

TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 317

AMENDMENT NO. A6
(to be filled in by
Principal Clerk)

H317-AMGa-41 [v.7]

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Amends Title [NO]
Second Edition

Date _____, 2024

Senator Murdock

1 moves to amend the bill on page 35, lines 2-3, by inserting between those lines the following
2 new sections to read:

3
4 **"INCREASED FUNDING FOR MEDICAID MATERNAL SUPPORT SERVICES**

5 **SECTION 7.6A.** Effective July 1, 2024, and notwithstanding any provision of this
6 act or any other law, there is appropriated to the Department of Health and Human Services,
7 Division of Health Benefits, from the unappropriated balance remaining in the General Fund for
8 the 2024-2025 fiscal year the sum of five hundred thousand dollars (\$500,000) in recurring funds
9 to increase funding for Medicaid maternal support services, also known as the Baby Love
10 Program. These funds shall provide a State match for nine hundred twenty five thousand dollars
11 (\$925,000) in recurring federal funds for the 2024-2025 fiscal year, and those federal funds are
12 appropriated to the Division of Health Benefits to be used for this same purpose.

13
14 **ESTABLISHMENT AND FUNDING OF IMPLICIT BIAS TRAINING PROGRAM FOR**
15 **MATERNAL HEALTH CARE PROVIDERS**

16 **SECTION 7.7.(a)** Effective October 1, 2024, Part 5 of Article 1B of Chapter 130A
17 of the General Statutes is amended by adding the following new sections to read:

18 **"§ 130A-33.62. Department to establish implicit bias training program for maternal health**
19 **care providers.**

20 (a) The following definitions apply in this section:

- 21 (1) Health care professional. – A licensed physician or other health care provider
22 licensed, registered, accredited, or certified to perform perinatal care and
23 regulated under the authority of a health care professional licensing authority.
24 (2) Health care professional licensing authority. – The Department of Health and
25 Human Services or an agency, board, council, or committee with the authority
26 to impose training or education requirements or licensure fees as a condition
27 of practicing in this State as a health care professional.
28 (3) Implicit bias. – A bias in judgment or behavior that results from subtle
29 cognitive processes, including implicit prejudice and implicit stereotypes, that
30 often operate at a level below conscious awareness and without intentional
31 control.



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- 1 (4) Implicit prejudice. – Prejudicial negative feelings or beliefs about a group that
2 a person holds without being aware of them.
- 3 (5) Implicit stereotypes. – The unconscious attributions of particular qualities to
4 a member of a certain social group that are influenced by experience and based
5 on learned associations between various qualities and social categories,
6 including race and gender.
- 7 (6) Maternal care provider. – Includes both of the following:
8 a. A health care professional involved in perinatal care.
9 b. A mental health professional who provides mental health or substance
10 use disorder services to women during pregnancy, the postpartum
11 period, or both.
- 12 (7) Mental health professional. – Any of the following professionals:
13 a. A psychiatrist licensed under Article 1 of Chapter 90 of the General
14 Statutes.
15 b. A psychologist licensed under Article 18G of Chapter 90 of the
16 General Statutes.
17 c. A licensed clinical mental health counselor licensed under Article 24
18 of Chapter 90 of the General Statutes.
19 d. A substance use disorder professional licensed under Article 5C of
20 Chapter 90 of the General Statutes.
21 e. A social worker licensed to engage in clinical social work under
22 Chapter 90B of the General Statutes.
23 f. A fee-based pastoral counselor licensed under Article 26 of Chapter
24 90 of the General Statutes.
25 g. A licensed marriage and family therapist licensed under Article 18C
26 of Chapter 90 of the General Statutes.
27 h. Any other mental health service provider who performs or purports to
28 perform psychotherapy, as defined in G.S. 90-21.41(3).
- 29 (8) Mental health professional licensing authority. – The Department of Health
30 and Human Services or an agency, board, council, or committee with the
31 authority to impose training or education requirements or licensure fees as a
32 condition of practicing in this State as a mental health professional.
- 33 (9) Perinatal care. – The provision of care during pregnancy, labor, delivery, and
34 postpartum and neonatal periods.
- 35 (10) Perinatal facility. – A hospital, clinic, or birthing center that provides perinatal
36 care in this State.
- 37 (b) The Department shall develop, in collaboration with (i) community-based
38 organizations led by black women that serve primarily black birthing people and (ii) a historically
39 black college or university or other institution that primarily serves minority populations, an
40 evidence-based implicit bias training program for maternal care providers that includes, at a
41 minimum, all of the following components:
- 42 (1) Identification of previous or current unconscious biases and misinformation.

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- 1 (2) Identification of personal, interpersonal, institutional, structural, and cultural
2 barriers to inclusion.
- 3 (3) Corrective measures to decrease implicit bias at the interpersonal and
4 institutional levels, including ongoing policies and practices for that purpose.
- 5 (4) Information about the effects of implicit bias, including, but not limited to,
6 ongoing personal effects of racism and the historical and contemporary
7 exclusion and oppression of minority communities.
- 8 (5) Information about cultural identity across racial or ethnic groups.
- 9 (6) Information about how to communicate more effectively across identities,
10 including racial, ethnic, religious, and gender identities.
- 11 (7) Information about power dynamics and organizational decision making.
- 12 (8) Trauma-informed care best practices and an emphasis on shared decision
13 making between providers and patients.
- 14 (9) Information about health inequities within the perinatal care field, including
15 information on how implicit bias impacts maternal and infant health
16 outcomes.
- 17 (10) Perspectives of diverse, local constituency groups and experts on particular
18 racial, identity, cultural, and provider-community relations issues in the
19 community.
- 20 (11) Information about socioeconomic bias.
- 21 (12) Information about reproductive justice.
- 22 (c) The Department shall administer the implicit bias training program developed
23 pursuant to subsection (b) of this section and, notwithstanding any provision of Chapter 90 or
24 Chapter 93B of the General Statutes, or any other provision of law, all maternal care providers
25 are required to complete the implicit bias training program as follows:
- 26 (1) Maternal care providers who hold a current license, registration, accreditation,
27 or certification on December 31, 2024, shall complete the training program no
28 later than December 31, 2025.
- 29 (2) Maternal care providers issued an initial license, registration, accreditation, or
30 certification on or after January 1, 2025, shall complete the training program
31 no later than one year after the date of issuance.
- 32 A health care professional licensing authority or mental health professional licensing
33 authority shall not renew the license, registration, accreditation, or certification of a health care
34 professional or mental health professional unless the professional provides proof of completion
35 of the training program established under this section within the 24-month period leading up to
36 the date of the renewal application.
- 37 (d) The Department is encouraged to seek opportunities to promote and make the implicit
38 bias training program authorized by this section available to the following groups:
- 39 (1) Any employees who interact with pregnant and postpartum individuals in the
40 provider setting, including front desk employees, sonographers, schedulers,
41 health system-employed lactation consultants, hospital or health system
42 administrators, security staff, and other employees.

