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H.307

Introduced by Representatives Jewett of Ripton, Botzow of Pownal, Donovan  
of Burlington, O’Sullivan of Burlington, and Stevens of  
Waterbury

Referred to Committee on

Date:

Subject: Labor; employment practices; access to personnel records

Statement of purpose of bill as introduced: This bill proposes to permit current  
and former employees to access their personnel records.

An act relating to access to personnel records

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Employee Access to Personnel Records

§ 571. DEFINITIONS

As used in this subchapter:

(1) “Employee” means any individual currently employed or formerly  
employed by an employer and includes individuals in managerial positions.

(2) “Employer” means any individual, organization, or governmental  
body, including any partnership, association, trustee, estate, corporation, joint  
stock company, insurance company, or legal representative, whether domestic

1 or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof,  
2 and any common carrier by mail, motor, water, air, or express company doing  
3 business in or operating within this State, and any agent of such employer,  
4 which has 50 or more individuals performing services for it within this State.

5 (3) "Personnel record" means any application for employment; wage or  
6 salary information; notices of commendation, warning, or discipline;  
7 authorization for a deduction or withholding of pay; fringe benefit information;  
8 leave records; and employment history with the employer, including salary  
9 information, job title, dates of changes, retirement record, attendance records,  
10 performance evaluations, and medical records. The term "personnel record"  
11 shall not include records of an employee relating to the investigation of a  
12 possible criminal offense; letters of reference; documents that are being  
13 developed or prepared for use in civil, criminal, or grievance procedures; or  
14 materials which are used by the employer to plan for future business  
15 operations.

16 § 572. INSPECTION OF PERSONNEL RECORDS

17 (a)(1) If an employer maintains a personnel record for an employee, the  
18 employer shall permit the employee to inspect the employee's own personnel  
19 record at least once per calendar year, upon the request of the employee.

1           (2) The employer shall make the employee's personnel record available  
2           to the employee within 14 business days of the employee's request to  
3           inspect it.

4           (b)(1) An employer may require an employee to inspect his or her  
5           personnel record during regular business hours at the location where the record  
6           is usually and ordinarily maintained. At the employer's discretion, the  
7           employer may arrange with the employee to make his or her personnel record  
8           available for inspection at a time and location that is more convenient for the  
9           employee.

10           (2) If an employee is unable to inspect his or her personnel record  
11           during regular business hours at the location where it is usually and ordinarily  
12           maintained, and the employer does not make the personnel record available to  
13           the employee at a time and location where the employee is able to inspect it,  
14           the employer shall mail a complete copy of the personnel record to the  
15           employee. If the employer mails a copy of the personnel record to the  
16           employee, the employer may charge the employee the reasonable cost of  
17           copying and mailing his or her record.

18           (c) An employer shall provide an employee with a copy of all or part of his  
19           or her personnel record upon request of the employee. The employer may  
20           charge the employee the reasonable cost of copying his or her record.

1     § 573. PERSONNEL RECORD CORRECTION

2         If upon inspection of his or her personnel record an employee disagrees  
3     with any of the information contained in the record, the employee and the  
4     employer may agree to remove or correct the information. If the employee and  
5     employer cannot agree upon the removal or correction of the information, then  
6     the employee may submit a written statement explaining the employee's  
7     position. The statement shall be maintained as part of the employee's  
8     personnel record and shall accompany any transmittal or disclosure of the  
9     personnel record made to a third party.

10    § 574. EMPLOYER'S RIGHT TO RETAIN AND PROTECT RECORD

11         (a) Nothing in this subchapter shall be construed to require that an  
12     employee be permitted to remove his or her personnel record from the location  
13     where it is made available for inspection.

14         (b) An employer shall have the right to protect its personnel records from  
15     loss, damage, or alteration, and to ensure their integrity.

16         (c) An employer may require that an employee's inspection of his or her  
17     personnel record take place in the presence of a designated official.

18    § 575. VIOLATIONS; PENALTY

19         (a) An employee aggrieved by a violation of this subchapter may bring a  
20     civil action for injunctive relief, damages, court costs, and attorney's fees.

1        (b) An employer who violates this subchapter shall be subject to a civil  
2        penalty of not less than \$500.00 nor more than \$2,500.00 for each violation.

3        Sec. 2. EFFECTIVE DATE

4        This act shall take effect on July 1, 2015.