
SUBSTITUTE SENATE BILL 5924

State of Washington

68th Legislature

2024 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Kuderer, Wellman, Conway, Frame, Hasegawa, Hunt, Keiser, Lovelett, Nobles, Stanford, Valdez, and C. Wilson)

READ FIRST TIME 01/24/24.

1 AN ACT Relating to access to personnel records; amending RCW
2 49.12.240 and 49.12.250; adding a new section to chapter 49.12 RCW;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.12.240 and 1985 c 336 s 1 are each amended to
6 read as follows:

7 (1) Every employer shall, at least annually, upon the request of
8 an employee, permit that employee to inspect any or all of ((his or
9 her)) the employee's own personnel file(s).

10 (2) For the purposes of this section and RCW 49.12.250,
11 49.12.260, and section 3 of this act, "personnel file" includes the
12 following records, if the employer creates such records:

13 (a) All job application records;

14 (b) All performance evaluations;

15 (c) All nonactive or closed disciplinary records;

16 (d) All medical, leave, and reasonable accommodation records;

17 (e) All payroll records;

18 (f) All employment agreements; and

19 (g) All other records designated by the employer as part of the
20 employee's personnel file.

1 (3) This section may not be construed to create a retention
2 schedule for records or to require an employer to create personnel
3 records.

4 **Sec. 2.** RCW 49.12.250 and 1985 c 336 s 2 are each amended to
5 read as follows:

6 (1) Each employer shall (~~make~~) provide a copy of such personnel
7 file(s) (~~available locally~~) within (~~a reasonable period of time~~)
8 21 calendar days after the employee, former employee, or their
9 designee requests the file(s) at no cost to the employee, former
10 employee, or their designee.

11 (2) An employee annually may petition that the employer review
12 all information in the employee's personnel file(s) that are
13 regularly maintained by the employer as a part of (~~his~~) the
14 employer's business records or are subject to reference for
15 information given to persons outside of the company. The employer
16 shall determine if there is any irrelevant or erroneous information
17 in the file(s), and shall remove all such information from the
18 file(s). If an employee does not agree with the employer's
19 determination, the employee may at (~~his or her~~) the employee's
20 request have placed in the employee's personnel file a statement
21 containing the employee's rebuttal or correction. Nothing in this
22 subsection prevents the employer from removing information more
23 frequently.

24 (3) A former employee shall retain the right of rebuttal or
25 correction for a period not to exceed two years.

26 (4) Every employer must, within 21 calendar days of receiving a
27 written request from a former employee or their designee, furnish a
28 signed written statement to the former employee or their designee
29 stating the effective date of discharge, whether the employer had a
30 reason for the discharge, and if so, the reasons.

31 (5) For the purposes of this section, "former employee" means a
32 person who separated from the employer within three years of the date
33 of the person's request.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.12
35 RCW to read as follows:

36 (1)(a) An employee or former employee may enforce RCW 49.12.240
37 through 49.12.260 through a private cause of action in superior court

1 and for each violation will be entitled to equitable relief,
2 statutory damages, and reasonable attorneys' fees and costs.

3 (b) Prior to enforcing through a private cause of action, the
4 employee or former employee must give five calendar days' notice to
5 the employer. The notice of intent to sue must reference that the
6 employee or former employee has the right to bring a legal action
7 under Washington state law.

8 (2) The statutory damages for each violation are:

9 (a) \$250 if the complete personnel file or the statement required
10 under RCW 49.12.250(4) is not provided within 21 calendar days;

11 (b) \$500 if the complete personnel file or the statement required
12 under RCW 49.12.250(4) is not provided within 28 calendar days;

13 (c) \$1,000 if the complete personnel file or the statement
14 required under RCW 49.12.250(4) is provided later than 35 calendar
15 days; and

16 (d) \$500 for any other violations.

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