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- 1 (2) Undergraduate programs that funnel into schools with master's programs in
2 the health professions or mental health professions.
3 (3) Providers of the special supplemental nutrition program for women, infants,
4 and children under section 17 of the Child Nutrition Act of 1966.
5 (4) Obstetric emergency simulation trainings or related trainings.
6 (5) Emergency department employees, emergency medical technicians, and other
7 specialized health care providers who interact with pregnant and postpartum
8 individuals.

9 (e) The Department shall collect the following information for the purpose of informing
10 ongoing improvements to the implicit bias training program:

- 11 (1) Data on the causes of maternal mortality.
12 (2) Rates of maternal mortality, including rates distinguished by age, race,
13 ethnicity, socioeconomic status, and geographic location within this State.
14 (3) Other factors the Department deems relevant for assessing and improving the
15 implicit bias training program.

16 **"§ 130A-33.63. Rights of perinatal care patients.**

17 (a) A patient receiving care at a perinatal care facility, defined as a hospital, clinic, or
18 birthing center that provides perinatal care in this State, has the following rights:

- 19 (1) To be informed of continuing health care requirements following discharge.
20 (2) To be informed that, if the patient so authorizes, and to the extent permitted
21 by law, the hospital or health care facility may provide to a friend or family
22 member information about the patient's continuing health care requirements
23 following discharge.
24 (3) To actively participate in decisions regarding the patient's medical care and
25 the right to refuse treatment.
26 (4) To receive appropriate pain assessment and treatment.
27 (5) To receive care and treatment free from discrimination on the basis of age,
28 race, ethnicity, color, religion, ancestry, disability, medical condition, genetic
29 information, marital status, sex, gender identity, gender expression, sexual
30 orientation, socioeconomic status, citizenship, nationality, immigration status,
31 primary language, or language proficiency.
32 (6) To receive information on how to file a complaint with the Division of Health
33 Service Regulation or the Human Rights Commission or both about any
34 violation of these rights.

35 (b) Each perinatal care facility shall provide to each perinatal care patient upon admission
36 to the facility, or as soon as reasonably practical following admission to the facility, a written
37 copy of the rights enumerated in subsection (a) of this section. The facility may provide this
38 information to the patient by electronic means, and it may be provided with other notices
39 regarding patient rights."

40 **SECTION 7.7.(b)** Effective July 1, 2024, and notwithstanding any provision of this
41 act or any other law, there is appropriated to the Department of Health and Human Services,
42 Division of Public Health, from the unappropriated balance remaining in the General Fund for

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1 the 2024-2025 fiscal year the sum of one million five hundred thousand dollars (\$1,500,000) in
2 recurring funds to be allocated and used as follows:

- 3 (1) The sum of up to five hundred thousand dollars (\$500,000) in recurring funds
4 shall be used to cover costs incurred by the Department in developing and
5 administering the implicit bias training program authorized by
6 G.S. 130A-33.62, as enacted by subsection (a) of this section.
7 (2) The remainder of these funds shall be allocated to the Women, Infant, and
8 Community Wellness Section to support the North Carolina Maternal Mental
9 Health MATTERS (Making Access to Treatment, Evaluation, Resources &
10 Screening Better) Program, which strives to enhance systems for screening,
11 assessing, and treating depression, substance use disorder, and other
12 behavioral health disorders in pregnant and postpartum patients.
13

14 **ESTABLISHMENT AND FUNDING OF PERINATAL EDUCATION GRANT**
15 **PROGRAM**

16 **SECTION 7.7A.(a)** Definitions. – The following definitions apply in this section:

- 17 (1) Department. – The North Carolina Department of Health and Human
18 Services.
19 (2) Perinatal education program. – A program that operates for the primary
20 purpose of educating pregnant women and their families about healthy
21 pregnancy, preparation for labor and birth, breastfeeding, newborn care, or
22 any combination of these.

23 **SECTION 7.7A.(b)** Establishment of Grant Program. – The Department shall
24 establish and administer a Perinatal Education Grant Program to award competitive grants to
25 eligible entities to establish or expand perinatal education programs in rural, underserved, or
26 low-wealth areas of the State. The Department shall establish eligibility requirements for
27 program participation which shall, at a minimum, require that applicants be community-based
28 organizations that offer perinatal education and resources aligned with evidence-based practices
29 for improving maternal health outcomes for black women.

30 **SECTION 7.7A.(c)** Outreach and Application Assistance. – Beginning July 1, 2024,
31 the Department shall (i) conduct outreach to encourage eligible applicants to apply for grants
32 under this program and (ii) provide application assistance to eligible applicants on best practices
33 for applying for grants under this program. In conducting the outreach required by this section,
34 the Department shall give special consideration to eligible applicants that meet the following
35 criteria:

- 36 (1) Are based in, and provide support for, communities with high rates of adverse
37 maternal health outcomes and significant racial and ethnic disparities in
38 maternal health outcomes.
39 (2) Are led by black women.
40 (3) Offer programs and resources that are aligned with evidence-based practices
41 for improving maternal health outcomes for black women.

42 **SECTION 7.7A.(d)** Grant Awards. – In awarding grants under this section, to the
43 extent possible, the grant recipients shall reflect different areas of the State. The Department shall

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1 not award a single grant for less than ten thousand dollars (\$10,000) or more than fifty thousand
2 dollars (\$50,000) per grant recipient.

3 **SECTION 7.7A.(e)** Termination of Grant Program. – The Perinatal Grant Program
4 authorized by this section expires on June 30, 2025.

5 **SECTION 7.7A.(f)** Report. – By October 1, 2026, the Department shall submit a
6 report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal
7 Research Division that includes at least all of the following components:

8 (1) A detailed report on funds expended for the program for the 2024-2025 fiscal
9 year.

10 (2) An assessment of the effectiveness of programs funded by grants awarded
11 under this section in improving maternal health outcomes for black women.

12 (3) Recommendations for future grant programs to be administered by the
13 Department and for future funding opportunities for community-based
14 organizations to improve maternal health outcomes for black women through
15 programs and resources that are aligned with evidence-based practices for
16 improving maternal health outcomes for black women.

17 **SECTION 7.7A.(g)** Effective July 1, 2024, and notwithstanding any provision of
18 this act or any other law, there is appropriated to the Department of Health and Human Services,
19 Division of Public Health, from the unappropriated balance remaining in the General Fund for
20 the 2024-2025 fiscal year the sum of one million five hundred thousand dollars (\$1,500,000) in
21 nonrecurring funds to fund the Perinatal Education Grant Program authorized by this section.
22 The Department of Health and Human Services, Division of Public Health, may use up to ten
23 percent (10%) of these funds for administrative purposes related to the grant program.
24

25 **ESTABLISHMENT AND FUNDING OF TRAINING PROGRAM FOR COMMUNITY**
26 **HEALTH WORKERS IN POST-BIRTH WARNING SIGNS**

27 **SECTION 7.7B.(a)** Effective July 1, 2024, and notwithstanding any provision of
28 this act or any other law, there is appropriated to the Department of Health and Human Services,
29 Division of Public Health, from the unappropriated balance remaining in the General Fund for
30 the 2024-2025 fiscal year the sum of two million dollars (\$2,000,000) in recurring funds to
31 develop a training program for community health workers that provides comprehensive
32 education on the warning signs of complications after birth, including strategies to educate
33 pregnant and postpartum women and their families to recognize post-birth warning signs. The
34 purpose of the training program is to decrease delays in seeking care among women experiencing
35 post-birth warning signs, with the goal of reducing racial and ethnic disparities in maternal
36 mortality rates in North Carolina. The DPH shall make this training program available free of
37 charge to community health workers serving rural, underserved, or low-wealth areas of the State.

