

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 71
Committee Substitute Favorable 3/2/21
Committee Substitute #2 Favorable 6/3/21
PROPOSED COMMITTEE SUBSTITUTE H71-PCS30451-SVf-26

Short Title: Living Donor Protection Act.

(Public)

Sponsors:

Referred to:

February 15, 2021

A BILL TO BE ENTITLED

AN ACT TO PROTECT LIVING DONORS FROM POTENTIAL INSURANCE DISCRIMINATION, TO PROVIDE AN INCOME TAX CREDIT FOR UNREIMBURSED MEDICAL EXPENSES RESULTING FROM CERTAIN ORGAN AND MARROW DONATIONS, AND TO PROVIDE UP TO THIRTY DAYS' PAID LEAVE TO STATE EMPLOYEES AND OTHER STATE-SUPPORTED PERSONNEL WHO SERVE AS LIVING ORGAN DONORS AND UP TO SEVEN DAYS' PAID LEAVE FOR BONE MARROW DONORS.

The General Assembly of North Carolina enacts:

PART I. INSURANCE PROTECTIONS

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

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

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

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

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

PART II. TAX CREDIT

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

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

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



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- 1 (1) Human organ. – Human bone marrow or any organ of a human, including the
 2 intestine, kidney, liver, lung, or pancreas.
 3 (2) Live organ donation. – A donation by a living individual of one or more of the
 4 individual's human organs to another human to be transplanted using a
 5 medical procedure to the body of another individual.
 6 (3) Live organ donation expenses. – The total amount of the expenses listed in
 7 this subdivision that are incurred by the taxpayer, that are directly related to a
 8 live organ donation, and that are not reimbursed to the taxpayer by any person.
 9 An expense is "directly related" if it is incurred due to a live organ donation
 10 procedure or due to evaluation, recovery, follow-up visits, or rehospitalization
 11 associated with a live organ donation procedure. The expenses are:
 12 a. Lost wages.
 13 b. Transportation, lodging, and meals.
 14 (b) Credit. – A taxpayer who makes a live organ donation or who is allowed to claim as
 15 a dependent a person who makes a live organ donation is allowed a credit against the tax imposed
 16 by this Part equal to the lesser of the live organ donation expenses or five thousand dollars
 17 (\$5,000). For the purposes of this section, "dependent" means a qualifying child or qualifying
 18 relative as defined in section 152 of the Code.
 19 (c) Limitation. – The credit allowed under this section may not exceed the amount of tax
 20 imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except
 21 tax payment made by or on behalf of the taxpayer.
 22 (d) Carryforward. – Any unused portion of a credit allowed in this section may be carried
 23 forward for the succeeding five years."

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

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

- 29 ...
- 30 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
 31 in this subdivision. The amounts allowed under this subdivision are not
 32 subject to the overall limitation on itemized deductions under section 68 of
 33 the Code:
 34 ...
- 35 c. Medical and Dental Expense. – The amount allowed as a deduction for
 36 medical and dental expenses under section 213 of the Code for that
 37 taxable year. No deduction is allowed for live organ donation expenses
 38 for which a credit was taken under G.S. 105-153.11.

39 "

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

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

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

46 **"§ 126-8.6. Paid leave for State employees and State-supported personnel for organ**
 47 **donation.**

48 (a) Full-Time Employees. – The State Human Resources Commission shall adopt rules
 49 and policies to provide that a permanent, full-time State employee may take, in addition to any
 50 other leave available to the employee, up to (i) 30 days of paid leave for the purposes of serving
 51 as a living organ donor and (ii) seven days for serving as a bone marrow donor. The employee

1 must have been continuously employed by the State for at least 12 months immediately preceding
2 the first request for paid organ or bone marrow donation leave.

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

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

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

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

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

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

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

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

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

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

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27 **PART IV. EFFECTIVE DATE**

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