

H-224

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1979

VOL. 22
PART 15
4947-5305

The House of Representatives is voting by roll at this time. Would the members please return to the chamber immediately. The House of Representatives is voting by roll at this time. Would the members please return to the chamber immediately.

Have all the members voted? Have all the members voted? Would the members kindly check the roll call machine to determine if their vote is properly recorded? The Chair would remind all the members that if a member is present in the Chamber, he or she must cast a vote. The machine will be locked. The Clerk will take the tally.

The Clerk please announce the tally.

CLERK:

House Bill 7307 as amended by House Amendment Schedule "A".

Total number voting	131
Necessary for passage	66
Those voting yea	131
Those voting nay	0
Those absent and not voting	20

SPEAKER ABATE:

The bill as amended passes.

CLERK:

Calendar page 5. Calendar No. 579, File No. 342, Substitute for House Bill No. 6938, AN ACT CONCERNING ACCESSIBILITY OF PERSONNEL FILES TO EMPLOYEES. Favorable report of the Committee

on Labor and Public Employees.

REP. BALDUCCI: (27th)

Thank you. Mr. Speaker.

SPEAKER ABATE:

Rep. Richard J. Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER ABATE:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill. Will you remark, sir?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO 7260. If he would please call and then I seek leave to summarize.

SPEAKER ABATE:

The Clerk has in his possession an amendment LCO 7260. Would the Clerk please simply call the amendment hereby designated House Amendment Schedule "A"?

CLERK:

LCO 7260 offered by Rep. Balducci of the 27th, Rep. Carragher of the 5th.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. This amendment.....

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SPEAKER ABATE:

Excuse me, Rep. Balducci.

REP. BALDUCCI: (27th)

I move the amendment, sir.

SPEAKER ABATE:

The gentleman has requested leave of the Chamber to summarize the amendment in lieu of the Clerk's reading. Is there objection to summarization in lieu of reading? Is there objection? Hearing none, you may proceed with summarization of the amendment, Rep. Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. This particular amendment eliminates political subdivisions of the state in the bill. By eliminating your political subdivision, confusion and complication in the Privacy and Freedom of Information dispute, which is being disputed by the GAE Committee would be eliminated. I move acceptance and passage of this amendment, Mr. Speaker.

SPEAKER ABATE:

The question is on adoption of House Amendment Schedule "A". Will you remark further on its adoption?

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Richard Belden.

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REP. BELDEN: (113th)

If I might, Mr. Speaker, a question through you to the proponent.

SPEAKER ABATE:

State your question please, sir.

REP. BELDEN: (113th)

Thank you. Rep. Balducci, will political subdivision employee personnel records be available to the employees for review if this amendment passes?

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Do you, excuse me. Through you, Mr. Speaker. Do you mean would employees of subdivisions of the state or the state itself have access to their files? Through you, Mr. Speaker. The answer to that is yes. They now have that privilege.

SPEAKER ABATE:

Rep. Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of House Amendment Schedule "A"? Will you remark further on its adoption? If not all those in favor of its adoption, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed nay. The ayes have it. The amendment is adopted and it is ruled technical.

House Amendment Schedule "A".

In line 6, delete the comma after the word "partnership" and insert the word "or" in lieu thereof.

In line 7, insert a semicolon after the word "association" and delete the words "or a political subdivision of the".

Delete line 8 in its entirety.

SPEAKER ABATE:

Will you remark further on this bill as amended by House Amendment Schedule "A"?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker.

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

The Clerk has another amendment LCO 8108. If you would please call allow me summarization.

SPEAKER ABATE:

The Clerk has in his possession an amendment LCO 8108,

hereby designated House Amendment Schedule "B". Would the Clerk please simply call the amendment.

CLERK:

COPIES LCO 8108, offered by Rep. Balducci of the 27th, Rep. Belden of the 113th.

SPEAKER ABATE:

Is there objection to the gentleman summarizing the amendment in lieu of Clerk's reading? Is the objection to summarization in lieu of reading? Hearing none, you may proceed with summarization, sir.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. What this amendment does is it adds to the definition documents which are being proposed or prepared or grievance procedures for the protection of the employer as well as the employee. So, in other words, something that is being prepared does not have to have access because its just in that preparation and because of grievance procedures in personnel, files that may be available.

What it does is eliminate an individual from seeing that, at least at that particular time, before any decision has been made. The other part clears up the portion that had been interpreted and now puts it in a specific language. It gives an employee the right -- employer, excuse me, the right to simply protect his file. To have someone there, to observe an individual

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who may be looking at their personnel files. We had assumed that that's what the bill said. Now what we've done is simply spell it out in black and white for an individual to see. I move adoption of the amendment, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the adoption of House Amendment Schedule "B"? Will you remark further on the adoption of House "B"? If not, all those in favor of adoption please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER ABATE:

Opposed nay. The ayes have it. The amendment is adopted and it too is ruled technical.

