

# SENATE BILL REPORT

## SB 5130

---

---

As of January 22, 2021

**Title:** An act relating to employee's rights concerning personnel files and disciplinary actions.

**Brief Description:** Concerning employee's rights concerning personnel files and disciplinary actions.

**Sponsors:** Senators Kuderer, Keiser, Das, Hunt, Robinson, Saldaña, Stanford and Wilson, C..

**Brief History:**

**Committee Activity:** Labor, Commerce & Tribal Affairs: 1/25/21.

**Brief Summary of Bill**

- Requires an employer to furnish an employee with a complete, unredacted copy of the personnel file at no cost within 14 days of a request.
- Mandates that the employer furnish to a former employee a signed written statement of the reasons for and effective date of discharge within ten days of the written request.
- Allows an employee to bring a private action for violations of certain rights regarding personnel files and entitles the employee to equitable relief, statutory damages of \$1,000, and reasonable attorneys' fees and costs of each violation.
- Defines personnel file.

---

**SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS**

**Staff:** Susan Jones (786-7404)

**Background:** At least annually, every employer must, upon the request of an employee,

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

permit that employee to inspect any or all of the employee's own personnel files. Each employer must make such files available locally within a reasonable period of time after the employee requests the files.

An employee may annually petition that the employer review all information in the employee's personnel files that are regularly maintained by the employer as a part of the employer's business records, or are subject to reference for information given to persons outside of the company. The employer must determine if there is any irrelevant or erroneous information in the files, and must remove all such information from the file.

If an employee does not agree with the employer's determination, the employee may request to have a statement containing the employee's rebuttal or correction placed in the employee's personnel file. This requirement does not prevent the employer from removing information more frequently. A former employee retains the right of rebuttal or correction for a period not to exceed two years.

These requirements do not apply to:

- the records of an employee relating to the investigation of a possible criminal offense; or
- information or records compiled in preparation for an impending lawsuit which would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

**Summary of Bill:** Within 14 calendar days of a request by an employee, former employee, or their agent or fiduciary, each employer must furnish to the employee a complete, unredacted copy of the employee's personnel files at no cost to the employee.

The employee's ability to petition for the employer's review of the personnel file is not limited, in part, to those files maintained as part of the employer's business records.

Within ten business days of receiving a written request by a former employee or their agent, the employer must furnish a signed written statement to the employee stating the reasons for and effective date of discharge.

An employee may enforce the employee's rights through a private cause of action in superior court, without exhausting any administrative remedies. For each violation, the employee is entitled to equitable relief, statutory damages of \$1,000, and reasonable attorneys' fees and costs.

Personnel file includes all:

- job application records;
- performance evaluations;
- disciplinary records;
- medical, leave, and reasonable accommodation records;

- payroll records;
- employment agreements; and
- other records maintained in a personnel or employment file for that employee, however designated.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2021.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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