38 **SECTION 7.7B.(b)** As used in this section, the term "community health worker"
39 means a frontline public health worker who meets all of the following criteria:

40 (1) Is either or both a trusted member of, or has an unusually close understanding
41 of, the community served.

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- 1 (2) Serves as a liaison, link, or intermediary between health or social services and
2 the community to facilitate access to services and improve the quality and
3 cultural competence of service delivery within the community.
4 (3) Builds individual and community capacity by increasing health knowledge
5 and self-sufficiency of the community through a range of activities such as
6 outreach, community education, informal counseling, social support, and
7 advocacy.
8

9 **RIGHT TO ACCESS ASSISTED REPRODUCTIVE TECHNOLOGY**

10 **SECTION 7.8.** Effective October 1, 2024, Chapter 90 of the General Statutes is
11 amended by adding a new Article to read:

12 "Article 10.

13 "Assisted Reproductive Technology.

14 **"§ 90-21.160. Definitions.**

15 As used in this Article, the following terms have the following meanings:

- 16 (1) Assisted reproductive technology. – All treatments or procedures that include
17 the handling of human oocytes or human embryos, including in vitro
18 fertilization, gamete intrafallopian transfer, and zygote intrafallopian transfer.
19 (2) Health care provider. – Either of the following:
20 a. An individual who is licensed, certified, or otherwise authorized under
21 this Chapter to provide health care services in the ordinary course of
22 business or practice of a profession or in an approved education or
23 training program.
24 b. A health care facility licensed under Chapter 131E of the General
25 Statutes to provide health care services to patients.
26 The term "health care provider" includes (i) an agent or employee of a
27 health care facility that is licensed, certified, or otherwise authorized to
28 provide health care services, (ii) the officers and directors of a health care
29 facility, and (iii) an agent or employee of a health care provider who is
30 licensed, certified, or otherwise authorized to provide health care services.
31 (3) Health care service. – A health or medical procedure or service rendered by a
32 health care provider that meets either of the following criteria:
33 a. Provides testing, diagnosis, or treatment of a health condition, illness,
34 injury, or disease.
35 b. Dispenses drugs, medical devices, medical appliances, or medical
36 goods for the treatment of a health condition, illness, injury, or disease.

37 **"§ 90-21.162. Right to access assisted reproductive technology.**

38 Neither the State nor any of its political subdivisions shall prohibit, unreasonably limit, or
39 interfere with any of the following:

- 40 (1) The right of a patient to access assisted reproductive technology.
41 (2) The right of a health care provider to provide or assist with the provision of
42 evidence-based information related to assisted reproductive technology.

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1 (3) The right of a health care provider to perform or assist with the performance
2 of assisted reproductive technology.

3 **"§ 90-21.164. Fertilized human egg or human embryo not a human being.**

4 A fertilized human egg or human embryo that exists in any form outside of the uterus of a
5 human body shall not, under any circumstance, be considered an unborn fetus, an unborn child,
6 a minor child, a natural person, or any other term that connotes a human being for any purpose
7 under State law.

8 **"§ 90-21.166. Construction.**

9 Nothing in this Article shall be construed to prohibit the enforcement of health and safety
10 laws related to the operation of health care facilities or the provision of health care services by
11 health care providers.""; and

12
13 on page 44, lines 30-31, by inserting between those lines the following new sections to read:

14
15 **"PROVIDE STATE EMPLOYEES WITH PAID LEAVE DURING AND FOLLOWING**
16 **A PREGNANCY LOSS**

17 **SECTION 11.4.(a)** Effective July 1, 2024, Article 2 of Chapter 126 of the General
18 Statutes is amended by adding a new section to read:

19 **"§ 126-8.7. Paid leave for pregnancy loss.**

20 (a) The State Human Resources Commission (Commission) shall adopt rules and policies
21 to provide that a permanent, probationary, or time-limited full-time State employee shall be
22 granted paid leave for pregnancy loss. For the purposes of this section, the term "pregnancy loss"
23 means a miscarriage, an unsuccessful round of intrauterine insemination or of an assisted
24 reproductive technology procedure, a failed adoption arrangement, a failed surrogacy
25 arrangement, or a diagnosis or event that impacts pregnancy or fertility.

26 (b) The Commission shall adopt rules and policies to provide that a permanent,
27 probationary, or time-limited part-time State employee shall be granted a prorated amount of
28 paid leave for pregnancy loss on an equitable basis.

29 (c) The rules and policies adopted by the Commission shall include the following
30 requirements, at the minimum:

31 (1) That the duration of leave for pregnancy loss shall be not less than 56 hours
32 of paid leave.

33 (2) That an employee requesting the paid leave shall submit a request for leave to
34 process and address their own health needs and the health needs of their
35 partners during the time period following a pregnancy loss.

36 (3) A period of minimum service before an employee becomes eligible for paid
37 leave under this section. The rules shall provide that the period of minimum
38 service may be met by aggregating employment at any of the following:

39 a. State agencies, departments, and institutions, including The University
40 of North Carolina.

41 b. Public school units that provide paid leave in accordance with this
42 section.

43 c. Community colleges located in this State.

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1 (d) The leave authorized by this section:

2 (1) Is available without exhaustion of the employee's sick and vacation leave and
3 is awarded in addition to shared leave under G.S. 126-8.3, or other leave
4 authorized by State or federal law.

5 (2) Has no cash value upon termination from employment.

6 (3) May not be used for calculating an employee's retirement benefits.

7 (e) The provisions of this section shall apply to employees of State agencies,
8 departments, and institutions, including The University of North Carolina; to public school
9 employees; and to community college employees. The appropriate governing board, officer, or
10 entity shall adopt rules and policies to award paid leave for pregnancy loss to employees that are
11 substantially equivalent to those adopted by the State Human Resources Commission."

12 **SECTION 11.4.(b)** Effective July 1, 2024, G.S. 126-5(c19) reads as rewritten:

13 "(c19) Notwithstanding any other provision of this Chapter, G.S. 126-8.6 ~~applies~~ and
14 G.S. 126-8.7 apply to all State employees, public school employees, and community college
15 employees. G.S. 126-8.6 ~~does~~ and G.S. 126-8.7 do not apply to employees described in
16 subdivisions (2) and (3) of subsection (c1) of G.S. 126 5. The legislative and judicial branches
17 shall adopt parental leave and pregnancy loss leave policies."

