

FAILED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 1 of 8

Amends Title [YES]
Second Edition

Date _____, 2023

Senator Chaudhuri

moves to amend the bill on page 1, line 7, by rewriting the line to read:

"PROMOTING CERTAIN CONCEPTS THAT ARE CONTRARY TO THAT INTENT, TO PROVIDE FOR HEALTHY FAMILIES AND HEALTHY WORKPLACES BY ENSURING THAT ALL WORKERS HAVE EARNED PAID SICK DAYS TO ADDRESS THEIR OWN HEALTH NEEDS AND THE HEALTH NEEDS OF THEIR FAMILIES AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF LABOR FOR ADMINISTRATION AND ENFORCEMENT, TO PROVIDE PAID PARENTAL LEAVE TO STATE EMPLOYEES AND OTHER STATE-SUPPORTED PERSONNEL, AND TO PROHIBIT STATE EMPLOYMENT FOR PERSONS CONVICTED OF CERTAIN STATE AND FEDERAL OFFENSES.";

and on page 1, lines 29-30, by rewriting the lines to read:

- (1) Prohibit discussion with or questions to an applicant regarding any of the following:
a. The content of the applicant's resume.
b. Inquiries into matters relevant to the duties of the position to which the applicant is applying.";

and on page 2, line 51 through page 3, line 4, by rewriting the lines to read:

PART III. HEALTHY FAMILIES AND WORKPLACES

SECTION 3.(a) Chapter 95 of the General Statutes is amended by adding a new Article to read:

Article 3A.

Healthy Families and Healthy Workplaces Act.

§ 95-31.1. Short title and legislative purpose.

(a) This Article shall be known and may be cited as the "Healthy Families and Healthy Workplaces Act."

(b) The public policy of this State is declared as follows: The health and safety needs of employees and their families and the protection of employees from losing their jobs and pay while they seek medical care for themselves and their family members are subjects of concern requiring legislation to promote the general welfare of the people of the State without jeopardizing the competitive position of North Carolina business and industry. The General



* S 3 6 4 - A T U - 2 9 - V - 3 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 2 of 8

1 Assembly declares that the general welfare of the State requires the enactment of this law under
2 the police power of the State.

3 **"§ 95-31.2. Definitions.**

4 The following definitions apply in this Article:

5 (1) Child. – A biological, adopted, or foster child, stepchild, legal ward, or child
6 of a parent standing in loco parentis who is under 18 years of age or 18 years
7 of age or older but incapable of earning wages because of a mental or physical
8 incapacity.

9 (2) Domestic violence. – As defined in G.S. 50B-1.

10 (3) Employ. – As defined by G.S. 95-25.2(3).

11 (4) Employee. – As defined by G.S. 95-25.2(4).

12 (5) Employer. – As defined by G.S. 95-25.2(5).

13 (6) Health care provider. –

14 a. A doctor of medicine or osteopathy licensed to practice medicine in
15 this State.

16 b. A physician assistant licensed in this State.

17 c. A family nurse practitioner licensed in this State.

18 (7) Immediate family member. – A child, grandchild, sibling, spouse, domestic
19 partner, civil union partner, parent, or grandparent of an employee, or a
20 spouse, domestic partner, or civil union partner of a parent or grandparent of
21 the employee, or a sibling of a spouse, domestic partner, or civil union partner
22 of the employee, or any other individual related by blood to the employee or
23 whose close association with the employee is the equivalent of a family
24 relationship.

25 (8) Paid sick time or paid sick days. – Time that is (i) compensated at the same
26 hourly rate and with the same benefits, including health care benefits, as the
27 employee normally earns during hours worked and (ii) provided by an
28 employer to an employee for the purposes described in G.S. 95-31.4(b).

29 (9) Parent. – A biological, foster, step, or adoptive parent of an employee or an
30 employee's spouse, or other person who stood in loco parentis during the
31 childhood of an employee or employee's spouse.

32 (10) Sexual assault. – As defined in Chapter 14 of the General Statutes.

33 (11) Small business. – An employer who employs 10 or fewer employees during
34 20 or more calendar workweeks in the current or preceding calendar year.

