



House of Representatives

File No. 699

General Assembly

February Session, 2004

(Reprint of File Nos. 61 and 603)

Substitute House Bill No. 5392
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 1, 2004

AN ACT CONCERNING ENFORCEMENT OF THE PERSONNEL FILES ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) In connection with any
2 investigation by the Labor Department regarding any provision of
3 chapter 563a of the general statutes, the Labor Commissioner or the
4 Labor Commissioner's duly authorized agent may summon by
5 subpoena an employer against whom a complaint under chapter 563a
6 of the general statutes has been filed, an employee who has filed a
7 complaint that is the subject of such investigation, any other person
8 having custody or control of such employee's medical records or
9 personnel file or any person whose testimony may be pertinent to the
10 matter under investigation, together with any records or other
11 documents of the complaining employee relevant to such
12 investigation. Any such records or documents obtained by the Labor
13 Department pursuant to such subpoena shall be confidential and shall
14 not be subject to disclosure under the Freedom of Information Act, as
15 defined in section 1-200 of the general statutes. In case of contumacy or

16 refusal to obey a subpoena issued pursuant to this section, the Superior
17 Court, upon application of the Labor Commissioner, shall have
18 jurisdiction to make such order as may be appropriate to aid in the
19 enforcement of this section.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Labor Dept.	GF - Cost	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill empowers the Labor Commissioner to secure by subpoena the information necessary to ensure compliance with the state's Personnel Files Act. The Department of Labor could incur a minimal cost associated with the delivery of subpoenas by state marshals. In accordance with CGS section 52-261, state marshals receive a fee of not more than \$30 for each process served in addition to mileage reimbursement.

House "A" makes technical changes to the original bill and has no fiscal impact.

OLR Bill Analysis

sHB 5392 (as amended by House "A")*

AN ACT CONCERNING ENFORCEMENT OF THE PERSONNEL FILES ACT**SUMMARY:**

This bill authorizes the labor commissioner to subpoena people and records to investigate complaints related to employee personnel and medical records kept by private-sector employers under the Personnel Files Act. It specifies that the commissioner may subpoena (1) an employer who is the subject of a complaint under the act, (2) the employee who filed the complaint, (3) any other person having custody or control of such employee's records, and (4) any person whose testimony may be pertinent to the matter under investigation. Only records and documents of the complaining employee may be subpoenaed. In cases of refusal to obey such subpoenas, the bill empowers the Superior Court to issue an order, upon the commissioner's request, enforcing the subpoena. Under current law, there is no enforcement mechanism for the commissioner in private-sector personnel records matters under the act.

The bill also makes documents obtained by a subpoena exempt from disclosure under the Freedom of Information Act (FOIA).

*House Amendment "A" specifies that (1) only an employer who has a Personnel Files Act complaint lodged against him can be subject to a subpoena and (2) records or documents subpoenaed must be those of the complaining employee. It also subjects to subpoenas those whose testimony may be pertinent to the investigation, making them distinct from persons having custody or control of the complaining employee's medical or personnel records.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Personnel Files Act***

This state law imposes certain requirements on employers who keep employee personnel and medical records. The employers must allow employees access to personnel files, and in the case of medical files, allow access by a physician chosen or approved by the employee. Employers must maintain both types of files for a certain period following the end of the worker's employment with that company, and must abide by other statutory requirements. The act defines an employer as an individual, corporation, partnership, or unincorporated association.

Legislative History

The House referred the original version of this bill (File 61) to the Judiciary Committee on March 23. On April 2, Judiciary reported out a substitute exempting any subpoenaed records from FOIA and specifying who may be subpoenaed. On April 20, the House referred the substitute bill (File 603) to the Government Administration and Elections Committee, which reported it favorably without change on April 22.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 14 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 35 Nay 1

Government Administration and Elections Committee

Joint Favorable Report

Yea 15 Nay 0