

1979 Assembly Bill 1040

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## CHAPTER 339, Laws of 1979

AN ACT to amend 230.13 (intro.); and to create 103.13 of the statutes, relating to permitting employes to inspect their personnel records.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 103.13 of the statutes is created to read:

**103.13 Records open to employe.** (1) DEFINITIONS. In this section:

(a) "Employer" has the meaning specified in s. 101.01 (2) (c).

(b) "Employe" has the meaning specified in s. 101.01 (2) (d) and also includes former employes.

(2) OPEN RECORDS. Every employer shall, upon the request of an employe, which the employer may require the employe to make in writing, permit the employe to inspect any personnel documents which are used or which have been used in determining that employe's qualifications for employment, promotion, transfer, additional compensation, termination or other disciplinary action, and medical records, except as provided in subs. (5) and (6). An employe may request all or any part of his or her records, except as provided in sub. (6). The employer shall grant at least 2 requests by an employe in a calendar year, unless otherwise provided in a collective bargaining agreement, to inspect the employe's personnel records as provided in this section. The employer shall provide the employe with the opportunity to inspect the employe's personnel records within 7 working days after the employe makes the request for inspection. The inspection shall take place at a location reasonably near the employe's place of employment and during normal working hours. If the inspection during normal working hours would require an employe to take time off from work with that employer, the employer may provide some other reasonable time for the inspection. In any case, the employer may allow the inspection to take place at a time other than working hours or at a place other than where the records are maintained if that time or place would be more convenient for the employe.

(3) PERSONNEL RECORD INSPECTION BY REPRESENTATIVE. An employe who is involved in a current grievance against the employer may designate in writing a representative of the employe's union, collective bargaining unit or other designated representative to inspect the employe's personnel records which may have a bearing on the resolution of the grievance, except as provided in sub. (6). The employer shall allow such a designated representative to inspect that employe's personnel records in the same manner as provided under sub. (2).

(4) PERSONNEL RECORD CORRECTION. If the employe disagrees with any information contained in the personnel records, a removal or correction of that information may be mutually agreed upon by the employer and the employe. If an agreement cannot be reached, the employe may submit a written statement explaining the employe's position. The employer shall attach the employe's statement to the disputed portion of the personnel record. The employe's statement shall be included whenever that disputed portion of

the personnel record is released to a 3rd party as long as the disputed record is a part of the file.

(5) **MEDICAL RECORDS INSPECTION.** The right of the employe or the employe's designated representative under sub. (3) to inspect personnel records under this section includes the right to inspect any personal medical records concerning the employe in the employer's files. If the employer believes that disclosure of an employe's medical records would have a detrimental effect on the employe, the employer may release the medical records to the employe's physician or through a physician designated by the employe, in which case the physician may release the medical records to the employe or to the employe's immediate family.

(6) **EXCEPTIONS.** The right of the employe or the employe's designated representative under sub. (3) to inspect his or her personnel records does not apply to:

(a) Records relating to the investigation of possible criminal offenses committed by that employe.

(b) Letters of reference for that employe.

(c) Any portion of a test document, except that the employe may see a cumulative total test score for either a section of the test document or for the entire test document.

(d) Materials used by the employer for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for the employer's planning purposes.

(e) Information of a personal nature about a person other than the employe if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(f) An employer who does not maintain any personnel records.

(g) Records relevant to any other pending claim between the employer and the employe which may be discovered in a judicial proceeding.

**SECTION 2.** 230.13 (intro.) of the statutes is amended to read:

**230.13 Closed records.** The Except as provided in s. 103.13, the secretary and the administrator may keep records of the following personnel matters closed to the public:

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