35 (12) Stalking. – As defined in Chapter 14 of the General Statutes.

36 **"§ 95-31.3. Exemptions.**

37 (a) The provisions of this section do not apply to any bona fide volunteers in any
38 organization where an employer-employee relationship does not exist.

39 (b) The provisions of this section do not apply to any person exempted from the Wage
40 and Hour Act under G.S. 95-25.14(a)(2) through (a)(8), 95-25.14(b), 95-25.14(b1), 95-25.14(c),
41 and 95-25.14(e), except that domestic workers are exempted only if they are employed in the
42 place of residence of their employer.

43 **"§ 95-31.4. Accrual of paid sick time.**

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 3 of 8

1 (a) Except as provided by G.S. 95-31.3, any employee who works in this State and who
2 must be absent from work for the reasons set forth in G.S. 95-31.5(a) shall be entitled to paid
3 sick time.

4 (b) Paid sick time as provided in this section shall begin to accrue at the commencement
5 of employment. Paid sick time shall accrue at the rate of one hour of pay for every 30 hours
6 worked. Paid sick time may be used as accrued or be loaned by the employer at its discretion to
7 the employee in advance of accrual. Unless the employer and employee agree to designate
8 otherwise, for periods of paid sick time that are less than a normal workday, the time shall be
9 counted on an hourly basis or the smallest increment that the employer's payroll system uses to
10 account for absences or use of leave.

11 (c) For employees of small businesses, there shall be a limit of 32 hours of accrued paid
12 sick time in a calendar year. For employees of other employers, there shall be a limit of 56 hours
13 of accrued paid sick time in a calendar year. Accrued paid sick time for employees carries over
14 from year to year but is limited to the aforementioned limits.

15 (d) When there is separation from employment and the employee is rehired within 90
16 days of separation by the same employer, previously accrued paid sick time that had not been
17 used shall be reinstated. The employee shall be entitled to use accrued paid sick time and accrue
18 additional sick time at the recommencement of employment.

19 **"§ 95-31.5. Use of paid sick time.**

20 (a) Paid sick time shall be provided to an employee by an employer for any of the
21 following reasons:

22 (1) To care for the employee's immediate family member who is suffering from a
23 physical or mental illness, injury, or medical condition that requires home
24 care, professional medical diagnosis or care, preventive medical care, or a
25 routine medical appointment, unless the care is covered under federal law.

26 (2) To care for the employee's own physical or mental illness, injury, or medical
27 condition that requires home care, professional medical diagnosis or care,
28 preventive medical care, or a routine medical appointment, unless the care is
29 covered under federal law.

30 (3) Absence necessary due to circumstances resulting from the employee, or a
31 family member of the employee, being a victim of stalking or domestic or
32 sexual violence, if the leave is to allow the employee to obtain for the
33 employee or the family member (i) medical attention needed to recover from
34 physical or psychological injury or disability caused by stalking or domestic
35 or sexual violence, (ii) services from a designated domestic violence agency
36 or other victim services organization, (iii) psychological or other counseling,
37 (iv) relocation, or (v) legal services, including obtaining a restraining order or
38 preparing for, or participating in, any civil or criminal legal proceeding related
39 to the stalking or domestic or sexual violence.

40 (b) An employer may require certification of the qualifying illness, injury, health
41 condition, or violence when a paid sick time period covers more than three consecutive workdays.
42 Any reasonable documentation signed by a health care provider involved in following or treating
43 the illness, injury, or health condition and indicating the need for the amount of sick days taken

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1

(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 4 of 8

1 shall be deemed acceptable certification. Acceptable certification of domestic violence, sexual
2 assault, or stalking may include (i) law enforcement, court, or federal agency records or files, (ii)
3 documentation from a domestic violence or sexual assault program, or (iii) documentation from
4 a religious, medical, or other professional from whom assistance was sought in dealing with the
5 alleged domestic violence, sexual offense, or stalking.

6 (1) The employer shall not require certification from a health care provider
7 employed by the employer. The employer shall not delay the commencement
8 of time taken for purposes of subsection (a) of this section or pay for this
9 period on the basis that the employer has not yet received the certification.
10 Nothing in this section shall be construed to require an employee to provide
11 as certification any information from a health care provider that would be in
12 violation of section 1177 of the Social Security Act or the regulations
13 promulgated pursuant to section 264(c) of the Health Insurance Portability and
14 Accountability Act, 42 U.S.C. § 1320d-2.

15 (2) An employer may not require disclosure of details relating to domestic
16 violence, sexual assault, or stalking or the details of an employee's medical
17 condition as a condition of providing paid sick time under this Article. If an
18 employer possesses health information or information pertaining to domestic
19 violence, sexual assault, or stalking about an employee or employee's
20 immediate family member, such information shall be treated as confidential
21 and not disclosed except to the affected employee or with the permission of
22 the affected employee.

23 (c) When the use of paid sick time is foreseeable, the employee shall make a good-faith
24 effort to provide notice of the need for such time to the employer in advance of the use of the
25 sick time and shall make a reasonable effort to schedule the use of paid sick time in a manner
26 that does not unduly disrupt the operations of the employer.

27 (d) An employer may not require, as a condition of providing paid sick time under this
28 act, that the employee search for or find a replacement worker to cover the hours during which
29 the employee is on paid sick time.

30 (e) Nothing in this section shall be construed as requiring financial or other
31 reimbursement to an employee from an employer upon the employee's termination, resignation,
32 retirement, or other separation from employment for accrued paid sick days that have not been
33 used.

34 (f) Nothing in this section shall be construed to discourage employers from adopting or
35 retaining paid sick time policies more generous than policies that comply with the requirements
36 of this section, and nothing in this section shall be construed to diminish the obligation of an
37 employer to comply with any contract, collective bargaining agreement, or any employment
38 benefit program or plan that provides greater paid sick time leave rights to employees than the
39 rights established under this section.

40 (g) This Article provides minimum requirements pertaining to paid sick time and shall
41 not be construed to preempt, limit, or otherwise affect the applicability of any other law,
42 regulation, requirement, policy, agreement, or standard that provides for greater accrual or use

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 5 of 8

1 by employees of sick time, whether paid or unpaid, or that extends other protections to
2 employees.

3 (h) Employers who have a paid time-off leave policy shall not be required to modify that
4 policy, if that policy offers an employee the option, at the employee's discretion, to take paid sick
5 time that is at least equivalent to the amounts and for the same purposes and under the same
6 conditions as provided under this section.

7 **"§ 95-31.6. Notification, posting, and records.**

8 Employers shall give notice (i) that employees are entitled to paid sick time, (ii) of the amount
9 of paid sick time and the terms of its use guaranteed under this section, (iii) that retaliation against
10 employees who request or use paid sick time is prohibited, and (iv) that each employee has the
11 right to file a complaint with the Commissioner of Labor or in the General Court of Justice if
12 paid sick time as required by this Article is denied by the employer or the employee is retaliated
13 against for requesting or taking paid sick time. Employers may comply with this section by
14 supplying each of their employees with a notice in English and in Spanish that contains the
15 information required by this section or by displaying a poster in a conspicuous and accessible
16 place in each establishment where the employees are employed that contains in English and in
17 Spanish all information required by this section.

18 **"§ 95-31.7. Enforcement.**

19 (a) The Commissioner shall enforce and administer the provisions of this Article, and the
20 Commissioner or his or her authorized representative is empowered to hold hearings and to
21 institute civil proceedings hereunder.

22 (b) The Commissioner or the Commissioner's authorized representative shall have power
23 to administer oaths and examine witnesses; issue subpoenas; compel the attendance of witnesses
24 and the production of papers, books, accounts, records, payrolls, and documents; and take
25 depositions and affidavits in any proceeding hereunder.

26 (c) Any employer who violates the provisions of this Article shall be liable to the
27 employee or employees affected in the amount of their unpaid sick time, as the case may be, plus
28 interest at the legal rate set forth in G.S. 24-1 from the date each amount first came due.