House Amendment Schedule "B".

In line 20, delete the word "or" and insert a comma in lieu thereof.

In line 24, insert the following after the word "laws": "or documents which are being developed or prepared for use in civil, criminal or grievance procedures".

After line 57, insert a new section 4 as follows and renumber the existing section 4 and the remaining sections accordingly:

"Sec. 4. (NEW) Nothing in this act shall be construed as a requirement that an employee be permitted to remove his personnel file or any part of such file from the place on the

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employer's premises where it is made available for inspection. Each employer shall retain the right to protect his files from loss, damage or alteration to insure the integrity of the files. Each employer may require that inspection of any personnel file take place in the presence of a designated official."

SPEAKER ABATE:

Will you remark further on this bill as amended by House Amendment Schedules "A" and "B"? Will you remark further on the bill as amended?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker.

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Mr. Speaker, there's also fiscal note with this bill which no longer applies since we removed political subdivisions. So the fiscal note with this bill would not apply.

What this bill does or purports to do is it allows members of the public sector an opportunity to see their records or files which are applicable to increase in wages or for not receiving an increase in wage, promotion or for not receiving a promotion or for areas where they may have been reprimanded for misconduct.

They have access to these files now. The state and federal employees have access to -- and municipal have access to those files. Did not allow those people in the private sector that same

opportunity. There are several, there are many portions to the bill. What it does, is it not only opens up personnel files, and which is the prime, but it also allows an individual with a doctor's, with consent of a doctor, allows an individual to obtain a doctor to look at his medical records, also. He may, or the business may hire an individual to hire a doctor or if they have a company doctor, allow that doctor access to a person's individual personnel file.

The bill has a time limit set on it. It would not go into effect until 1981, January 1, a chance for businesses to take the opportunity to clarify any problems which they might have in getting themselves organized and placement of personnel files at one place or another.

We would like to try or hopefully try and see these files at a place where the employee is now working. Several states have passed similar legislation. I would like to see the State of Connecticut pass this particular piece of legislation because it offers the individual a protection which I truly feel they have, and that is the right to see their own files dealing with their personnel and medical records. I move passage of the bill, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill as amended?

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REP. PARKER: (31st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Antonina Parker of the 31st.

REP. PARKER: (31st)

Through you, Mr. Speaker, a question to Rep. Balducci.

SPEAKER ABATE:

State your question, please, madam.

REP. PARKER: (31st)

In section 7, there is the proviso that no employer shall be required to permit the inspection more than two times a year. I am concerned that the employee may have to see the file more than twice in the event that he is either interviewing for new jobs requiring copies of documents in the files. But this prohibits his seeing the files more than twice.

SPEAKER ABATE:

Will you respond to that inquiry, Rep. Balducci?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker, through you. No, it does not prohibit the employer from allowing him. It simply says that he must allow at least twice. There's nothing to say that he cannot allow three or four or five times an inspection of a personnel file.

REP. PARKER: (31st)

Thank you.

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SPEAKER ABATE:

Will you remark further on the bill as amended?

REP. MATTIES: (20th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Charles Matties.

REP. MATTIES: (20th)

Thanks, Mr. Speaker. A question through you, Mr. Speaker.

SPEAKER ABATE:

State your question, please, sir.

REP. MATTIES: (20th)

Rep. Balducci, in line 82, the employer is supposed to advise the employee, the effect of disclosure or nondisclosure upon such employee. If I'm reading it correctly, does that put an unnecessary burden on the employer to be an advisor in cases where he may not be qualified?

SPEAKER ABATE:

Rep. Balducci, will you respond, sir.

REP. BALDUCCI: (27th)

In line, okay, in line 82, Representative, through you, Mr. Speaker? It says, where it says the effect of disclosure, nondisclosure upon such employee? I believe that deals with legal subpoena. This of course, doesn't apply if somebody is subpoenaed or there is an involvement where maybe criminal misjustice. They

can then supply any, the court can then require any files on an individual, I believe, to be subpoenaed. It doesn't require an order or a business, or an employer to -- this bill doesn't require or order an employer to do anything that they wouldn't have to do now if they were legally subpoenaed. That's my understanding, Rep. Matties.

SPEAKER ABATE:

Rep. Matties.

REP. MATTIES: (20th)

Just through you, just to broaden the question. I don't think I made it clear. It appears as if the employer is required to advise the employee what the disclosure or nondisclosure might, what effect that might have on the employee. Is this requiring advice from an employer that he may not be qualified to give?

SPEAKER ABATE:

Rep. Balducci, will you respond, sir?

REP. BALDUCCI: (27th)

Through you, no.

SPEAKER ABATE:

Rep. Matties, you still have the floor.

REP. MATTIES: (20th)

Thank you.

