

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 930

Short Title: Parental Leave Act.

(Public)

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

Referred to: Judiciary I.

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.