18 **SECTION 11.4.(c)** Effective July 1, 2024, there is appropriated from the
19 unappropriated balance in the General Fund to the Reserve for Compensation Increases the sum
20 of one million eight hundred thousand dollars (\$1,800,000) for the 2024-2025 fiscal year to fund
21 paid leave for pregnancy loss as enacted by this act.

22
23 **ADDRESS PREGNANCY-RELATED DISCRIMINATION AND REASONABLE**
24 **ACCOMMODATIONS IN THE WORKPLACE**

25 **SECTION 11.5.(a)** The General Statutes are amended by adding a new Chapter to
26 read:

27 **"Chapter 168B.**

28 **"North Carolina Healthy Pregnancy Act.**

29 **"§ 168B-1. Short title.**

30 This Chapter shall be known and may be cited as the "North Carolina Healthy Pregnancy
31 Act."

32 **"§ 168B-2. Public policy.**

33 It is the public policy of this State to protect and safeguard the right and opportunity of all
34 persons to seek, obtain, and hold employment without discrimination or abridgement by
35 employers on the basis of pregnancy, childbirth, or related medical condition.

36 **"§ 168B-3. Definitions.**

37 The following definitions apply in this Chapter:

38 (1) Covered governmental entity. – Any State department, institution, agency, or
39 any political subdivision of the State or any person that contracts with a State
40 department, institution, agency, or political subdivision of the State for the
41 delivery of public services, including education, health, social services,
42 recreation, and rehabilitation.

43 (2) Discriminatory practice. – Any practice prohibited by this Chapter.

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- 1 (3) Employer. – Any person employing 15 or more employees within the State.
2 (4) Employment agency. – As defined in G.S. 168A-3.
3 (5) Labor organization. – As defined in G.S. 168A-3.
4 (6) Person. – As defined in G.S. 168A-3.
5 (7) Pregnancy or pregnant. – Includes pregnancy, childbirth, or related medical
6 conditions, including lactation.
7 (8) Reasonable accommodations. – All of the following:
8 a. With regard to employment, making reasonable physical changes in
9 the workplace, including all of the following:
10 1. Making existing facilities used by employees readily
11 accessible to and usable by individuals with medical needs
12 arising from pregnancy.
13 2. Making reasonable changes in the duties of the job in question
14 that would accommodate the known limitations of a pregnant
15 person who is seeking or performing the job in question by
16 enabling the person to satisfactorily perform the duties of that
17 job; modifying work assignments; temporarily transferring the
18 employee to a less strenuous or hazardous vacant position, if
19 qualified; or a combination of these.
20 3. Providing more frequent or longer break periods.
21 4. Providing a private place, other than a bathroom stall, for the
22 purpose of expressing milk.
23 5. Modifying food and drink policies to enable access to food and
24 drink and to permit meals and beverages at workstations.
25 6. Providing seating or allowing the employee to sit more
26 frequently if the job requires the employee to stand.
27 7. Providing assistance with manual labor and limits on lifting.
28 8. Temporarily transferring the employee to a less strenuous or
29 hazardous vacant position, if qualified.
30 9. Providing job restructuring or light duty, if available.
31 10. Acquiring or modifying equipment or devices necessary for
32 performing essential job functions.
33 11. Modifying work schedules, including the option to work from
34 home.
35 12. Relocating workplace materials and equipment to make them
36 more accessible.
37 13. Adjusting uniforms or dress codes.
38 14. Providing properly sized safety gear.
39 15. Adjusting lighting and noise levels.
40 16. Providing access to closer parking.
41 17. Providing access to mobile assistance devices.
42 b. The term "reasonable accommodation" does not require that an
43 employer do any of the following:

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1. Hire one or more employees, other than the pregnant person, for the purpose, in whole or in part, of enabling the pregnant person to be employed.
2. Reassign duties of the job in question to other employees without assigning to the pregnant employee duties that would compensate for those reassigned.
3. Reassign duties of the job in question to one or more other employees where the reassignment would increase the skill, effort, or responsibility required of the other employee or employees from that required prior to the change in duties.
4. Alter, modify, change, or deviate from bona fide seniority policies or practices.
5. Provide accommodations of a personal nature, except under the same terms and conditions as such accommodations are provided to the employer's employees generally and as needed for lactation.
6. Make any changes that would impose on the employer an undue hardship.

(9) Undue hardship. – As defined in G.S. 168A-3.

"§ 168B-4. Reasonable accommodation duties.

(a) A qualified pregnant person requesting a reasonable accommodation must apprise the employer, employment agency, labor organization, place of public accommodation, or covered governmental entity of the person's pregnancy, submit any necessary medical documentation, make suggestions for such possible accommodations as are known to such person, and cooperate in any ensuing discussion and evaluation aimed at determining possible or feasible accommodations.

(b) Once a qualified pregnant person has requested an accommodation, or if a potential accommodation is obvious in the circumstances, an employer, employment agency, labor organization, place of public accommodation, or covered governmental entity shall investigate whether there are reasonable accommodations that can be made and make reasonable accommodations as defined in G.S. 168A-3(8).

"§ 168B-5. Discriminatory practices prohibited.

(a) A person affected by pregnancy shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

(b) It is an unlawful, discriminatory practice to do any of the following:

- (1) For an employer to fail to hire or consider for employment or promotion, to discharge, or otherwise to discriminate against a pregnant person with respect to compensation or the terms, conditions, or privileges of employment on the basis of a condition related to pregnancy.
- (2) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against a pregnant person on the basis of a condition related to pregnancy.

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- 1 (3) For a person controlling an apprenticeship, on-the-job training, or other
2 training or retraining program, to discriminate against a pregnant person with
3 respect to admission into or employment in the apprenticeship, on-the-job
4 training, or other training or retraining program on the basis of a condition
5 related to pregnancy.
- 6 (4) For an employer, labor organization, or employment agency to fail to meet the
7 duties imposed by this Chapter.
- 8 (5) For an employer to fail or refuse to make reasonable accommodations for
9 limitations arising from pregnancy, childbirth, or related medical conditions
10 for an applicant for employment or an employee if the applicant or employee
11 so requests, unless the employer can demonstrate that the accommodation
12 would impose an undue hardship on the operation of the business of the
13 employer.

14 **§ 168B-6. Retaliation prohibited.**

15 (a) No employer shall discharge, expel, refuse to hire, or otherwise discriminate against
16 any person or applicant for employment, nor shall any employment agency discriminate against
17 any person, nor shall a labor organization discriminate against any member or applicant for
18 membership because the person has opposed any practice made a discriminatory practice by this
19 Chapter or because the person has testified, assisted, or participated in any manner in proceedings
20 under this Chapter. For purposes of this section, examples of retaliation may include denying
21 employment opportunities based on the need for a reasonable accommodation, requiring an
22 employee to take leave if another reasonable accommodation can be provided, counting an
23 absence related to pregnancy under a no-fault attendance policy, and failing to reinstate an
24 employee to the employee's original job or to an equivalent position with equivalent pay and
25 accumulated seniority, retirement, fringe benefits, and other applicable service credits when the
26 employee's need for reasonable accommodations ceases.