SPEAKER ABATE:

Will you remark further on this bill as amended? Will

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you remark further on the bill as amended.

REP. EMMONS: (101st)

Mr. Speaker.

SPEAKER ABATE:

Rep. Emmons.

REP. EMMONS: (101st)

Mr. Speaker, a question through you to the proponent of the bill?

SPEAKER ABATE:

State your question, please, madam.

REP. EMMONS: (101st)

Yes. Rep. Balducci, in reading the description of it as our big boo-boo, I have a question as to the prohibition of giving out any information contained in the personnel file. If you were a prospective employer and a person came to you for a job, you according to this, it appears that you as the prospective employer could not ask a previous employer as to the work habits, character of an employee, that you might be hiring. Is that correct?

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Through you, Mr. Speaker, that's correct. However, there is a comment that I'd like to make that deals with that. I guess they call it directory information, which we would like for

legislative intent, I think many members on the committee had the same question, that that be allowed. In directory intent and in most of the other legislation, we have seen in states that have similar legislation to this, if I as the prospective employer were interviewing you, I would have the right to call your previous employer and ask if a) you worked there, and b) if you worked there for a particular period of time.

Part of the burden we try to place on the employee, that burden being that if you were interested in finding a new job, that in many cases you will sign a waiver, so to speak, saying yes you may obtain other information. You would also have to give your present employer that written information, stating that yes, you can release information to the following company or companies.

Part of the burden would have to fall on the employee to accept that as his due if he wants information released, which I'm sure a new employer would want. Some kind of a track record.

SPEAKER ABATE:

Rep. Emmons, you still have the floor, madam.

REP. EMMONS: (101st)

Thank you. Another question along the same line. You mentioned that you could release certain information. Could you as the employee restrict what could be divulged from your personnel record, such as if you went to a new employer, to say you may not give any information out on my medical records?

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Through you, Mr. Speaker. Then there would, to try to answer Rep. Emmons' question, once you gave permission, you would be giving permission for access to your entire personnel file. Now medical records would be acceptable by a physician of a new employer, potential employer, not an employee. Because any employee does not have personal access to his medical file. It's through a physician that he or she has access to it, because some of the problems arose, he may not have understood some of the terminology or problems that they have used in their medical descriptions.

SPEAKER ABATE:

Rep. Emmons.

REP. EMMONS: (101st)

Through you, Mr. Speaker, another question. In relative to what you just said, then if I were a prospective employee and I wanted to inquire about the medical history of my prospective employee, I would have to hire a doctor to look into the medical history?

SPEAKER ABATE:

Rep. Balducci, through the Chair, sir.

REP. BALDUCCI: (27th)

No, you wouldn't...thank you, Mr. Speaker. The idea of the medical record was to protect the employee from reading or obtaining information and misconstruing it. Right now, if I as an employee wish to see my medical record, I could do so through the company doctor or through a doctor that I chose to hire to see it. You as an employer would also have that opportunity if you had a company doctor to see those medical records, or to hire or ask me to hire an individual to go over my medical records also.

By the way, small companies which do not have personnel files and it's fairly clear in the bill this would not apply to. It does not require an employer to keep medical records or personnel files. But if they do, then the employee would have access to those.

REP. EMMONS: (101st)

Thank you.

SPEAKER ABATE:

Rep. Emmons. Will you remark further on the bill as amended by House Amendment Schedules "A" and "B"?

REP. SMITH: (149th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Everett Smith.

REP. SMITH: (149th)

Thank you, Mr. Speaker. Section 2 of the bill states that each employer shall within a reasonable time after receipt of a written request from an employee, permit such employee to inspect the personnel files if such a file exists. Such inspections will take place during regular business hours at the place where such file is kept. At the public hearing, a large corporation pointed out, and I'm sure it was not exceptional, that these files may be kept at a considerable distance from where the employee is employed. My question, through you, sir, to the proponent is, would the, under this bill would the employer be required to transport the employee to the site of the file or would he be required or allowed to present the file from its sit back to the place where the employee is located?

SPEAKER ABATE:

Rep. Balducci, will you respond?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker. Through you, you're very correct, sir in your comment that yes it would be a problem, and yes they would probably transport the files to the place of business where the employee works. That's one of the reasons why we have within a reasonable time also. One of the companies that was mentioned was General Electric, who said that most of their files were kept in their home office in Albany or at their office in Albany, not

their home office. But their Albany office. And they have thousands of people working in the State of Connecticut. What it would allow would be the time span to obtain those files and to bring them down, let's say to Fairfield or Southington or wherever General Electric has a plant, allow that employee to inspect those files at business hours, during business hours at the employer's leisure.

SPEAKER ABATE:

Rep. Smith, you still have the floor, sir.

