

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 162
PROPOSED COMMITTEE SUBSTITUTE H162-PCS40435-SVf-16

Short Title: Living Donor Protection Act.

(Public)

Sponsors:

Referred to:

February 22, 2023

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

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26 **PART II. TAX CREDIT**

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

29 **"§ 105-153.11. Credit for live organ donation.**

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

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

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



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

a. Lost wages.

b. Transportation, lodging, and meals.

(4) Lost wages. – All monetary payments from employment or services that are taxable as income under the Code and that are not reimbursed through another source, such as sick pay or short-term disability benefits. The term does not include capital gains, IRA distributions, pensions, annuities, unemployment compensation, State workers' compensation benefits, medical retirement benefits, or Social Security benefits.

(b) Credit. – A taxpayer who makes a live organ donation or who is allowed to claim as a dependent a person who makes a live organ donation is allowed a credit against the tax imposed by this Part equal to the lesser of the live organ donation expenses or five thousand dollars (\$5,000). For the purposes of this section, "dependent" means a qualifying child or qualifying relative as defined in section 152 of the Code.

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

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

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

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

...

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

...

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

...."

SECTION 2.(c) G.S. 105-160.3(b) reads as rewritten:

"(b) The tax credits allowed under G.S. 105-153.9 or G.S. 105-153.11 may not be claimed by an estate or trust."

SECTION 2.(d) This section is effective for taxable years beginning on or after January 1, 2023.

PART III. PAID LEAVE FOR STATE EMPLOYEES

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

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

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

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

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

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

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

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

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

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

23 (e) Reporting. – By April 1, 2024, and then annually thereafter, the State Human
24 Resources Commission, the State Board of Education, the State Board of Community Colleges,
25 and all State agencies, departments, and institutions shall annually report to the Office of State
26 Human Resources on the paid organ donation leave program."

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

28 "(c19) The provisions of G.S. 126-8.6 shall apply to all State employees, public school
29 employees, and community college employees."

30 **PART IV. EFFECTIVE DATE**

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