

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 71
PROPOSED COMMITTEE SUBSTITUTE H71-PCS10082-SHf-3

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:

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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, accident, disability, disability income, and long-term care insurance policies.
20 For the purposes of this subsection, the phrase "a living organ donor" shall mean a living
21 individual who donates one or more of that individual's human organs, including bone marrow,
22 to be medically 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 (c)~~, 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.

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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 expenses, including
5 travel, lodging, and lost wages, incurred by a taxpayer that are not reimbursed
6 to that taxpayer by any person and that are directly related to a live organ
7 donation by the taxpayer or another individual the taxpayer is allowed to claim
8 as a dependent in accordance with section 151 of the Code.

9 (b) Credit. – A taxpayer who incurs live organ donation expenses is allowed a credit
10 against the tax imposed by this Part equal to the lesser of the expenses or five thousand dollars
11 (\$5,000).

12 (c) Limitations. – The following limitations apply:

13 (1) The credit allowed under this section may not exceed the amount of tax
14 imposed by this Part for the taxable year reduced by the sum of all credits
15 allowable, except tax payment made by or on behalf of the taxpayer.

16 (2) A taxpayer who claims a credit under this section must add back to taxable
17 income any amount deducted under section 213 of the Code for medical
18 expenses incurred as a result of the live organ donation.

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)** This section is effective for taxable years beginning on or after
22 January 1, 2021.

23 24 **PART III. PAID LEAVE FOR STATE EMPLOYEES**

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

27 **"§ 126-8.6. Paid leave for State employees and State-supported personnel for organ**
28 **donation.**

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

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

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

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

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

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

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

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

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

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

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

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9 **PART IV. EFFECTIVE DATE**

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