27 (b) No entity or person covered under this Chapter shall retaliate against or coerce,
28 intimidate, threaten, or interfere with a person who exercises rights under this Chapter or assists
29 a person in exercising the person's rights under this Chapter.

30 **§ 168B-7. Posting of notices.**

31 (a) An employer shall provide notice of the right to be free from discrimination in relation
32 to pregnancy, childbirth, and related conditions, including the right to reasonable accommodation
33 to known limitations related to pregnancy, childbirth, and related conditions, as provided by this
34 Chapter. This notice shall be conspicuously posted at an employer's place of business in an area
35 accessible to employees.

36 (b) In addition to the posted notice required by subsection (a) of this section, notice of
37 the right to be free from discrimination in relation to pregnancy, childbirth, and related conditions
38 shall be provided to employees individually as follows:

- 39 (1) In writing to new employees at the commencement of employment.
40 (2) Orally or in writing to existing employees within 120 days after the effective
41 date of this Chapter.
- 42 (3) Orally or in writing to any employee who notifies the employer of her
43 pregnancy within 10 days of such notification.

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1 **"§ 168B-8. Civil action.**

2 (a) A pregnant person aggrieved by a discriminatory practice prohibited by G.S. 168B-5
3 may bring a civil action to enforce rights granted or protected by this Chapter against any person,
4 covered governmental entity, employer, employment agency, or labor organization that is alleged
5 to have committed such practices or engaged in such conduct. The action shall be commenced in
6 superior court in the county where the alleged discriminatory practice or prohibited conduct
7 occurred or where the plaintiff or defendant resides. Such action shall be tried to the court without
8 a jury.

9 (b) In a civil action brought to enforce provisions of this Chapter, the court may award
10 declaratory or injunctive relief and back pay. Any such back pay liability shall not accrue from a
11 date more than three years prior to the filing of an action under this Chapter.

12 (c) In any civil action brought under this Chapter, the court, in its discretion, may award
13 reasonable attorneys' fees to the substantially prevailing party as part of costs.

14 **"§ 168B-9. Statute of limitations.**

15 A civil action brought pursuant to this Chapter shall be commenced within three years after
16 the date on which the aggrieved person became aware of or, with reasonable diligence, should
17 have become aware of the alleged discriminatory practice or prohibited conduct.

18 **"§ 168B-10. Construction of Chapter.**

19 Nothing in this Chapter shall be construed to preempt, limit, diminish, or otherwise affect
20 another provision of federal, State, or local law, or to invalidate or limit the remedies, rights, and
21 procedures of a federal, State, or local law that provides greater or equal protection for an
22 employee affected by pregnancy, childbirth, or a related condition."

23 **SECTION 11.5.(b)** This Section becomes effective October 1, 2024, and applies to
24 any act or omission occurring on or after that date.

25
26 **NORTH CAROLINA PAID FAMILY LEAVE INSURANCE ACT**

27 **SECTION 11.6.** Effective July 4, 2024, the General Statutes are amended by adding
28 a new Chapter to read:

29 **"Chapter 96A.**

30 **"Paid Family Leave Insurance Act.**

31 **"§ 96A-1. Short title; definitions.**

32 (a) This Chapter shall be known and may be cited as the "North Carolina Paid Family
33 Leave Insurance Act."

34 (b) The following definitions apply in this Chapter:

35 (1) Application year. – The 12-month period beginning on the first day of the
36 calendar week in which an individual files an application for family and
37 medical leave insurance benefits.

38 (2) Assistant Secretary. – The Assistant Secretary of the Division of Employment
39 Security.

40 (3) Covered individual. – Any person who does all of the following:

41 a. Meets the monetary eligibility criteria set forth in G.S. 96-14.1(b) or
42 is self-employed, elects coverage, and meets the requirements of
43 G.S. 96A-13.

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- 1 b. Meets the administrative requirements outlined in this Chapter and in
2 the rules adopted under this Chapter.
3 c. Submits an application.
4 (4) Covered service member. – Either:
5 a. A member of the Armed Forces, including a member of the National
6 Guard or Reserves, who is (i) undergoing medical treatment,
7 recuperation, or therapy, (ii) otherwise in outpatient status, or (iii)
8 otherwise on the temporary disability retired list for a serious injury or
9 illness that was incurred by the member in the line of duty on active
10 duty in the Armed Forces or a serious injury or illness that existed
11 before the beginning of the member's active duty and was aggravated
12 by service in the line of duty on active duty in the Armed Forces; or
13 b. A former member of the Armed Forces, including a former member of
14 the National Guard or Reserves, who is undergoing medical treatment,
15 recuperation, or therapy for a serious injury or illness that was incurred
16 by the member in the line of duty on active duty in the Armed Forces
17 or a serious injury or illness that existed before the beginning of the
18 member's active duty and was aggravated by service in the line of duty
19 on active duty in the Armed Forces and manifested before or after the
20 member was discharged or released from service.
21 (5) Division. – The Division of Employment Security of the Department of
22 Commerce.
23 (6) Employee. – Any individual employed by an employer.
24 (7) Employer. – Any person acting directly or indirectly in the interest of an
25 employer in relation to an employee. As used in this subdivision, "person"
26 means an individual, partnership, association, corporation, business trust,
27 legal representative, or any organized group of persons. For the purposes of
28 this Chapter, it also means the State of North Carolina, any city, town, county,
29 municipality, or any State or local agency or instrumentality of government.
30 The term does not include the government of the United States and any agency
31 of the United States (including the United States Postal Service and Postal
32 Rate Commission).
33 (8) Family and medical leave insurance benefits. – The benefits provided under
34 the terms of this Chapter.
35 (9) Family member. – Any of the following:
36 a. Regardless of age, a biological, adopted, or foster child, stepchild, or
37 legal ward, a child of a domestic partner, a child to whom the employee
38 stands in loco parentis, or a person to whom the employee stood in
39 loco parentis when the person was a minor.
40 b. A biological, adoptive, or foster parent, stepparent, or legal guardian
41 of an employee or an employee's spouse or domestic partner or a
42 person who stood in loco parentis when the employee or the
43 employee's spouse or domestic partner was a minor.