REP. SMITH: (149th)

Mr. Speaker, through you, sir, that is a phrase that concerns me, "within a reasonable time." For the sake of illustration, if, let's say, an employer has 5000 employees and each of them sent in a written request to inspect his or her personal files at the same time and the situation existed which exists at General Electric, who would be determinant of what is a reasonable time. It could take months.

SPEAKER ABATE:

Rep. Balducci, will you respond?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker. The Commissioner, Labor Commissioner would have that discretion, and if something like that were to happen, that's one of the reasons I think we discussed leaving the word, maybe for legislative intent to make sure we understand that

that idea, reasonable, would be just for that purpose. And if there was a problem such as GE with the magnitude of employees and where their files are kept, yes I'm sure he would take that into consideration. It's the discretion we would hope that the Labor Commissioner would have in that particular instance, sir.

REP. SMITH: (149th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Smith.

REP. SMITH: (149th)

I would simply like to say that this is one of a number of items in this bill that bothers me. I think that this bill could be used, or misused, as a work stoppage device and I think that for that reason and for others, I'm going to vote against it.

REP. RYBAK: (66th)

Mr. Speaker.

SPEAKER ABATE:

Will you remark further on the bill as amended? Rep. Michael Rybak of the 66th Assembly District.

REP. RYBAK: (66th)

Thank you, Mr. Speaker. Not to prolong this, but through you, one brief question of the Rep. Balducci for legislative intent purposes.

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SPEAKER ABATE:

State your question, please, sir.

REP. RYBAK: (66th)

In the large corporations, oftentimes there is more than one so-called personnel file. The personnel department may have a general file, the employee's immediate superior may have a performance file, his department head may have another file. Does the term personnel file, through you, Mr. Speaker, incorporate all these files, if these documents are being used for the purposes specified in the bill?

SPEAKER ABATE:

Rep. Balducci, will you respond?

REP. BALDUCCI: (27th)

Yes, Mr. Speaker, in Section 1, part 3 of that, it talks about personnel files and what they shall be used for, and it deals with anything dealing with promotion, additional compensation, termination, transfer, disciplinary or other adverse situations or evaluation.

SPEAKER ABATE:

Rep. Rybak, you still have the floor, sir.

REP. RYBAK: (66th)

Thank you. I will only remark that while this bill is a step in the direction that perhaps is the right direction, I think that employers who want to circumvent it will still find means to

do so. I would support the bill but I don't think it's going to do much in the long run. Thank you.

SPEAKER ABATE:

Will you remark further on this bill as amended?

REP. SWOMLEY: (17th)

Mr. Speaker.

SPEAKER ABATE:

Rep. James Swomley.

REP. SWOMLEY: (17th)

Through you, Mr. Speaker. A question to the proponent of the bill.

SPEAKER ABATE:

State your question, please, sir.

REP. SWOMLEY: (17th)

In Section 5, it indicates that an employer may not reveal information that's within the file except by subpoena. Let me give you a hypothetical situation which I am sure occurs with great frequency for those who have the responsibility of hiring and firing. If I had to discharge an employee for good cause, and I had to justify my action to a Board of Directors, would I be permitted to do that under this Statute?

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

I would say that, okay, I think you would have justification because your promotion, through you, Mr. Speaker, your promotion and your job might be on the line for taking this kind of action. So I would very much say that yes, you would be able to use that kind of information.

REP. SWOMLEY: (17th)

But does the...

SPEAKER ABATE:

Rep. Swomley, through the Chair, sir.

REP. SWOMLEY: (17th)

But does the bill, Mr. Speaker through you, does the bill in fact permit such action on the part of the employer?

SPEAKER ABATE:

Rep. Balducci, will you respond to that, please, sir?

REP. BALDUCCI: (27th)

I don't specifically see whether it permits it, but I don't see also, through you, Mr. Speaker, where it prohibits it.

SPEAKER ABATE:

Rep. Swomley, you still have the floor.

REP. SWOMLEY: (17th)

Yes, through you, Mr. Speaker. In line 74, it states by an employer to any person or entity without the written authorization of such employee. Would not a member of the Board of Directors

be a person?

SPEAKER ABATE:

Rep. Balducci, will you respond to the inquiry?

REP. BALDUCCI: (27th)

Through you, Mr. Speaker, I would say yes.

SPEAKER ABATE:

Rep. Swomley.

REP. SWOMLEY: (17th)

Would you then agree with your previous statement that this was permissible, through you, Mr. Speaker?

SPEAKER ABATE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Excuse me. Yes, but excuse me, what I would like to respond is, that you as an employer or a Board of Directors or trustees or whatever, usually are employers, and I would think therefore, that the same thing would apply whether it be as a person or as an entity.

SPEAKER ABATE:

Rep. Swomley, you still have the floor, sir.

REP. SWOMLEY: (17th)

Thank you, Mr. Speaker. So then may I gather your opinion would be that an employer could discuss with another employer within the same organization the reasons for discharge?

