

House Bill 2682

Sponsored by Representative JOHNSON (at the request of Associated Oregon Industries) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Excludes confidential investigation files from personnel records that must be provided to employee.

A BILL FOR AN ACT

1
2 Relating to exclusion of confidential investigation files from certain personnel records; amending
3 ORS 652.750.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 652.750 is amended to read:

6 652.750. (1) As used in this section:

7 (a) **“Confidential investigation files” means witness statements, investigator notes and**
8 **other underlying documentation that are gathered to support an employment decision.**
9 **“Confidential investigation files” does not include disciplinary warnings, termination notices**
10 **or other documents that have been provided to the employee.**

11 [(a)] (b) “Employer” has the meaning given that term in ORS 656.005.

12 [(b)] (c) “Personnel records” does not include records of an individual relating to the conviction,
13 arrest or investigation of conduct constituting a violation of the criminal laws of this state or an-
14 other state or the United States, **confidential investigation files**, confidential reports from previous
15 employers or records maintained in compliance with ORS 351.065.

16 [(c)] (d) “Public safety officer” has the meaning given that term in ORS 236.350.

17 (2) Except as provided in subsection (7) of this section, within 45 days after receipt of an
18 employee’s request, an employer shall provide reasonable opportunity for the employee to inspect,
19 at the place of employment or place of work assignment, the personnel records of the employee that
20 are used or have been used to determine the employee’s qualification for employment, promotion,
21 additional compensation or employment termination or other disciplinary action. Within 45 days af-
22 ter receipt of the employee’s request, the employer shall furnish a certified copy of the records.

23 (3) Upon termination of employment, the employer shall keep the terminated employee’s per-
24 sonnel records for not less than 60 days. Within the 60-day period, the employer shall provide the
25 employee with a certified copy of the records within 45 days of receiving the employee’s request.
26 After the 60-day period, the employer shall provide the certified copy within 45 days of receiving the
27 employee’s request if the employer has the records at the time of the request.

28 (4) Notwithstanding the time periods described in subsections (2) and (3) of this section, if the
29 employee’s personnel records are not readily available, the employer and the employee may agree
30 to extend the time within which the employer must provide the employee reasonable opportunity to
31 inspect the records or furnish the employee a certified copy of the records.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (5) For the services referred to in subsections (2) and (3) of this section only, an employer may
 2 charge an employee no more than an amount reasonably calculated to recover the actual cost of
 3 providing the services.

4 (6)(a) Except as provided in paragraphs (b) and (c) of this subsection, an employer may not place
 5 an adverse comment in the personnel records of a public safety officer unless the officer has first
 6 read and signed the document containing the adverse comment.

7 (b) If a public safety officer refuses to sign a document containing an adverse comment, the
 8 employer may place the document in the officer's personnel records with a notation that the docu-
 9 ment was presented to the officer and the officer refused to sign it.

10 (c) If a public safety officer is not available to read and sign the document containing an adverse
 11 comment at the work location where the personnel files are maintained, the employer may place the
 12 document in the officer's personnel records and mail a copy of the document to the officer by reg-
 13 ular mail or interoffice mail.

14 (d) A public safety officer may write a response within 30 days of being presented with a docu-
 15 ment containing an adverse comment. If a public safety officer writes a response to a document
 16 containing an adverse comment, the response must be attached to the original document and placed
 17 in the officer's personnel records.

18 (7)(a) Upon request, a public safety officer may inspect the officer's own personnel records at a
 19 reasonable time at the location where the records are kept by the employer.

20 (b) If, after inspection, a public safety officer believes that any portion of the material is
 21 mistakenly or unlawfully placed in the officer's personnel records, the officer may request in writing
 22 that the mistaken or unlawful material be corrected or deleted. The request must describe the cor-
 23 rections or deletions requested and the reasons supporting the request and provide any documenta-
 24 tion that supports the request. The employer shall respond within 30 days from the date the request
 25 is received. If the employer does not correct or delete the material, the employer shall place the
 26 request and the employer's response to the request in the officer's personnel records.

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