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- 1 c. A person to whom the employee is legally married under the laws of
2 any state or a domestic partner of an employee as registered under the
3 laws of any state or political subdivision.
4 d. A grandparent, grandchild, or sibling (whether a biological, foster,
5 adoptive, or step relationship) of the employee or the employee's
6 spouse or domestic partner.
7 e. Any other individual related by blood or whose close association with
8 the employee is the equivalent of a family relationship.
9 (10) Health care provider. – Any person licensed under federal or North Carolina
10 law to provide medical or emergency services, including, but not limited to,
11 doctors, nurses and emergency room personnel, or certified midwives.
12 (11) Next of kin. – As defined in section 101(17) of the Family and Medical Leave
13 Act, 29 U.S.C. § 2611(17).
14 (12) Qualifying exigency leave. – Leave based on a need arising out of a covered
15 individual's family member's active duty service or notice of an impending
16 call or order to active duty in the Armed Forces, including, but not limited to,
17 providing for the care or other needs of the military member's child or other
18 family member, making financial or legal arrangements for the military
19 member, attending counseling, attending military events or ceremonies,
20 spending time with the military member during a rest and recuperation leave
21 or following return from deployment, or making arrangements following the
22 death of the military member.
23 (13) Retaliatory personnel action. – Denial of any right guaranteed under this
24 Chapter, including, but not limited to, any threat, discharge, suspension,
25 demotion, reduction of hours, any other adverse action against an employee
26 for the exercise of any right guaranteed herein, or reporting or threatening to
27 report an employee's suspected citizenship or immigration status or the
28 suspected citizenship or immigration status of a family member of the
29 employee to a federal, State, or local agency. Retaliatory personnel actions
30 shall also include interference with or punishment for in any manner
31 participating in or assisting an investigation, proceeding, or hearing under this
32 Chapter.
33 (14) Serious health condition. – An illness, injury, impairment, pregnancy,
34 recovery from childbirth, or physical or mental condition that involves
35 inpatient care in a hospital, hospice, or residential medical care facility, or
36 continuing treatment by a health care provider.
37 (15) State average weekly wage. – The average weekly insured wage as defined in
38 G.S. 96-1(b)(2).

39 **"§ 96A-2. Eligibility for benefits.**

40 Beginning July 4, 2024, family and medical leave insurance benefits are payable to an
41 individual who:

- 42 (1) Meets the definition of "covered individual" as defined by G.S. 96A-1(b)(3);
43 and

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- 1 (2) Meets one of the following requirements:
2 a. Because of birth, adoption, or placement through foster care, is caring
3 for a new child during the first year after the birth, adoption, or
4 placement of that child;
5 b. Is caring for a family member with a serious health condition;
6 c. Has a serious health condition;
7 d. Is caring for a covered service member who is the covered individual's
8 next of kin or other family member; or
9 e. Because of any "qualifying exigency leave" arising out of the fact that
10 the family member of the covered individual is on active duty (or has
11 been notified of an impending call or order to active duty) in the
12 Armed Forces.

13 **"§ 96A-3. Duration of benefits.**

- 14 (a) An eligible covered individual is entitled to a maximum of:
15 (1) Twelve weeks of family and medical leave insurance benefits in any 12-month
16 period for qualifying exigency leave;
17 (2) Twelve weeks of family and medical leave insurance benefits in any 12-month
18 period for the birth, adoption, or placement through foster care of a new child;
19 or
20 (3) Twenty-six weeks of family and medical leave insurance benefits during a
21 single 12-month period to care for a family member with a serious health
22 condition or to recover from the covered individual's own serious health
23 condition.
24 (b) In the case of leave taken to care for a covered service member, an eligible covered
25 individual is entitled to a total of 26 weeks of family and medical leave insurance benefits in any
26 12-month period.
27 (c) The amount of family and medical leave insurance benefits payable to a covered
28 individual for family and medical leave is limited to a total of 12 weeks of family and medical
29 leave insurance benefits in any 12-month period.
30 (d) Family and medical leave insurance benefits are not payable for intermittent leave or
31 leave on a reduced leave schedule taken for the birth, adoption, or placement through foster care
32 of a new child or to care for the covered individual's family member with a serious health
33 condition.

34 **"§ 96A-4. Amount of benefits.**

- 35 (a) The weekly family and medical leave insurance benefit amount is equal to the covered
36 individual's average weekly wage divided by the State average weekly wage, rounded to the
37 nearest one-hundredth of a percent.
38 (b) The minimum weekly family and medical leave insurance benefit amount is an
39 amount equal to twenty percent (20%) of the State average weekly wage.
40 (c) The maximum weekly family and medical leave insurance benefit amount is an
41 amount equal to one hundred twenty percent (120%) of the State average weekly wage.

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1 (d) The weekly family and medical leave insurance benefit amount shall be reduced by
2 the amount of any wages or wage replacement received by the covered individual from any other
3 source during the same period for which family and medical leave insurance benefits are payable.

4 **"§ 96A-5. Contributions.**

5 (a) Employers shall remit contributions to the Paid Family and Medical Leave Fund
6 established pursuant to G.S. 96A-16 to cover the costs of family and medical leave insurance
7 benefits.

8 (b) Employer and employee contributions to the Paid Family and Medical Leave Fund
9 shall be equal to the contribution rate established by the Division to finance the family and
10 medical leave insurance program.

11 (c) Employer and employee contributions shall be withheld from the wages of each
12 covered individual in accordance with rules adopted by the Division.

13 (d) The contribution rate established by the Division under this section shall be expressed
14 as a percentage of the wages of each covered individual and shall not exceed the maximum
15 contribution rate established by the Division.

16 (e) Contributions shall be due and payable quarterly on the last day of the month
17 following the close of the calendar quarter.

18 (f) Each employer shall submit a report to the Division on a quarterly basis that includes
19 a report of the wages paid to each covered individual during the preceding quarter, the amount
20 of contributions withheld from the wages of each covered individual, and any other information
21 required by the Division.

22 (g) The Division may require employers to submit reports and payments electronically.

23 (h) All employer and employee contributions collected under this section shall be paid
24 into the Paid Family and Medical Leave Fund on a quarterly basis.

25 (i) The Division shall establish procedures for the administration of employer and
26 employee contributions, including procedures for the collection, reporting, and remittance of
27 contributions.

28 (j) Contributions to the Paid Family and Medical Leave Fund are due and payable to the
29 Division and constitute a debt owed by the employer to the Division.

30 **"§ 96A-6. Reduced leave schedule.**

31 (a) A covered individual may take family and medical leave on an intermittent or reduced
32 leave schedule.

33 (b) A covered individual taking family and medical leave on an intermittent or reduced
34 leave schedule shall make a reasonable effort to schedule the leave so as not to unduly disrupt
35 the operations of the employer.

36 **"§ 96A-7. Leave and employment protection.**

37 (a) Except as otherwise provided in this Chapter, any eligible covered individual who
38 takes family and medical leave in accordance with this Chapter shall be entitled, on return from
39 such leave:

40 (1) To be restored by the employer to the position of employment held by the
41 eligible covered individual when the leave commenced; or

42 (2) To be restored to an equivalent position with equivalent employment benefits,
43 pay, and other terms and conditions of employment.

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1 **(b) An employer is not required to restore the employment benefits or pay that accrued**
2 **prior to the date on which the leave commenced.**

3 **(c) Except as otherwise provided in this Chapter, an employer shall maintain health care**
4 **benefits for an eligible covered individual on family and medical leave on the same terms as if**
5 **the eligible covered individual had continued to work instead of taking family and medical leave.**

6 **"§ 96A-8. Retaliatory personnel actions prohibited.**

7 **(a) Except as otherwise provided in this Chapter, any eligible covered individual who**
8 **takes family and medical leave in accordance with this Chapter shall be entitled, on return from**
9 **such leave:**

10 **(1) To be restored by the employer to the position of employment held by the**
11 **eligible covered individual when the leave commenced; or**

12 **(2) To be restored to an equivalent position with equivalent employment benefits,**
13 **pay, and other terms and conditions of employment.**

14 **(b) An employer is not required to restore the employment benefits or pay that accrued**
15 **prior to the date on which the leave commenced.**

16 **(c) Except as otherwise provided in this Chapter, an employer shall maintain health care**
17 **benefits for an eligible covered individual on family and medical leave on the same terms as if**
18 **the eligible covered individual had continued to work instead of taking family and medical leave.**

19 **"§ 96A-9. Coordination of benefits.**

20 **(a) Any family and medical leave insurance benefits payable under this Chapter shall be**
21 **reduced by the amount of compensation, including salary, wages, or wage replacement, that a**
22 **covered individual receives or is eligible to receive from any of the following:**

23 **(1) A disability or workers' compensation program or law.**

24 **(2) A State or federal temporary disability program or law.**

25 **(3) A State or federal plan that provides maternity or parental benefits.**

26 **(b) Family and medical leave insurance benefits shall not be payable for any period of**
27 **leave during which a covered individual receives compensation from a disability or workers'**
28 **compensation program or law.**

29 **(c) The amount of family and medical leave insurance benefits shall be reduced by any**
30 **amount the covered individual receives from a State or federal temporary disability program or**
31 **law or a State or federal plan that provides maternity or parental benefits.**

32 **(d) Family and medical leave insurance benefits shall not be payable for any period of**
33 **leave during which a covered individual receives compensation from a State or federal temporary**
34 **disability program or law or a State or federal plan that provides maternity or parental benefits.**

35 **(e) A covered individual shall notify the Division of any payment or prospective payment**
36 **of compensation from a disability or workers' compensation program or law, a State or federal**
37 **temporary disability program or law, or a State or federal plan that provides maternity or parental**
38 **benefits, and the amount of the compensation.**

39 **"§ 96A-10. Notice.**

40 **(a) Any covered individual intending to take family and medical leave shall provide the**
41 **employer with not less than 30 days' notice, except in cases of emergency or unforeseen**
42 **circumstances. If the covered individual is unable to provide 30 days' notice, the covered**
43 **individual shall provide notice as soon as practicable.**

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1 (b) When requesting family and medical leave for a foreseeable reason, a covered
2 individual shall:

3 (1) Provide the employer with not less than 30 days' notice before the leave is to
4 begin, except in cases of emergency or unforeseen circumstances.

5 (2) Make a reasonable effort to schedule the family and medical leave so as not
6 to unduly disrupt the operations of the employer.

7 (c) When requesting family and medical leave for an unforeseeable reason, a covered
8 individual shall:

9 (1) Provide notice to the employer as soon as practicable under the facts and
10 circumstances of the particular case.

11 (2) Comply with the employer's usual and customary notice and procedural
12 requirements for requesting leave, absent unusual circumstances.

13 (3) Make a reasonable effort to schedule the family and medical leave so as not
14 to unduly disrupt the operations of the employer.

15 (d) Notice to the employer shall include:

16 (1) The anticipated timing and duration of the leave.

17 (2) In the case of a foreseeable family and medical leave, a statement that the
18 covered individual intends to take family and medical leave and an estimate
19 of the dates on which the covered individual will commence and conclude the
20 leave.

21 (3) In the case of a leave for a serious health condition, the medical necessity for
22 the leave and the anticipated duration of the leave.

23 (4) In the case of a leave to care for a covered service member with a serious
24 health condition, the medical necessity for the leave, the covered service
25 member's need for care, and the anticipated duration of the leave.

26 (5) Any changes to the timing or duration of the leave.

27 (e) Upon oral or written request of an employer, a covered individual shall provide
28 written certification from a health care provider to support a request for family and medical leave
29 for the covered individual's own serious health condition or the serious health condition of the
30 covered individual's family member.

31 (f) An employer may request certification to support a request for family and medical
32 leave for a serious health condition of a covered service member, the covered individual's own
33 serious health condition, or the serious health condition of the covered individual's family
34 member, and for a qualifying exigency, as defined in G.S. 96A-1(b)(12).

35 (g) Certification provided under this section shall be made in a timely manner, which is
36 defined as 15 calendar days after the employer's request, if feasible. If 15 calendar days is not
37 feasible despite the employee's diligent good-faith efforts, the certification must be provided as
38 soon as practicable.

39 (h) An employer may require an employee to obtain subsequent recertifications on a
40 reasonable basis.

41 (i) If the employee provides the employer with complete and sufficient certification
42 signed by the health care provider, the employer may not request additional information from the
43 health care provider.

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1 (j) Certification shall be sufficient if it includes:

2 (1) The date on which the serious health condition commenced.

3 (2) The probable duration of the condition.

4 (3) The appropriate medical facts within the knowledge of the health care
5 provider regarding the condition.

6 (4) If the leave is due to the serious health condition of the covered individual's
7 family member, a statement that the covered individual is needed to care for
8 the family member and an estimate of the frequency and duration of the leave.

9 (5) If the leave is due to a qualifying exigency, a statement that the covered
10 individual is needed for the qualifying exigency and a description of the
11 qualifying exigency.

12 (6) If the leave is to care for a covered service member, the date on which the
13 serious health condition commenced, the probable duration of the condition,
14 and the need for the covered individual to care for the covered service
15 member.

16 (k) Certification may include the information required by subsection (j) of this section on
17 a single form or on multiple forms.

18 (l) An employer may not require the covered individual to provide additional information
19 or documentation beyond that which is specified in this section.

20 (m) Certification provided under this section shall be confidential and shall not be
21 disclosed to any third party except as required by law.

22 (n) The employer may not request genetic information as part of the certification for leave
23 under this Chapter.

24 (o) An employer may require the covered individual to obtain a second opinion, at the
25 employer's expense, from a health care provider designated or approved by the employer. The
26 health care provider providing the second opinion shall not be employed on a regular basis by
27 the employer.

28 (p) If the second opinion is different from the original certification provided under this
29 section, the employer may require the covered individual to obtain a third opinion, at the
30 employer's expense, from a health care provider designated or approved jointly by the employer
31 and the covered individual. The opinion of the third health care provider shall be final and
32 binding.

33 (q) Any health care provider designated or approved under this section shall not be
34 employed on a regular basis by the employer.

35 (r) If the covered individual provides the employer with a complete and sufficient
36 certification, the employer may not request a second or third opinion.

37 **§ 96A-11. Records.**

38 An employer shall make, keep, and preserve records pertaining to compliance with this
39 Chapter, including records related to the administration of family and medical leave and medical
40 certifications. The records shall include, but are not limited to:

41 (1) The dates family and medical leave is taken by each covered individual.

42 (2) The dates and duration of any leave or absence from work.

43 (3) The position and pay status of the covered individual.

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- 1 (4) Any health care provider certifications.
2 (5) Any written document giving notice of the need for family and medical leave.
3 (6) Any documents describing the employer's policies for providing family and
4 medical leave.
5 (7) Any documents provided to a covered individual relating to the use of family
6 and medical leave.
7 (8) Any documents provided to employees as part of the employer's employee
8 benefits or leave policies.