REP. BALDUCCI: (27th)

Yes, if...

SPEAKER ABATE:

Rep. Balducci, through the Chair, please, sir.

REP. BALDUCCI: (27th)

Through you, Mr. Speaker, yes. If that other employee had direct, okay, direct relationship with the person who was being discharged or hired or transferred or given a raise. Direct. And I believe in the Michigan law which states a very similar comment to that, that yes, the only employers that would have access would be those that directly affect that particular employee. Somebody in a totally different department could not come in and let's say look at your personnel records just for the sake of coming in and looking at it. They would have to have some direct relationship with you, some affect upon your job.

REP. SWOMLEY: (17th)

Mr. Speaker, I think this had opened up another problem that I would like to call attention to. The proponent has indicated a direct relationship. Let's say that I, as an employer, find that an employee has been responsible for a loss of funds or a theft of property within the organization. This was a part of the personnel file. I found it necessary to discharge this employee and this employee had been well-liked and within the organization other employees were very resentful of the action that the

employer took, but had no knowledge of what the employee had done in this particular situation.

I would address to the proponent this question: in view of this and in view of your comments a moment ago about the direct relationship, may I assume that I would have no authority whatsoever to indicate to another employee who was not in a direct superior position to that employee any information relating to my reason for the action I took?

SPEAKER ABATE: Rep. Balducci, will you respond to the inquiry, sir?

REP. BALDUCCI: (27th) Yes, Mr. Speaker. I'll respond. Yes, that's correct. You could not, but I would also think that if it was a case of criminal misjustice, where somebody was stealing files, stealing funds that it would then become a legal situation which would then be removed from your hands, through the court.

REP. SWOMLEY: (17th) So, I would comment in that regard, then, Mr. Speaker, that you give an employer in some of these circumstances very, very few options. You have the option of prosecuting even if the circumstance may not be extreme but as a matter of self-protection you have that option. You also have other circumstances where you may not have that option but you can in no way defend yourself or maintain the morale of an organization by indicating to the staff

your reasons for the action which you have taken. I think that this section is very weak. It's very damaging, and I think will create many many problems for employers in this state. Thank you, Mr. Speaker.

SPEAKER ABATE:

Will you remark further on this bill as amended? Will you remark further on the bill as amended? Rep. Richard Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Mr. Speaker I think that probably this bill is a little hard to swallow for a lot of people out there in the business community. Just to clear up a couple of points that possibly have come up today. First let me commend Rep. Balducci on his detailed information on bringing the bill out.

Normally, most employers within their structure have very stringent rules on who and whom cannot see employee's personal records. And I would assume that in the case of anybody who is leaving a company anywhere within that structure, at whatever level the discharge would have to go up to would be allowable. Section 5 of the bill primarily deals with outside persons seeking access to the person's records.

Mr. Speaker, in committee I did not support this bill. Since that point in time after considerable thought, I think that we have a basic obligation to those people who work in the private sector out there, at least to allow them to look at the records

which directly relate to that person on a reasonable basis. And the testimony that was given by General Electric, who operates in the states who currently have this law, was to the effect that once the law went into effect, very few employees asked to see their records. But the option is there. And I think it kind of gives a warm feeling to that employee to know that, should he care to go and see what's being said about him, in the areas cited in the bill -- that does not include civil actions that are pending or grievances that are pending, that he should have that option. So I fully intend to support this bill.

SPEAKER ABATE:

Will you remark further on the bill as amended? Will you remark further on this bill as amended by House Amendment Schedules "A" and "B"? If not, would all the members please be seated. Would the member please be seated. Would the staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is voting by roll at this time. Members please return to the chamber immediately. The House of Representatives is voting by roll at this time. Members please return to the chamber immediately.

Have all the members voted? Have all the members voted? Will the members please check the roll call machine to determine if their vote is properly recorded? The machine will be locked.

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The Clerk will take the tally.

REP. The Clerk please announce the tally.

CLERK:

HOUSE: House Bill No. 6938, as amended by House Amendment Schedules "A" and "B".

REP.	Total number voting	136
	Necessary for passage	69
	Those voting aye	125
REP.	Those voting nay	11
REP.	Those absent and not voting	15

SPEAKER ABATE:

The bill as amended passes.

At this time the Chair will entertain points of personal privilege for purposes of announcements, introductions, etc. Are there any points of personal privilege?

REP. WELLMAN: (76th)

Mr. Speaker.

SPEAKER ABATE:

Rep. Arnold Wellman of the 76th Assembly District.

