



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee

FROM: K. Virginia Aldrich

DATE: August 29, 2017

RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 2-21-563

AGENCY/BOARD: Department of Administration

RULE CLASSIFICATION: (e.g. substantive/interpretive/emergency/temporary): Substantive

SUBJECT: Employee Records Management Policy

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice): Notice of Public Hearing on Proposed Amendment

SUMMARY OF RULE(S):

The Department of Administration (DOA) proposes to amend three rules pertaining to the employee records management policy. The proposed amendments update definitions to match recent statutory amendments, clarify types of background check information included in employee personnel records (including criminal, credit, and reference checks and employment verification), and specify that disciplinary action investigations and related records, even if they are not part of the employee's personnel file, are confidential to protect the privacy of the employees involved. However, after staff discussion with the Department of Administration, the Department will be updating this proposal to provide that although documents related to disciplinary investigations will be treated as confidential, if a request for information is made, the agency shall review the information, weighing the public's right to know against an individual's right to privacy to determine whether the information may be released.

The proposed amendments also update citations to adoptions of materials by reference, update the statutory authority and implementation authority for the rules at issue, and make minor changes in style and phrasing.

NOTES: A public hearing is scheduled for September 28, 2017, at 10:00 a.m. in Room 136, Mitchell Building, 125 N. Roberts Street, Helena, Montana. The public comment period ends on October 10, 2017.

FULL TEXT OF NOTICE: The full text of the notice proposal may be found online at http://www.mtrules.org/gateway/Cycle_Home.asp?CID=2554.

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