

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 930

Short Title: Parental Leave Act.

(Public)

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Sponsors: Representatives Kennedy, Holt; Barnes, Colton, Easterling, Gottovi, Green, Hardaway, Judy Hunt, Jarrell, Jeffus, Luebke, McAllister, Oldham, Stamey, and Wainwright.

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Referred to: Judiciary I.

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April 19, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENTITLE EMPLOYEES TO PARENTAL LEAVE UPON THE BIRTH  
3 OR ADOPTION OF A CHILD.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 20.**  
8 **"PARENTAL LEAVE ACT.**

9 **"§ 95-232. Short title.**

10 This Article may be cited as the Parental Leave Act.

11 **"§ 95-233. Definitions.**

12 As used in this Article, unless the context clearly requires otherwise:

- 13 (1) 'Employee' means any person who is employed by the employer with  
14 respect to whom benefits are sought under this Article for at least 900  
15 hours of service during the previous 12 months for a minimum of 12  
16 months.
- 17 (2) 'Employer' means any individual, firm, partnership, corporation,  
18 organization, or governmental agency who employs 25 or more  
19 employees for each working day during each of 20 or more calendar  
20 workweeks in the current or preceding calendar year.
- 21 (3) 'Employment benefits' means all benefits, other than salary or wages,  
22 provided or made available to the employee by the employer, and

1 includes group life insurance, health insurance, disability insurance,  
2 sick leave, educational benefits, and pensions, regardless of whether  
3 such benefits are provided by a policy or practice of an employer or by  
4 an employee benefit plan, provided that the employee is entitled to  
5 such benefit as an employee.

6 **"§ 95-234. Parental leave; entitlement, notice.**

7 (a) An employee shall be entitled to a total of 12 workweeks of parental leave  
8 during any 24-month period because of the birth or adoption of a child of the employee,  
9 provided the adoption is for a child under the age of 5 years.

10 (b) Except in cases of emergency, an employee shall give an employer advance  
11 written notice of the requested dates the parental leave shall commence and the  
12 estimated duration of the leave. The employer may waive the notice requirement. The  
13 employee is expected to return to work within or at the expiration of the parental leave  
14 time granted by the employer. If the employee is unable or unwilling to return to work  
15 within or at the expiration of the leave time granted, the employee shall notify the  
16 employer immediately. Unless otherwise agreed to by the employer, the employee's  
17 failure to return to work within or at the expiration of the leave time may be considered  
18 by the employer as resignation of employment by the employee.

19 (c) An employee's entitlement to parental leave under subsection (a) of this  
20 section shall expire at the end of the 12-month period beginning on the date of the birth  
21 of the child or on the date of the adoption placement.

22 (d) Parental leave may consist of unpaid leave, except:

23 (1) If an employer provides paid parental leave for fewer than 12  
24 workweeks, the additional weeks of leave added to attain the 12  
25 workweek total may be unpaid.

26 (2) An employee or employer may elect to substitute any of the  
27 employee's paid vacation leave, personal leave, or parental leave for  
28 any part of the 12-week period.

29 **"§ 95-235. Employment and benefits protection.**

30 (a) Upon return from parental leave granted under G.S. 95-234, the employee  
31 shall be entitled:

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

34 (2) To be restored to an equivalent employment position with equivalent  
35 employment benefits, pay, accumulated seniority, retirement, fringe  
36 benefits, and other terms and conditions of employment to which  
37 employees in the equivalent position are entitled.

38 (b) The taking of parental leave under this Article shall not result in the loss of  
39 any employment benefit accrued before the date on which the leave commenced, and  
40 shall not constitute a break in service for purposes of determining retirement vesting or  
41 rights to retirement.

42 (c) Except as otherwise provided in this Article, nothing in this section shall be  
43 construed to entitle an employee restored to employment under subsection (a) of this  
44 section to:

1           (1) The accrual of any seniority or additional benefits during the period of  
2           parental leave, or

3           (2) Any right, employment benefit, or position of employment other than  
4           any right, employment benefit, or position of employment to which the  
5           employee would have been entitled had the employee not taken the  
6           leave.

7           (d) During any period an employee takes parental leave under G.S. 95-234, the  
8           employer shall maintain coverage under any group health plan for the duration of such  
9           leave at the level and under the conditions of coverage and payment that would have  
10           been provided if the employee had continued in employment continuously from the date  
11           the employee commenced the leave until the date the employee is restored to  
12           employment under subsection (a) of this section.

13 **"§ 95-236. Prohibited acts.**

14           (a) It is unlawful for an employer to discharge or demote an employee who takes  
15           parental leave, or for an employer to, in any way, interfere with, restrain, or deny the  
16           exercise of or the attempt to exercise, a right provided under this Article.

17           (b) It is unlawful for an employer to discharge or in any other manner  
18           discriminate against an individual because such individual:

19                   (1) Has requested or applied for parental leave;

20                   (2) Has instituted or caused to be instituted any proceeding under or  
21                   related to this Article;

22                   (3) Has given or is about to give any information in connection with any  
23                   proceeding relating to a right provided under this Article; or

24                   (4) Has testified or is about to testify in a proceeding relating to a right  
25                   provided under this Article.

26 **"§ 95-237. Right to bring civil action.**

27           An employee may bring a civil action against an employer to enforce the provisions  
28           of this Article in the superior court of the county in which the violations are alleged to  
29           have occurred or in which the employee resides.

30 **"§ 95-238. Remedies.**

31           (a) In an action brought under this Article, the court may grant as relief a  
32           permanent or temporary injunction, temporary restraining order, and other equitable  
33           relief as the court deems appropriate.

34           (b) An employer who violates G.S. 95-236 shall be liable to the injured party in  
35           an amount equal to:

36                   (1) Wages, salary, employment benefits, or other compensation denied or  
37                   lost to such employee by reason of the violation, plus interest on the  
38                   total monetary damages calculated at the prevailing rate, and

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

40           (c) If the plaintiff prevails in an action brought under this Article, and in addition  
41           to any judgment awarded to the plaintiff in the action, the court shall order the  
42           defendant to pay the costs of the action plus reasonable attorneys' fees.

43           (d) Actions under this Article must be brought within two years of the date of the  
44           alleged violation.

- 1       (e) This Article shall not limit in any manner an employee's rights arising under  
2 the Civil Rights Act of 1964."  
3           Sec. 2. This act becomes effective July 1, 1991.