



Rep. Will Guzzardi

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10300HB3763ham001

LRB103 30532 RJT 71625 a

1 AMENDMENT TO HOUSE BILL 3763

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3763 by replacing  
3 everything after the enacting clause with the following:

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 legal 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,

1 ~~additional~~ compensation, benefits, discharge, or other  
2 disciplinary action, except as provided in Section 10;

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

6 (3) any employee handbooks that the employer made  
7 available to the employee or that the employee  
8 acknowledged receiving; and

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

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

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

26 (1) made at reasonable intervals, unless otherwise

1 provided in a collective bargaining agreement; and-

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

7 (c) A written request shall:

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

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

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

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

20 (d) The employer shall comply with the employee's request  
21 ~~provide the employee with the inspection opportunity~~ within 7  
22 working days after the receipt of ~~employee makes~~ the request, l  
23 or l if the employer can reasonably show that such deadline  
24 cannot be met, the employer shall have an additional 7  
25 calendar days to comply. If an employer does not maintain  
26 records in one or more of the categories requested, the

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

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

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

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

6 (820 ILCS 40/9) (from Ch. 48, par. 2009)

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

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

2 (820 ILCS 40/10) (from Ch. 48, par. 2010)

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

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

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

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

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

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

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

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

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

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

17 (820 ILCS 40/12) (from Ch. 48, par. 2012)

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

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

23 (b) If an employee alleges that he or she has been denied  
24 his or her rights under this Act, he or she may file a  
25 complaint with the Department of Labor. The Department shall

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

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



1 maintained shall have jurisdiction in such actions.

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

6 (1) Actual damages plus costs.

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

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

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

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

23 (820 ILCS 40/5 rep.)

24 Section 10. The Personnel Record Review Act is amended by  
25 repealing Section 5."