REP. WELLMAN: (76th)

Mr. Speaker, members of the Assembly, seated in the gallery today is a group of high school students from Terryville High School in my home town of Plymouth. Accompanying them is Mr. David Maitland. I would ask that the chamber accord them their usual

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THE CLERK:

Turning to page 13 of the calendar, top item on the page, calendar 879, Files 342 and 878, Favorable Report of the Joint Standing Committee on Labor and Public Employees. Substitute for House Bill 6938, An Act Concerning Accessibility of Personnel Files to Employees. (As amended by House Amendment Schedules "A" and "B").

SENATOR SKELLEY:

Mr. President.

THE CHAIR:

Senator Skelley.

SENATOR SKELLEY:

Mr. President, I move for acceptance of the joint committee's favorable report and passage of the bill as amended.

THE CHAIR:

Will you remark?

SENATOR SKELLEY:

Yes, Mr. President. The amended bill, the first amendment that was placed on by the House exempts municipalities from the personnel records bill. The second amendment allows the employer to have an individual in there when the employee inspects his records and also makes those records available to the employee when he is preparing a grievance against the employee. The bill in general allows inspection by the employee of personnel and medical records and that no other third party shall have access

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to those records. If there's no objection, I move that it be placed on the consent calendar.

THE CHAIR:

Hearing no objection, so ordered.

THE CLERK:

Calendar 880, Files 205 and 877, Favorable Report of the Joint Standing Committee on Labor and Public Employees. Substitute for House Bill 7307, An Act Concerning Worker's Compensation. (As amended by House Amendment Schedule "A").

SENATOR SKELLEY:

Mr. President.

THE CHAIR:

Senator Skelley.

SENATOR SKELLEY:

May I ask that item be P.R.'d on the calendar?

THE CHAIR:

It may be passed retaining.

SENATOR SKELLEY:

Yes, Mr. President.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 889, I've been asked to pass temporarily to await an amendment. Continue on with calendar 919, Files 675 and 894, Favorable Report of the Joint Standing Committee on Education.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

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meet again until next Tuesday and we will then meet on Tuesday, Wednesday and Thursday at noon each day with a caucus of both Republicans and Democrats to precede at ten in the morning.

THE CHAIR:

The machine may be closed. The Clerk please tally the vote. Result of the vote - 34 total voting, 18 necessary for passage, 34 yea, 0 nay. The consent calendar is adopted. Senator Lieberman.
SENATOR LIEBERMAN: SB 1107, SB 1651, HB 7817, HB 7888, HB 7692, HB 6082, SB 1264, HB 5747, HB 7067, HB 6938, SB 1617, HB 7637, HB 7963

Mr. President, I move for suspension of the rules to allow for immediate transmittal to the House of those items that should go to the House.

THE CHAIR:

Without objection, so ordered.

SENATOR LIEBERMAN:

Mr. President, I would like to thank the Members of the Circle for their cooperation. I think the calendar is in pretty good shape at this point. I hope everyone has a good long week-end.

THE CHAIR:

You too, Senator Lieberman.

SENATOR LIEBERMAN:

Thank you.

THE CHAIR:

I hope you'll pray in the Synagogue for all of us as usual on your Sabbath.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR &
PUBLIC
EMPLOYEES**

PART 2

345-643

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MS. HALLER (Continued): private employer from inquiring about previous convictions. The difference between an arrest and conviction is great, and he closes by saying that he urges your support. I would like to just mention that I, too, have support which I will not read to you at this time from the Criminal Justice Education Center, in my letter of support of the Public Safety Committee of Capital Region Council of Governments and the Urban League of Greater Hartford have also indicated that they to are total support of Senate Bill 860. There are two other bills that have been introduced this session. House Bill 6006 and House Bill 5363, both dealing with the same issue and I would urge your consideration of merging your bill with those. Thank you.

REP. BELDEN: One question, if I might. Would you repeat that reference to the statutes that you had here again?

MS. HALLER: In Connecticut statutes? Yes. It's Section 4610(c).

SEN. SKELLEY: Thank you. Any other questions? Francis Mullins.

MR. MULLINS: Mr. Chairman, members of the Committee on Labor and Public Employees. My name is Francis Mullins, I live at 128 Jewel Street, Bristol. I am a member of the Legislature Committee of the Connecticut Union Telephone Workers. Our union, which represents over 9,000 non-management employees of the Southern New England Telephone Company supports the purpose of Senate Bill 930 and House Bills 6394, 6938, 7088 and 7128. All of these proposed laws would provide the employees of Connecticut businesses and industries with the right to inspect their personnel files in the office of their employer.

