

## No. 1978-286

## AN ACT

## HB 1330

Authorizing an employee to inspect certain personnel files of his employer.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Employee.” Any person currently employed, laid off with reemployment rights or on leave of absence. The term “employee” shall not include applicants for employment, designated agents, or any other person.

“Employer.” Any individual, person, partnership, association, corporation, the Commonwealth, any of its political subdivisions or any agency, authority, board or commission created by them.

“Personnel file.” If maintained by the employer, any application for employment, wage or salary information, notices of commendations, warning or discipline, authorization for a deduction or withholding of pay, fringe benefit information, leave records, employment history with the employer, including salary information, job title, dates of changes, retirement record, attendance records and performance evaluations. The term “personnel file” shall not include records of an employee relating to the investigation of a possible criminal offense, letters of reference, documents which are being developed or prepared for use in civil, criminal or grievance procedures, medical records or materials which are used by the employer to plan for future operations or information available to the employee under the Fair Credit Reporting Act (84 Stat. 1127-1136, 15 U.S.C. § 1681 et. seq.).

Section 2. Inspection of personnel files.

An employer shall, at reasonable times, upon request of an employee permit that employee to inspect his or her own personnel files used to determine his or her own qualifications for employment, promotion, additional compensation, termination or disciplinary action. The employer shall make these records available during the regular business hours of the office where these records are usually and ordinarily maintained, when sufficient time is available during the course of a regular business day, to inspect the personnel files in question. The employer may require the requesting employee to inspect such records on the free time of the employee. At the employer's discretion, the employee may be required to file a written form to request access to the personnel file. This form is solely for the purpose of identifying the requesting individual to avoid disclosure to ineligible individuals. To assist the employer in providing the

correct records to meet the employees need, the employee shall indicate in his written request, either the purpose for which the inspection is requested, or the particular parts of his personnel record which he wishes to inspect.

Section 3. Applicability.

Nothing in this act shall be construed as a requirement that an employee be permitted to remove his personnel file, any part thereof, or copy of the contents of such file from the place of the employer's premises where it is made available for inspection. The taking of notes by employees is permitted. The employer shall retain the right to protect his files from loss, damage or alteration to insure the integrity of the files. The employer may require inspection of the personnel file in the presence of a designated official. The employer must allow sufficient inspection time, commensurate with the volume content of the file. Except for reasonable cause the employer may limit inspection to once every calendar year.

Section 4. Administration of act.

The Bureau of Labor Standards of the Department of Labor and Industry is hereby authorized and directed to enforce the provisions of this act, and upon a petition and hearing by either an employer or employee, to make and enforce such orders as the bureau shall deem appropriate to which order will provide access to said records and the opportunity for an employee to place a counter statement in his or her file in the event an alleged error is determined by an employee in the personnel file. The bureau, however, shall have no authority to inspect personnel files, to investigate alleged errors detected by an employee in his personnel file, or to attempt remedial action unless the records indicate violations of other sections of the Pennsylvania Statutes. The employee must avail himself of appropriate civil remedies such as grievance procedure under a union contract. Nothing in this act shall diminish any rights to discovery granted under the rules of the court of Pennsylvania.

Section 5. Effective date.

This act shall take effect in 60 days.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP