

1 Whereas, laws that tend in application to negatively affect a protected class of
2 people need to be subjected to strict scrutiny and narrowly tailored so their effect is justifiable
3 and proportionate in light of practicality and common sense and in recognition of the common
4 human experience; and

5 Whereas, practical inequities would be rectified, family values and families
6 reinforced, and justice would be served, by relieving from a protected class of persons –
7 women – on whom the burden of childbearing, childrearing, and caregiving fall
8 disproportionately, of the Draconian effects of this North Carolina Board of Law Examiners'
9 rule; and

10 Whereas, protections to working women have been found necessary and are
11 reflected in national legislation such as the Family and Medical Leave Act and the Pregnancy
12 Discrimination Act, wherein women's rights to move in and out of the workforce due to
13 childrearing and caregiving have risen to the level of civil rights; and

14 Whereas, the quality of attorneys bears little provable relationship to the time they
15 may spend in childrearing or caregiving and there is no evidence of the public being injured by
16 women who took a hiatus from the full-time practice of law to bear and raise children or give
17 care to ill family members; and

18 Whereas, it is an undue hardship to force otherwise qualified applicants for comity
19 to undertake the expense, time, and effort of retaking the bar examination and any study
20 courses necessary for preparation, many of whom have been members of comity-state bars for
21 decades; and

22 Whereas, the proposed legislation will ensure comity applicants have equal
23 experience as under the current rules, as the prior law allowed a hiatus one-third of the most
24 recent six years, and the proposed legislation does as well but also allows consideration of the
25 sum of the applicant's full-time practice of law, eliminating the requirement of only counting
26 the most recent six years' of experience to the neglect of what may be decades of prior legal
27 experience, which will produce a more equitable and logical result; Now, therefore,

28 The General Assembly of North Carolina enacts:

29 **SECTION 1.** Article 4 of Chapter 84 of the General Statutes is amended by adding
30 the following new section to read:

31 **"§ 84-24.1. Comity applicants.**

32 (a) If all other qualifications for eligibility for comity have been met by an applicant
33 pursuant to rules adopted by the Board of Law Examiners, the Board of Law Examiners shall
34 examine any short-term hiatus from an applicant's full-time practice of law that is attributable
35 to the applicant's verifiable caregiving responsibilities by measuring and weighing the totality
36 of circumstances and the qualifications of the applicant.

37 (b) If any applicant due to caregiving has experienced a period of not engaging in the
38 full-time practice of law, that period shall be deemed a short-term hiatus and deemed excusable
39 if the applicant has otherwise been in the active full-time practice of law for an additional
40 minimum of double the period of non-full-time work, as follows: a hiatus of eight years is
41 excusable if the applicant otherwise practiced law full-time for 16 years; a hiatus of seven years
42 is excusable if the applicant otherwise practiced law full-time for 14 years; a hiatus of six years
43 is excusable if the applicant otherwise practiced law full-time for 12 years; or five years if the
44 applicant otherwise practiced law full-time for 10 years; or four years if the applicant otherwise
45 practiced law full-time for eight years; or three years if the applicant otherwise practiced law
46 full-time for six years. Therefore, if an applicant has otherwise practiced law full-time for a
47 minimum of six years, a caregiving or childrearing hiatus of up to one-third that time is
48 excusable and shall not be a bar to comity.

49 (c) If all other qualifications for eligibility for comity have been met by an applicant
50 with at least a minimum of six years continuous active practice experience, the Board of Law
51 Examiners, after carefully measuring and weighing the totality of circumstances and the

1 qualifications of the applicant, shall allow any short-term hiatus from an applicant's full-time
2 practice of law that is attributable to the applicant's verifiable caregiving responsibilities to be
3 remedied by:

4 (1) Requiring the applicant to complete continuing legal education, the number
5 of continuing legal education hours to be set by the Board of Law Examiners
6 after taking into account the totality of circumstances and the qualifications
7 of the applicant; or

8 (2) Requiring a period of 24 months of part-time practice or 12 months of
9 full-time practice under the direct supervision of a licensed member of the
10 North Carolina bar in good standing.

11 (d) For purposes of determining comity under this section, the phrase 'full-time work'
12 shall be defined as a minimum of 30 hours a week."

13 **SECTION 2.** This act is effective when it becomes law.