In recent years, legislators and public they serve have heard much about the right to know. This concern has led to legislation on both the national and the state levels, enabling citizens to obtain information about them held by insurance companies, credit agency, banks and other financial institutions. In addition to government itself, it is now required to open its files to the public with some limitations. The proposed bills would extend this principle to the personnel files kept by employers about their employees. Too often, workers are denied access to their personnel files that are kept about them and yet others, such as supervisors or other management personnel have access -- easy access to these files. New legislation especially necessary in view of continuing debate over the requirements for the receipt of unemployment compensation. Those provisions which concern alleged misconduct by employees promote the abuse of personnel files as a dumping ground for alleged misconduct. How many employee

MR. MULLINS (Continued): personnel files are being padded with every conceivable instance of wrongdoing in order to prepare a case against an employee on the chance that he or she might leave a job for any reason other than a layoff. Because of the specifics of the bills vary, it might be useful to consider their common threads. Obviously, they all deal with information of importance to an employee. What makes up of a typical personnel file? A file maintained by an employer might include an application for an employment, wage or salary information, notice of commendations, warning or discipline, authorization for deduction for withholding of pay, fringe benefit information, leave records, and employment history with the employer, including salary information, job titles, dates of changes, retirement record, attendance records, performance evaluation. A file may or may not include letters of reference, documents relating to the investigation of possible criminal or civil cases or medical records.

A question of employee access to this kind of information is no less important. Still, a case might be made for the separation of these records from a general personnel file in separate legal provisions guaranteed access to this kind of material might be required. How should the inspection of personnel files work? An employer should, upon request of an employee, permit that employee to inspect his or her personnel file used to determine his or her own qualifications for employment, promotion, additional compensation, termination or disciplinary action. These records should be made available during the regular business hours of the office where these records are usually and ordinarily maintained. Sufficient time should be available during the course of a regular business day to inspect the personnel files in question.

An employer should be permitted to request that an employee inspecting his or her own records file a written form for the sole purpose of verifying identity to avoid disclosure to ineligible individual. While there might be a need for employers to prevent constant and repetitive examination of personnel files, there should be no need for disclosure of the purpose for which the inspection is requested nor should there be any limitation restricting access to particular parts of the personnel records to be inspected.

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Legislation should not permit an employee to remove his personnel file or any part thereof from the premises. There should be no restrictions on the ability of the employee to take notes. An employee should be allowed the opportunity to place a counter statement in the file in the event the employee finds an alleged error.

MR. MULLINS (Continued): Inspection of personnel files or medical records should not be contingent under any circumstances upon a payment of fee or charge. Obviously, the proposed bills under consideration here today do not all include every one of these considerations. I hope that the committee takes this in its goal to approve a combination of these bills or a consolidation which meets the guidelines we suggested. By doing so, you will render an important service to the workers of the State of Connecticut.

SEN. SKELLEY: Thank you.

REP. SMITH: Mr. Chairman, while he's here -- Smith of the 149th -- in your experience, how many employees would you say in the Southern New England Telephone group of 9,000 would have asked for this type of access?

MR. MULLINS: Uh, Representative Smith, I could not give you that answer. I really could not give you that answer. I know, you know there are people that do request a look into their personal files and are granted this. But there are many of them, supervisor won't let.

REP. SMITH: But you don't have any figures on it.

MR. MULLINS: No. I don't have any figures.

SEN. SKELLEY: Thank you. Susan Amendola.

MS. AMENDOLA: Thank you, Mr. Chairman and committee members. My name is Susan Amendola and I am here today to talk about proposed Bill 562 to support employee access to personnel files. I am a member of the Academy of Certified Social Workers, the Connecticut Society of the Clinical Social Workers and I'm here today to represent the Connecticut Chapter of the National Association of Social Workers. Mr. Chairman and committee members, as you already know by now, there is no federal or state law which grants the private employee access to his personnel records, to medical information which is in the possession of his employer or to the copies of such records. There is no law which prohibits private employers from discharging an employee without cause. And there is presently no law prohibiting insurance companies from releasing medical information to any employer who has purchased a group health plan for his employees. Presently, insurance companies can and do release the following information to employers: Name of employee, copy of claim check, diagnosis code, even in the case of a nervous or mental disorder, name of doctor and the dates on

MS. AMENDOLA (Continued): which the patient visited the doctor. Furthermore, Section 52-146 and section C of Connecticut Statutes allows the following information to be released without consent. The name, address and fees for psychiatric services to a patient may be disclosed to individuals or agencies involved in the collection of fees for such services. Incases where dispute and dispute is not defined, arises over such fees or claims, or where additional information is needed to substantiate the fee or claim, such disclosure of further information shall be limited to the following: (1) that the person was in fact a patient; (2) diagnosis; (3) date and duration of treatment; and (4) a general description of the treatment which shall include evidence that a treatment plan exists and has been carried out and evidence to substantiate the necessity for admission or length of stay and health care institution or facility.

