

VIRGINIA

NEW LAW: Virginia Employers Required To Release Personnel Records

On July 1, 2019, Virginia's amended personnel record law ([Virginia Code § 8.01-413.1](#)) goes into effect. This new law changes an employer's obligations with respect to an employee's request to view his personnel records.

Under the previous version of this law, employers had no obligation to provide employees access to their personnel records. However, starting July 1st, Virginia employers will be required to provide their current and former employees with copies of their employment records upon written request. Specifically, employers are required to Upon receipt of a written request from a current or former employee or employee's attorney, furnish a copy of all records or papers retained by the employer in any format, reflecting

- the employee's dates of employment with the employer;
- the employee's wages or salary during the employment;
- the employee's job description and job title during the employment; and
- any injuries sustained by the employee during the course of the employment with the employer.

Employers are required to provide the requesting employee copies of these records within 30 days of receiving a written request. If the employer is unable to provide copies of the records within that timeframe, the employer must provide the requesting employee with a written notification of its inability to meet that deadline and the notice must contain the reason for the delay. The employer then has 30 days from the date that notice was provided to give the employee copies of the records.

The requirement to provide the records is mandatory. There is one extremely limited exception to this requirement. If the employee's personnel file includes a written statement from the employee's treating physician or clinical psychologist that advises that providing the employee with his/her employment records may endanger the life or safety of the employee or of another person, the employer does not have to provide the employee with copies of the records. However, the employer must still provide the employee's attorney or authorized insurer, rather than directly to the employee.

It is recommended that all Virginia employers review this new law and train their managers and supervisors on the new requirements.