

SENATE BILL REPORT

SB 5033

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, January 31, 2002

Title: An act relating to personnel files.

Brief Description: Revising employee personnel file inspection provisions.

Sponsors: Senators Fairley and Costa.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/18/01, 2/19/01 [DPS, DNP]; 1/22/02, 1/31/02 [DP2S, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Second Substitute Senate Bill No. 5033 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Fairley, Franklin, Gardner, Rasmussen and Regala.

Minority Report: Do not pass.

Signed by Senators Benton, Hochstatter and Honeyford.

Staff: Jack Brummel (786-7428)

Background: State law provides that an employer must permit an employee to inspect his or her personnel file. If an employer denies employees the right to inspect their files, the employer is guilty of a misdemeanor and must be fined \$25 to \$100 per violation. If an employer-employee relationship does not exist, there is no right to inspect.

Summary of Substitute Bill: Employees of personal services agencies are, for purposes of employee records, also considered employees of the firms they are placed with. Employees are entitled to inspect and copy, subject to a reasonable copying charge, their own personnel files. Such files must be retained by the employer for at least three years after the employee stops working for the employer. Violators are subject to a civil penalty imposed by the Director of the Department of Labor and Industries of \$500 or more per day, depending on the employer's history of violations. An employee may also recover, via civil action, damages of \$5,000 for a violation.

Substitute Bill Compared to Original Bill: The substitute clarifies that employers that do not keep personnel files are not subject to the requirements of the bill. The right of employee representatives to inspect files is removed. Employers have 15 business days to produce a personnel file. The civil penalty is lowered from \$5,000 to \$500.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill provides an enforcement mechanism to get access to personnel files that might not otherwise be released.

Testimony Against: The language makes it more difficult for placement agencies to act as employers. The definition of personnel files is ambiguous.

Testified: PRO: Marcus Courtney, Washtech. Con: Kathy Williams, WA Staffing Assoc.; Clif Finch AWB.