9 **"§ 96A-12. Rulemaking.**

10 (a) The Division shall adopt rules to implement and administer the provisions of this
11 Chapter.

12 (b) The rules shall be consistent with the provisions of this Chapter and may include
13 provisions concerning the administration of family and medical leave, the records to be made,
14 kept, and preserved by employers, and any other matter necessary for the proper enforcement of
15 this Chapter.

16 (c) The Division may adopt temporary rules to implement this Chapter. The temporary
17 rules shall be in effect until the effective date of permanent rules adopted under this section.

18 (d) The Division shall adopt rules governing the operation of the family and medical
19 leave insurance program, including rules for the determination of employer contributions, the
20 establishment of procedures for the collection, reporting, and remittance of contributions, and the
21 administration of the family and medical leave insurance program.

22 **"§ 96A-13. Self-employed individuals.**

23 (a) A self-employed individual may elect coverage under the family and medical leave
24 insurance program by submitting written notice of the election to the Division.

25 (b) A self-employed individual may elect coverage under this Chapter beginning January
26 1 of any year by filing a written notice of election with the Division.

27 (c) The Division shall establish procedures for the administration of the family and
28 medical leave insurance program for self-employed individuals.

29 (d) Self-employed individuals shall make contributions to the Paid Family and Medical
30 Leave Fund on the same terms and conditions as employers.

31 **"§ 96A-14. Employees on leave.**

32 (a) An employee on family and medical leave shall be deemed to be on leave status and
33 shall not be considered an employee for purposes of employee benefits or seniority.

34 (b) Nothing in this Chapter prohibits an employer from maintaining the employee's health
35 benefits while the employee is on leave.

36 (c) During a period of family and medical leave, an employer shall maintain coverage for
37 an employee under any group health plan, group life insurance plan, or other employee benefits
38 plan.

39 (d) If an employee does not return from family and medical leave, the employer may
40 recover the premiums paid by the employer for maintaining coverage for the employee under any
41 group health plan, group life insurance plan, or other employee benefits plan, unless the reason
42 the employee does not return is due to:

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1 (1) The continuation, recurrence, or onset of a serious health condition that
2 entitles the employee to leave under this Chapter; or

3 (2) Other circumstances beyond the control of the employee.

4 **"§ 96A-15. Confidentiality.**

5 (a) An employer shall not interfere with, restrain, or deny the exercise of, or the attempt
6 to exercise, any right provided by this Chapter.

7 (b) Any information received by an employer or the Division about an employee or a
8 covered individual pursuant to this Chapter shall be kept confidential and may not be disclosed
9 except to the extent that disclosure is:

10 (1) Requested or consented to in writing by the employee or covered individual;

11 (2) Required by the Division for purposes of administering this Chapter; or

12 (3) Otherwise required by applicable federal or State law.

13 (c) Information related to medical histories or records of employees or covered
14 individuals obtained by employers or the Division under this Chapter shall be treated as
15 confidential medical records.

16 **"§ 96A-16. Paid Family and Medical Leave Fund.**

17 (a) The Paid Family and Medical Leave Fund is established as a special revenue fund
18 within the Department of Commerce. The Fund shall consist of:

19 (1) All contributions collected under this Chapter.

20 (2) Any interest earned on the investment or deposit of monies in the Fund.

21 (3) Any gifts or grants accepted by the Department of Commerce for deposit to
22 the Fund.

23 (4) Any other funds that may be appropriated by the General Assembly or
24 directed to be credited to the Fund by the Division.

25 (b) Monies in the Fund shall be used to pay family and medical leave insurance benefits
26 under this Chapter and for the administration of this Chapter.

27 (c) The Division may invest monies in the Fund in the same manner as provided under
28 G.S. 147-69.2.

29 (d) Monies in the Fund shall not revert to the General Fund.

30 **"§ 96A-17. Violations.**

31 (a) An employer who willfully violates any provision of this Chapter may be assessed a
32 civil penalty of not more than one thousand dollars (\$1,000) for each violation.

33 (b) An employer who fails to remit contributions to the Paid Family and Medical Leave
34 Fund as required by this Chapter may be assessed a civil penalty of not more than one thousand
35 dollars (\$1,000) for each violation.

36 (c) An employer who fails to submit reports required by this Chapter may be assessed a
37 civil penalty of not more than one hundred dollars (\$100.00) for each violation.

38 (d) An employer who intentionally provides false information to the Division under this
39 Chapter may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each
40 violation.

41 (e) Any person who willfully violates this Chapter may be assessed a civil penalty of not
42 more than five hundred dollars (\$500.00) for each violation.

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1 (f) Any person who fails to remit contributions to the Paid Family and Medical Leave
2 Fund as required by this Chapter may be assessed a civil penalty of not more than one thousand
3 dollars (\$1,000) for each violation.

4 (g) Any person who fails to submit reports required by this Chapter may be assessed a
5 civil penalty of not more than one hundred dollars (\$100.00) for each violation.

6 (h) Any person who intentionally provides false information to the Division under this
7 Chapter may be assessed a civil penalty of not more than five hundred dollars (\$500.00) for each
8 violation.

9 (i) Any penalty imposed under this section shall be in addition to any other penalties that
10 may be imposed by any other provision of law.

11 (j) Penalties assessed under this section shall be paid into the Paid Family and Medical
12 Leave Fund.

13 (k) Penalties assessed under this section shall be recoverable in an action brought by the
14 Division in any court of competent jurisdiction.

15 (l) The Division may compromise, settle, or release any penalty imposed under this
16 section.

17 (m) The Division shall adopt rules to implement and administer the provisions of this
18 section.

19 **"§ 96A-18. Relationship to federal law.**

20 (a) Family and medical leave benefits provided under this Chapter are not a replacement
21 for any leave required by the Family and Medical Leave Act, 29 U.S.C. §§ 2601, et seq.

22 (b) Family and medical leave benefits provided under this Chapter shall run concurrently
23 with any leave taken under the Family and Medical Leave Act, 29 U.S.C. §§ 2601, et seq.

24 (c) Family and medical leave benefits provided under this Chapter shall not affect the
25 determination of leave available to a covered individual under the Family and Medical Leave
26 Act, 29 U.S.C. §§ 2601, et seq.

27 (d) Family and medical leave benefits provided under this Chapter shall not affect the
28 determination of leave available to a covered individual under any other state or federal law.

29 (e) Nothing in this Chapter shall be construed to preempt, limit, or otherwise affect the
30 applicability of any provision of federal law relating to family and medical leave, leave provided
31 under State law, or any employer plan or program.

32 **"§ 96A-19. Severability.**

33 If any provision of this Chapter or its application to any person or circumstances is held
34 invalid, the invalidity does not affect other provisions or applications of this Chapter that can be
35 given effect without the invalid provision or application and, to this end, the provisions of this
36 Chapter are severable.""; and

37
38 By adjusting the appropriate totals accordingly.

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____