;

(2) specify if the employee is requesting to inspect, copy, or receive copies of the records;

(3) specify whether records be provided in hardcopy or in a reasonable and commercially available electronic format;

(4) specify whether inspection, copying, or receipt of copies will be performed by that employee's representative, including family members, lawyers, union stewards, other union officials, or translators; and

(5) if the records being requested include medical information and medical records, include a signed waiver to release medical information and medical records to that employee's specific representative.

(d) The employer shall comply with the employee's request  
~~provide the employee with the inspection opportunity~~ within 7 working days after the receipt of ~~employee makes~~ the request, or, if the employer can reasonably show that such deadline cannot be met, the employer shall have an additional 7 calendar days to comply. If an employer does not maintain records in one or more of the categories requested, the employer may respond in writing notifying the employee that the employer does not maintain records in the category, but must still permit inspection, copying, and receipt of copies

as required by subsection (b) of any other category requested as to which the employer does maintain records. If the records are maintained in a manner and fashion that is already accessible by the employee, the employer may instead provide the employee with instructions on how to access that information. Any in-person ~~The~~ inspection shall take place at a location reasonably near the employee's place of employment and during normal working hours. The employer may allow the inspection to take place at a time other than working hours or at a place other than where the records are maintained if that time or place would be more convenient for the employee. Nothing in this Act shall be construed as a requirement that an employee be permitted to remove any part of such personnel records or any part of such records from the place on the employer's premises where it is made available for inspection. Each employer shall retain the right to protect his records from loss, damage, or alteration to ensure ~~insure~~ the integrity of the records. The employer shall, upon the employee's written request, email or mail a copy of the requested record to the employee by the email address or mailing address identified by the employee for the purpose of receiving the copy of requested record. An employer may charge a fee for providing a copy of the requested record. The fee shall be limited to the actual cost of duplicating the requested record and may not include the imputed costs of time spent duplicating the information, the purchase or rental of

copying machines, the purchase or rental of computer equipment, the purchase, rental, or licensing of software, or any other similar expenses.

(e) As used in this Section, "written request" includes any electronic communications, such as email or text messages.

(Source: P.A. 103-201, eff. 1-1-24.)

(820 ILCS 40/9) (from Ch. 48, par. 2009)

Sec. 9. An employer shall not gather or keep a record of an employee's associations, political activities, publications, communications or nonemployment activities, unless the employee submits the information in writing or gives ~~authorizes~~ the employer express, written consent when the employer keeps or gathers ~~in writing to keep or gather~~ the information. This prohibition shall not apply to (i) activities or associations with individuals or groups involved in the physical, sexual, or other exploitation of a minor or (ii) the activities that occur on the employer's premises or during the employee's working hours with that employer which interfere with the performance of the employee's duties or the duties of other employees or activities, regardless of when and where occurring, which constitute criminal conduct or may reasonably be expected to harm the employer's property, operations or business, or could by the employee's action cause the employer financial liability. A record which is kept by the employer as permitted under this Section shall be part

of the personnel record.

(Source: P.A. 101-531, eff. 8-23-19.)

(820 ILCS 40/10) (from Ch. 48, par. 2010)

Sec. 10. Exceptions. The right of the employee or the employee's designated representative to inspect his or her personnel records does not apply to:

(a) Letters of reference for that employee or external peer review documents for academic employees of institutions of higher education.

(b) Any portion of a test document, except that the employee may see a cumulative total test score for either a section of or the entire test document.

(c) Materials relating to the employer's staff planning, such as matters relating to the business' development, expansion, closing or operational goals, where the materials relate to or affect more than one employee, provided, however, that this exception does not apply if such materials are, have been or are intended to be used by the employer in determining an individual employee's qualifications for employment, promotion, transfer, ~~or additional~~ compensation, or benefits, or in determining an individual employee's discharge or discipline.

(d) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other

person's privacy.

(e) An employer who does not maintain any personnel records.

(f) Records relevant to any other pending claim between the employer and employee which may be discovered in a judicial proceeding.

(g) Investigatory or security records maintained by an employer to investigate criminal conduct by an employee or other activity by the employee which could reasonably be expected to harm the employer's property, operations, or business or could by the employee's activity cause the employer financial liability, unless and until the employer takes adverse personnel action based on information in such records.

(h) An employer's trade secrets, client lists, sales projections, and financial data.

(Source: P.A. 85-1440.)

(820 ILCS 40/12) (from Ch. 48, par. 2012)

Sec. 12. Administration and enforcement of the Act.

(a) The Director of Labor or his authorized representative shall administer and enforce the provisions of this Act. The Director of Labor may issue rules and regulations necessary to administer and enforce the provisions of this Act.

(b) If an employee alleges that he or she has been denied his or her rights under this Act, he or she may file a

complaint with the Department of Labor. The Department shall investigate the complaint and shall have authority to request the issuance of a search warrant or subpoena to inspect the files of the employer, if necessary. The Department shall attempt to resolve the complaint by conference, conciliation, or persuasion. If the complaint is not so resolved and the Department finds the employer has violated the Act, the Department may commence an action in the circuit court to enforce the provisions of this Act including an action to compel compliance. The circuit court for the county in which the complainant resides, in which the complainant is employed, or in which the personnel record is maintained shall have jurisdiction in such actions.

(c) If an employer is alleged to have violated ~~violates~~ this Act and the Department has failed to resolve the complaint within 180 calendar days after the complaint is filed with the Department, or the Department certifies in writing that it is unlikely to be able to resolve the complaint within that 180 calendar days, an employee may commence an action in the circuit court to enforce the provisions of this Act, including actions to compel compliance, ~~where efforts to resolve the employee's complaint concerning such violation by conference, conciliation or persuasion pursuant to subsection (b) have failed and the Department has not commenced an action in circuit court to redress such violation.~~ The circuit court for the county in which the complainant resides, in which the



complainant is employed, or in which the personnel record is maintained shall have jurisdiction in such actions.

(d) Failure to comply with an order of the court may be punished as contempt. In addition, the court shall award an employee prevailing in an action pursuant to this Act the following damages:

(1) Actual damages plus costs.

(2) For a willful and knowing violation of this Act, \$200 plus costs, reasonable attorney's fees, and actual damages.

(e) Any employer or his agent who violates the provisions of this Act is guilty of a petty offense.

(f) Any employer or his agent, or the officer or agent of any private employer, who discharges or in any other manner discriminates against any employee because that employee has made a complaint to his employer, or to the Director or his authorized representative, or because that employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this Act, or because that employee has testified or is about to testify in an investigation or proceeding under this Act, is guilty of a petty offense.

(Source: P.A. 84-525.)