29 (d) In addition to the amounts awarded pursuant to subsection (c) of this section, the court
30 shall award liquidated damages in an amount equal to the amount found to be due as provided in
31 subsection (c) of this section, provided that if the employer shows to the satisfaction of the court
32 that the act or omission constituting the violation was in good faith and that the employer had
33 reasonable grounds for believing that the act or omission was not a violation of this Article, the
34 court may, in its discretion, award no liquidated damages or may award any amount of liquidated
35 damages not exceeding the amount found due as provided in subsection (c) of this section.

36 (e) Action to recover such liability may be maintained in the General Court of Justice by
37 any one or more employees.

38 (f) The court, in any action brought under this Article, may, in addition to any judgment
39 awarded to the plaintiff, order costs and fees of the action and reasonable attorneys' fees to be
40 paid by the defendant. The court may order costs and fees of the action and reasonable attorneys'
41 fees to be paid by the plaintiff if the court determines that the action was frivolous.

42 (g) The Commissioner may determine and supervise the payment of the amounts due
43 under this section, including interest at the legal rate set forth in G.S. 24-1 from the date each

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 6 of 8

1 amount first came due, and the agreement to accept such amounts by the employee shall
2 constitute a waiver of the employee's right to bring an action under subsection (e) of this section.

3 (h) Actions under this Article must be brought within two years pursuant to G.S. 1-53.

4 (i) The rights and remedies created by this Article are supplementary to all existing
5 common-law and statutory rights and remedies.

6 **"§ 95-31.8. Rules.**

7 The Commissioner of Labor shall adopt rules to implement this Article.

8 **"§ 95-31.9. Severability.**

9 The provisions of this Article shall be severable, and if any phrase, clause, sentence, or
10 provision is declared to be invalid or is preempted by federal law or regulation, the validity of
11 the remainder of this Article shall not be affected thereby."

12 **SECTION 3.(b)** G.S. 95-241(a) reads as rewritten:

13 "(a) No person shall discriminate or take any retaliatory action against an employee
14 because the employee in good faith does or threatens to do any of the following:

- 15 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
16 proceeding or other action, or testify or provide information to any person
17 with respect to any of the following:
18 a. Chapter 97 of the General Statutes.
19 b. ~~Article 2A~~ Article 2A, Article 3A, or Article 16 of this Chapter.
20 c. Article 2A of Chapter 74 of the General Statutes.
21 d. G.S. 95-28.1.
22 e. Article 16 of Chapter 127A of the General Statutes.
23 f. G.S. 95-28.1A.
24 g. Article 52 of Chapter 143 of the General Statutes.
25 h. Article 5F of Chapter 90 of the General Statutes.

26 (2) Cause any of the activities listed in subdivision (1) of this subsection to be
27 initiated on an employee's behalf.

28 (3) Exercise any right on behalf of the employee or any other employee afforded
29 by ~~Article 2A~~ Article 2A, Article 3A, or Article 16 of this Chapter, by Article
30 2A of Chapter 74 of the General Statutes, or by Article 52 of Chapter 143 of
31 the General Statutes.

32 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
33 Statutes.

34 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
35 shall be in accordance with the provisions of G.S. 50B-5.5."

36 **SECTION 3.(c)** There is appropriated from the General Fund to the Department of
37 Labor the sum of one million dollars (\$1,000,000) for the 2023-2024 fiscal year and the sum of
38 one million dollars (\$1,000,000) for the 2024-2025 fiscal year for public education about and the
39 administration and enforcement of the Healthy Families and Healthy Workplaces Act, as enacted
40 in this act.

41 **SECTION 3.(d)** This section becomes effective July 1, 2023, applies only to covered
42 employment on or after that date, and does not apply to any collective bargaining agreement
43 entered into before July 1, 2023, that is still in effect on that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 7 of 8

1 **PART IV. PAID PARENTAL LEAVE FOR STATE EMPLOYEES**

2 **SECTION 4.(a)** Article 2 of Chapter 126 of the General Statutes is amended by
3 adding a new section to read:

4 "**§ 126-8.6. Paid parental leave for State employees and State-supported personnel.**

5 (a) Full-Time Employees. – The State Human Resources Commission shall adopt rules
6 and policies to provide that a permanent, full-time State employee may take up to twelve weeks
7 of paid parental leave in addition to any other leave available to the employee. The employee
8 must have been continuously employed by the State for at least 12 months immediately preceding
9 the first request for paid parental leave.

