

By: Dutton

H.B. No. 379

A BILL TO BE ENTITLED

AN ACT

relating to the right of an employee to inspect the employee's personnel records.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 104 to read as follows:

CHAPTER 104. EMPLOYEE ACCESS TO PERSONNEL RECORDS

Sec. 104.001. DEFINITIONS. In this chapter:

(1) "Employee" has the meaning assigned by Section 21.002.

(2) "Employer" has the meaning assigned by Section 21.002.

(3) "Personnel records" means all records maintained by an employer in an employee's personnel file. The term includes all documents contained in the employee's personnel file other than:

(A) documents concerning the employee that relate to an investigation of a possible criminal offense;

(B) documents that are being developed or prepared for use in a civil, criminal, or grievance procedure; or

(C) materials that are used by the employer to plan for future operations.

Sec. 104.002. RIGHT OF ACCESS TO PERSONNEL RECORDS. An employer shall permit an employee to inspect the employee's

1 personnel records.

2 Sec. 104.003. REQUEST TO INSPECT RECORDS. An employee may
3 make a request to inspect the employee's personnel records by
4 submitting a written request to the employer.

5 Sec. 104.004. TIME AND PLACE FOR INSPECTION. (a) Except as
6 otherwise provided in a collective bargaining agreement affecting
7 the employee, an employer shall permit at least two inspections
8 under this chapter by an employee in a calendar year.

9 (b) The inspection of records under this chapter must take
10 place at a location reasonably near the employee's place of
11 employment and during normal working hours.

12 Sec. 104.005. REMOVAL OF RECORDS. This chapter does not
13 create an entitlement for an employee to remove any part of the
14 employee's personnel records from the place where the records are
15 made available for inspection.

16 Sec. 104.006. PROTECTION OF RECORDS. An employer retains
17 the right to protect the records maintained by the employer from
18 loss, damage, or alteration to ensure the integrity of the records.

19 Sec. 104.007. CORRECTION OF PERSONNEL RECORDS. (a) An
20 employee and employer may agree to remove or correct any
21 information in the employee's personnel records with which the
22 employee disagrees.

23 (b) If the employee and employer are unable to reach an
24 agreement, the employee may submit a written statement explaining
25 the employee's position regarding the disputed information. The
26 employer shall attach the employee's statement to the disputed
27 material in the personnel record. The employee's statement must be

1 included if the disputed material is released to a third party as
2 long as the disputed material is a part of the personnel record.

3 Sec. 104.008. UNLAWFUL EMPLOYMENT PRACTICE. (a) The
4 refusal of an employer to comply with the requirements of this
5 chapter constitutes an unlawful employment practice.

6 (b) The Commission on Human Rights shall enforce this
7 chapter in the manner provided for enforcement of a complaint
8 alleging an unlawful employment practice under Chapter 21.

9 SECTION 2. This Act takes effect September 1, 2003.