

Article Published in *Lifestyles Magazine*- November 2004

Protecting Your Legal Rights—The Illinois Personnel Record Review Act

by: Joette S. Doran, J.D.

The Illinois Record Personnel Record Review Act provides that upon an employee's request, the employer shall permit the employee to inspect any personnel documents which are, have been or are intended to be used in determining the employee's qualifications for employment, promotion, transfer, additional compensation, discharge or other disciplinary action. The Act allows an employee the right to two inspection requests in a calendar year when requests are made at reasonable intervals and the employer shall provide the employee with the review of the file within seven working days after the employee makes the request. The inspection must take place at a location reasonably near the employee's place of employment and during normal working hours. If an employee demonstrates that they are unable to review the personnel file at the place of employment, the employer must mail a copy of the personnel file to the employee if the employee makes a written request for the file.

Importantly, if an employer fails to provide a document contained in the employee's personnel file, the employer may not later assert that the document was contained in the file and attempt to use the document against the employee. If an employer fails to provide the personnel file for review, the employee may file a complaint with the Department of Labor. The Department will investigate the complaint and has the authority to request the issuance of a search warrant or subpoena to inspect the files of the employer. If an employer violates the Act, an employee may also file suit in the circuit court. Failure to comply with an order of the court may be punished as contempt and the court may award an employee actual damages plus costs and reasonable attorney's fees. For further information, please visit our web site at www.joettedoran.com

This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

MS. DORAN IS LICENSED IN ILLINOIS, ALL ILLINOIS FEDERAL COURTS AND IS A MEMBER OF THE FEDERAL TRIAL BAR. SHE IS THE PAST CHAIRPERSON OF THE EMPLOYMENT LAW COMMITTEE FOR THE NORTHWEST SUBURBAN BAR ASSOCIATION AND IS THE PAST PRESIDENT OF BARRINGTON AREA PROFESSIONAL WOMEN.