

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1076

Short Title: Parental Leave Act.

(Public)

Sponsors: Representatives Kennedy; Barnes, Barnhill, Burke, Colton, N. Crawford, Cunningham, Duncan, Easterling, Edwards, Fitch, Foster, Fussell, Gist, Hardaway, Holt, Judy Hunt, H. Hunter, Jeralds, Locks, Lutz, Michaux, Ramsey, Stamey, S. Thompson, Watkins, and Wisner.

Referred to: Public Employees.

April 7, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW EMPLOYEES TO TAKE PARENTAL LEAVE IN CASES INVOLVING THE BIRTH OR ADOPTION OF A CHILD, AND TO PROTECT THE EMPLOYEE'S EMPLOYMENT AND BENEFIT RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 95 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 19.

"PARENTAL LEAVE ACT OF NORTH CAROLINA.

"§ 95-220. Short title.

This Article may be cited as the Parental Leave Act.

"§ 95-221. Definitions.

As used in this Article:

(1) 'Employee' means any employee who is employed by the employer with respect to whom benefits are sought under this Article for not less than three consecutive months or not less than 500 hours, whichever occurs earlier.

(2) 'Employer' means any person who employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

- 1 (3) 'Employment benefits' means all benefits, other than salary or wages,
2 provided or made available to employees by an employer, and includes
3 group life insurance, health insurance, disability insurance, sick leave,
4 annual leave, educational benefits, and pensions, regardless of whether
5 such benefits are provided by a policy or practice of an employer or by
6 an employee benefit plan.

7 **"§ 95-222. Parental leave.**

8 (a) An employee shall be entitled to a total of 18 workweeks of parental leave
9 during any 24-month period because of the birth or adoption of a child of the employee.

10 (b) The entitlement to leave under subsection (a) shall expire at the end of the 12-
11 month period beginning after the date of such birth or adoption.

12 (c) Such leave may consist of unpaid leave, except as provided in subsection (d).

13 (d) (1) If an employer provides paid parental leave for fewer than
14 18 workweeks, the additional weeks of leave added to attain the 18-
15 workweek total may be unpaid.

16 (2) An employee or employer may elect to substitute any of the
17 employee's paid vacation leave, personal leave, or parental leave for
18 any part of the 18-week period.

19 **"§ 95-223. Employment and benefits protection.**

20 (a) Upon return from leave under G.S. 95-222 the employee shall be entitled:

21 (1) To be restored by the employer to the position of employment held by
22 the employee when the leave commenced, or

23 (2) To be restored to an equivalent position with equivalent employment
24 benefits, pay, and other terms and conditions of employment.

25 (b) The taking of leave under this Article shall not result in the loss of any
26 employment benefit accrued before the date on which the leave commenced.

27 (c) Except as provided in subsection (d), nothing in this section shall be
28 construed to entitle any restored employee to:

29 (1) The accrual of any seniority or employment benefits during any period
30 of leave, or

31 (2) Any right, employment benefit, or position of employment other than
32 any right, employment benefit, or position of employment to which the
33 employee would have been entitled had the employee not taken the
34 leave.

35 (d) During any period an employee takes leave under G.S. 95-222, the employer
36 shall maintain coverage under any group health plan for the duration of such leave at the
37 level and under the conditions coverage would have been provided if the employee had
38 continued in employment continuously from the date the employee commenced the
39 leave until the date the employee is restored under subsection (a).

40 **"§ 95-224. Prohibited acts.**

41 (a) It shall be unlawful for any employer to discharge or demote an employee
42 who takes parental leave or who attempts to take parental leave or for any employer, in
43 any other way, to interfere with, restrain, or deny the exercise of or the attempt to
44 exercise, any right provided under this Article.

1 (b) It shall be unlawful for any person to discharge or in any other manner
2 discriminate against any individual because such individual has:

3 (1) Requested or applied for parental leave,

4 (2) Instituted or caused to be instituted any proceeding, under or related to
5 this Article,

6 (3) Given or is about to give any information in connection with any
7 proceeding relating to any right provided under this Article, or

8 (4) Testified or is about to testify in any proceeding relating to any right
9 provided under this Article.

10 **"§ 95-225. Right to bring a civil action.**

11 An employee may bring a civil action against any employer to enforce the
12 provisions of this Article in the superior court for the county in which the violations are
13 alleged to have occurred or in which the employee resides.

14 **"§ 95-226. Remedies.**

15 (a) In any action brought under this Article, the court may grant as relief any
16 permanent or temporary injunction, temporary restraining order, and other equitable
17 relief as the court deems appropriate.

18 (b) Any employer who violates G.S. 95-224 shall be liable to the injured party in
19 an amount equal to:

20 (1) Any wages, salary, employment benefits, or other compensation
21 denied or lost to such employee by reason of the violation, plus interest
22 on the total monetary damages calculated at the prevailing rate, and

23 (2) An additional equal amount as liquidated damages.

24 (c) The court, in any action brought under this section shall in addition to any
25 judgment awarded plaintiff, order the costs of the action and reasonable attorneys' fees
26 to be paid by the defendant.

27 (d) Actions under this section must be brought within three years of the date of
28 the alleged violation."

29 Sec. 2. This act is effective upon ratification.