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# Personnel Record Disclosure Requirements Change in Virginia

At the beginning of this month, a change in Virginia Code became effective impacting how Va. employers release employee records. The types of records impacted by this law cover several personnel areas, but I want to highlight that it includes information surrounding workplace injuries. The below post from [Hancock Daniel](#), provides further detail surrounding the amended statute. Please contact me or another one of our [Risk Advisors](#) in Virginia with any questions about the updated law or best practices for record keeping of workplace injuries or incidents.

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## Virginia Amends Personnel Record Disclosure Requirements

Beginning July 1, 2019, Virginia employers are required to provide certain personnel records to current and former employees upon written request. The new law greatly expands the rights of employees to obtain personnel records and establishes penalties for non-complying employers.

### Changes to Virginia Code § 8.01-413.1

Virginia Code § 8.01-413.1 currently only addresses how personnel information may be subpoenaed and presented as evidence in litigation. The 2019 amended statute adds the requirement that an employer must, upon written request, provide copies in any format of records reflecting the following information:

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

A current or former employee or a current or former employee's attorneys may submit a record request. Reasonable fees for copies or providing electronic materials may be charged by the employer.

The records must be provided within 30 days of receipt of the written request, though a single 30-day extension is permitted if written notice listing the reason for the delay is provided to the requestor. Employers failing to provide requested records may be subpoenaed. Additionally, a court may require an employer to pay the employee's expenses and attorney fees if it finds the employer willfully failed without good cause to provide requested records or if the charges for the materials are unreasonable.

Employers may withhold requested records only if the records contain a written statement by the employee's treating physician or clinical psychologist that producing the employee's record to the employee would be reasonably likely to result in physical harm or endanger the life of the employee or another person. Even in these instances, the requested records must be produced to the employee's attorney or authorized insurer.

### Action for Employers

To avoid the potential costs and litigation associated with the amendments to Virginia Code § 8.01-413.1, employers should review their policies governing release of employee records and ensure that the policies comply with the new requirements. Additionally, employers should train human resources personnel on these new obligations.

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