

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 71
Committee Substitute Favorable 3/2/21
PROPOSED COMMITTEE SUBSTITUTE H71-PCS10502-SVf-18

Short Title: Living Donor Protection Act.

(Public)

Sponsors:

Referred to:

February 15, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT LIVING DONORS FROM POTENTIAL INSURANCE
3 DISCRIMINATION, TO PROVIDE AN INCOME TAX CREDIT FOR UNREIMBURSED
4 MEDICAL EXPENSES RESULTING FROM CERTAIN ORGAN AND MARROW
5 DONATIONS, AND TO PROVIDE UP TO THIRTY DAYS' PAID LEAVE TO STATE
6 EMPLOYEES AND OTHER STATE-SUPPORTED PERSONNEL WHO SERVE AS
7 LIVING ORGAN DONORS AND UP TO SEVEN DAYS' PAID LEAVE FOR BONE
8 MARROW DONORS.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. INSURANCE PROTECTIONS**

12 **SECTION 1.(a)** G.S. 58-3-25 is amended by adding a new subsection to read:

13 "(d) No insurer shall refuse to insure or to continue to insure an individual; limit the
14 amount, extent, or kind of coverage available to an individual; charge an individual a different
15 amount for the same coverage; or otherwise discriminate against an individual in the offering,
16 issuance, cancellation, price, or conditions of a policy, or in the amount of coverage provided
17 under a policy, based solely and without any additional actuarial risks on the status of an
18 individual as a living organ donor. This subsection shall apply to health benefit plans and life,
19 accident and health, disability, disability income, and long-term care insurance policies. For the
20 purposes of this subsection, the phrase "a living organ donor" shall mean a living individual who
21 donates one or more of that individual's human organs, including bone marrow, to be medically
22 transplanted into the body of another individual."

23 **SECTION 1.(b)** G.S. 131E-294(4) reads as rewritten:

24 "(4) Antidiscrimination (~~G.S. 58-3-25(b) and (e), (G.S. 58-3-25, 58-3-120,~~
25 58-63-15(7), and 58-67-75);"

26 **SECTION 1.(c)** This section is effective 30 days after it becomes law and applies to
27 insurance contracts issued, renewed, or amended on or after that date.

28
29 **PART II. TAX CREDIT**

30 **SECTION 2.(a)** Part 2 of Article 4 of Subchapter I of Chapter 105 of the General
31 Statutes is amended by adding a new section to read:

32 **"§ 105-153.11. Credit for live organ donation.**

33 (a) Definitions. – The following definitions apply in this section:

34 (1) Human organ. – Human bone marrow or any organ of a human, including the
35 intestine, kidney, liver, lung, or pancreas.



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1 (2) Live organ donation. – A donation by a living individual of one or more of the
2 individual's human organs to another human to be transplanted using a
3 medical procedure to the body of another individual.

4 (3) Live organ donation expenses. – The total amount of the expenses listed in
5 this subdivision that are incurred by the taxpayer, that are directly related to a
6 live organ donation, and that are not reimbursed to the taxpayer by any person.
7 An expense is "directly related" if it is incurred due to a live organ donation
8 procedure or due to evaluation, recovery, follow-up visits, or rehospitalization
9 associated with a live organ donation procedure. The expenses are:

10 a. Lost wages.

11 b. Transportation, lodging, and meals.

12 (b) Credit. – A taxpayer who makes a live organ donation or who claims as a dependent
13 under section 151 of the Code a person who makes a live organ donation is allowed a credit
14 against the tax imposed by this Part equal to the lesser of the live organ donation expenses or five
15 thousand dollars (\$5,000).

16 (c) Limitation. – The credit allowed under this section may not exceed the amount of tax
17 imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except
18 tax payment made by or on behalf of the taxpayer.

19 (d) Carryforward. – Any unused portion of a credit allowed in this section may be carried
20 forward for the succeeding five years."

21 **SECTION 2.(b)** G.S. 105-153.5(a) reads as rewritten:

22 "(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
23 deduct from adjusted gross income either the standard deduction amount provided in subdivision
24 (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this
25 subsection. The deduction amounts are as follows:

26 ...

27 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
28 in this subdivision. The amounts allowed under this subdivision are not
29 subject to the overall limitation on itemized deductions under section 68 of
30 the Code:

31 ...

32 c. Medical and Dental Expense. – The amount allowed as a deduction for
33 medical and dental expenses under section 213 of the Code for that
34 taxable year. No deduction is allowed for live organ donation expenses
35 for which a credit was taken under G.S. 105-153.11.

36 "

37 **SECTION 2.(c)** This section is effective for taxable years beginning on or after
38 January 1, 2021.

40 **PART III. PAID LEAVE FOR STATE EMPLOYEES**

41 **SECTION 3.(a)** Article 2 of Chapter 126 of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 126-8.6. Paid leave for State employees and State-supported personnel for organ**
44 **donation.**

45 (a) Full-Time Employees. – The State Human Resources Commission shall adopt rules
46 and policies to provide that a permanent, full-time State employee may take, in addition to any
47 other leave available to the employee, up to (i) 30 days of paid leave for the purposes of serving
48 as a living organ donor and (ii) seven days for serving as a bone marrow donor. The employee
49 must have been continuously employed by the State for at least 12 months immediately preceding
50 the first request for paid organ or bone marrow donation leave.

1 (b) Part-Time Employees. – The State Human Resources Commission shall adopt rules
2 and policies to provide that a permanent, part-time State employee may take, in addition to any
3 other leave available to the employee, a prorated amount of up to (i) 30 days of paid leave for the
4 purposes of serving as a living organ donor and (ii) seven days for serving as a bone marrow
5 donor. The employee must have been continuously employed by the State for at least 12 months
6 immediately preceding the first request for paid organ or bone marrow donation leave.

7 (c) Program Requirements. – The paid leave for organ or bone marrow donation
8 authorized by this section:

9 (1) Is available without exhaustion of the employee's sick and vacation leave.

10 (2) Is in addition to, and not in lieu of, shared leave under G.S. 126-8.3, or other
11 leave authorized by federal or State law.

12 (3) May not be used for retirement purposes.

13 (4) Has no cash value upon termination from employment.

14 (d) Applicability. – This section applies to all (i) State employees and (ii) State-supported
15 personnel, with the appropriate governing board adopting rules and policies to provide paid leave
16 for organ donation to its employees as provided by this section.

17 (e) Reporting. – By April 1, 2022, and then annually thereafter, the State Human
18 Resources Commission, the State Board of Education, the State Board of Community Colleges,
19 and all State agencies, departments, and institutions shall annually report to the Office of State
20 Human Resources on the paid organ donation leave program."

21 **SECTION 3.(b)** G.S. 126-5 is amended by adding a new subsection to read:

22 "(c17) The provisions of G.S. 126-8.6 shall apply to all State employees, public school
23 employees, and community college employees."

24 **PART IV. EFFECTIVE DATE**

25 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
26 law.
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