Since a private employee is not permitted to view his personnel and/or medical records, and private employers can discharge an employee without cause, it is possible that an employee may never know that his termination resulted from the medical information which employer acquired from an insurance company. Information from an insurance company which is received by the employer may be used prejudicially in the following way. One, the company may feel it can save itself money if it eliminates employees which it feels is raising the cost of the group insurance premium. (2) the employer and/or supervisor may have prejudicial attitudes regarding certain treatment and/or illnesses even if the employees' work performance remains from an objective point of view satisfactory. (3) certain medications may indicate to the employer that an employee has a serious nervous or mental disorder and may discriminate against the employee even though the medication prevents the disorder from manifesting itself. The employer may also misinterpret medical information which is received by an insurance company.

Based on the above information, I wish to indicate support for Committee Bill No. 431, proposed Bill No. 930, proposed Bill No. 7128 and respectfully request that the following recommendations be included in proposed Bill No. 562. (1) prohibit any and all third party access to medical information from insurance companies to employers for any purposes without the informed consent of the employee. Informed consent could be defined for legislative purposes as the employee's written consent to the release of medical and/or psychiatric information by insurance companies to an employer and includes the right of the employee to know why the information needs to be transmitted and what dispute is, as well as the right of the

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MS. AMENDOLA (Continued): employee, the employee's health care provider, physician, psychologist, whoever, an authorized attorney to inspect copy and correct or amend all medical and/or psychiatric information before it is released to an employer by an insurance company. The employee should also be informed of any repercussions that might occur should he (a) grant permission for the disclosure or (b) not give permission. It should be noted, that Section 4-104 of the Connecticut General Statutes, gives the patient upon discharge of any private hospital, public hospital society or corporation receiving state aid, the right to inspect his file and copy it, because each private hospital, public hospital society or corporation receiving state aid shall upon the demand of any patient who has been treated in such hospital and after his discharge therefrom, permit such patient or his physician or authorized attorney to examine the hospital record. Including the history. Bedside notes. Charts. Pictures and plates kept in connection with the treatment of such patient and permit copies of such history, bedside notes and charts to be made by such patient, his physician, or authorized attorney.

SEN. SKELLEY: What was the number of that Statute?

MS. AMENDOLA: Uh, Title 4, Section 104. It should also be noted that if an employee is not aware that information from an insurance company is being shared with the employer, and the medical doctor, psychologist, social worker, etc. is not aware of this fact either, insurance companies and employers should realize that they are ignoring the rights a patient has under the oath of Hypocrites, social worker code of ethics as well as other codes that professional persons abide by. Recommendation No. 2 permit employee access to any medical information an employer has received from an insurance company for the purpose of verifying accuracy. This would include access of the employee to his or her personnel record.

Recommendation No. 3 requires separation of medical records from personnel records in a safe and secure place. Recommendation No. 4, prohibit employment discrimination on the basis of medical conditions unrelated to the ability to perform specific jobs. Statement of purpose, hopefully, for 562 as I see it, would be to ensure the confidentiality and accuracy of medical and/or psychiatric information which an insurance company may have in regards to any employee and to prevent unfair employment discrimination based on a medical and/or psychiatric condition unrelated to the job performance.

SEN. SKELLEY: Would you leave that information with us.

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MS. AMENDOLA: I'm referring to 562 which came up last week. 562 was supposed to include a reference to insurance companies and it did not.

SEN. SKELLEY: Any questions? Thank you, Susan. Betty Tianti.

MS. TIANTI: Mr. Chairman, members of the Labor and Public Utilities Committee, my name is Betty Tianti and I'm the co-director for the Connecticut State Labor Council AFL-CIO. I'd like to first of all register our support in behalf of proposed Bill 918, an act concerning out of state employers. I think the statement of purpose makes it clear that any employer employing persons in this state not having any physical assets should be required to post a bond equal to one week's salary with the Secretary of State and we believe that this is a good piece of legislation and would ask you to give it your favorable consideration.

I would then like to address next the whole series of bills that you have about the personnel data of employees, accessibility to files, medical -- accessibility to medical records, and indicate that the State Labor Council supports the concept of employees having access to records that their employers keep on them. I'm sitting here and listening to Mr. Morris' testimony, I would suspect that if all employers in the State of Connecticut maintained an access to files as does General Electric, that we probably wouldn't be here seeking the type of legislation that you're considering today. Basically what we're saying is that any information that an employer accumulates on an employee that would affect his employment should be made accessible to that employee. I think that we're not talking in terms of payroll records, I've never seen a worker yet who, whether he speaks English or not, can't figure out his paycheck and the company is made aware very quickly that there's an error if in fact there is. The same thing is true with benefits that might be accumulated. These are in fact -- these are not the types of things that employees are having problems with. Many companies, however, have evaluation reports on performance which are not made available as are GE's to the employees and they are not signed off by the employees.

So this type of information that we believe an employee should have access to. In addition to a formal evaluation that some companies do accumulate third party information, if you will, where someone will say I saw so and so do this, that goes into the file again. It is not made accessible to that employee. It's this general concept that we are concerned with that anything that would affect an employee's employment will accompany