10 (b) Part-Time Employees. – The State Human Resources Commission shall adopt rules
11 and policies to provide that a permanent, part-time State employee may take a prorated amount
12 of up to four weeks of paid parental leave in addition to any other leave available to the employee.
13 The employee must have been continuously employed by the State for at least 12 months
14 immediately preceding the first request for paid parental leave.

15 (c) Program Requirements. – The paid parental leave authorized by this section:

- 16 (1) Is provided (i) for the birth of the parent's child and to care for the newborn
17 (ii) for placement and adoption of a child and time for bonding or (iii) for
18 bereavement leave for parents who experience a stillbirth of a child.
19 (2) Is available without exhaustion of the employee's sick and vacation leave.
20 (3) Is in addition to, and not in lieu of, shared leave under G.S. 126-8.3, or other
21 leave authorized by federal or State law.
22 (4) May not be used for retirement purposes.
23 (5) Has no cash value upon termination from employment.

24 (d) Applicability. – This section applies to all (i) State employees and (ii) State-supported
25 personnel with the appropriate governing board adopting rules and policies to provide paid
26 parental leave to its employees as provided by this section.

27 (e) Reporting. – By May 1, 2024, and then annually thereafter, the State Human
28 Resources Commission, the State Board of Education, the State Board of Community Colleges,
29 and all State agencies, departments, and institutions shall annually report to the Office of State
30 Human Resources on the paid parental leave program."

31 **SECTION 4.(b)** G.S. 126-5 is amended by adding a new subsection to read:

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

34 **SECTION 4.(c)** There is appropriated from the General Fund to a Reserve for
35 Compensation the sum of ten million dollars (\$10,000,000) in recurring funds for the 2023-2024
36 fiscal year and the sum of ten million dollars (\$10,000,000) in recurring funds for the 2024-2025
37 fiscal year to fund the paid parental leave authorized by G.S. 126-8.6, as enacted by this act.

38 **SECTION 4.(d)** This section of the act becomes effective July 1, 2023.

39
40 **PART V. PROHIBIT STATE EMPLOYMENT FOR CONVICTION OF CERTAIN**
41 **CRIMINAL OFFENSES**

42 **SECTION 5.(a)** Article 8 of Chapter 126 of the General Statutes is amended by
43 adding a new section to read:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 364

FAILED

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S364-ATU-29 [v.3]

Page 8 of 8

1 **"§ 126-42. Prohibit state employment for conviction of certain criminal offenses.**

2 (a) Any state employee convicted of any of the following offenses shall be immediately
3 terminated from employment, and any person convicted of any of the following offenses shall
4 not be eligible to be hired for any state employment:

5 (1) G.S. 14-8. G.S. 14-10.1 or G.S. 14-401.14.

6 (2) Violations of criminal laws of others states or of the United States that are
7 substantially similar to the offenses listed in subdivision (1) of this subsection.

8 (b) Any state employee, or any prospective state employee, who committed an offense
9 and has a finding made that the defendant's sentence should be aggravated by a sentencing
10 enhancement pursuant to either G.S. 14-3(c) or G.S. 15A-1340.16(d)(17) shall be either
11 immediately terminated from employment or not be hired for any state employment."

12 **SECTION 5.(b)** This section of the act becomes effective December 1, 2023, and
13 applies to offenses committed on or after that date.

14
15 **PART VI. MISCELLANEOUS**

16 **SECTION 6.(a)** If any section or provision of this act is declared unconstitutional or
17 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
18 the part so declared to be unconstitutional or invalid.

19 **SECTION 6.(b)** Except as otherwise provided, this act is effective when it becomes
20 law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**The official copy of this document, with signatures
and vote information, is available in the
Senate Principal Clerk's Office**