

1 AN ACT concerning employment.

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

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

6 (820 ILCS 40/2) (from Ch. 48, par. 2002)

7 Sec. 2. Open records.

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

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

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

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

1 acknowledged receiving; and

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

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

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

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

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

26 (c) A written request shall:

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

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

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

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

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

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

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

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

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

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

7 (820 ILCS 40/9) (from Ch. 48, par. 2009)

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

1 of the personnel record.

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

3 (820 ILCS 40/10) (from Ch. 48, par. 2010)

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

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

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

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

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

1 person's privacy.

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

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

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

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

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

18 (820 ILCS 40/12) (from Ch. 48, par. 2012)

19 Sec. 12. Administration and enforcement of the Act.

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

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

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

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

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

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

7 (1) Actual damages plus costs.

8 (2) For a willful and knowing violation of this Act,
9 \$200 plus costs, reasonable attorney's fees, and actual
10 damages.

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

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

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