

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 754

Short Title: Caregiver Relief Act. (Public)

Sponsors: Senator McKissick.

Referred to: Rules and Operations of the Senate.

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE LABOR LAWS TO PROVIDE RELIEF FOR CAREGIVERS IN
3 THIS STATE.

4 Whereas, there are over 1,000,000 caregivers providing care to older and disabled
5 adults in North Carolina; and

6 Whereas, North Carolina ranks 6th in the nation in the number of grandparents with
7 responsibilities for grandchildren under 18 years of age. Of those, 61,000 grandparents with
8 caregiving responsibilities for grandchildren are working; and

9 Whereas, North Carolina's workforce is graying, with 40% of the workforce aged 45
10 and older with approximately 10% aged 60 and older, and those older workers have to tend to
11 their own health needs as well as those of the persons that they are caring for; and

12 Whereas, numerous studies have shown that employees suffer severe financial
13 hardship in order to be responsible family members and provide minor children and aging
14 parents with the care they need; and

15 Whereas, North Carolinians who provide direct care for their family members
16 prevent the worsening of illnesses and promote strong recovery; and

17 Whereas, employees with caregiving responsibilities experience poorer health as a
18 result of the strain of balancing work and family duties, including significantly higher incidents
19 of depression, diabetes, hypertension, or pulmonary disease regardless of age, gender, and work
20 type; and

21 Whereas, it has been found that employees with care responsibilities add additional
22 health care costs to employers due to their own poor health; and

23 Whereas, it has been found that caregiving supports in the workplace can save
24 businesses significant money associated with reduced incidences of absenteeism, crisis in care,
25 workday interruptions, supervisory time, and reduced hours; and

26 Whereas, in this economy, families are relying on broader caregiving arrangements
27 that rely on grandparents, stepparents, in-laws, and siblings; and

28 Whereas, the federal Family and Medical Leave Act is a critical caregiving support
29 but only accessible to eligible employees caring for immediate family members and not
30 grandparents, grandchildren, siblings, or stepparents; Now, therefore,
31 The General Assembly of North Carolina enacts:

32 **SECTION 1.** Chapter 95 of the General Statutes is amended by adding a new
33 Article to read:

34 "Article 24.

35 "Caregiver Relief Act.

36 "§ 95-274. Short title; purpose.



1 (a) This Article shall be known and may be cited as the "Caregiver Relief Act."

2 (b) The purpose of this Article is to provide for supports in the workplace under State
3 law for caregivers who provide direct care to certain family members in need of care in those
4 instances where such leave would not be afforded to the caregivers under federal law.

5 **"§ 95-275. Definitions.**

6 The following definitions apply to this Article:

7 (1) Department. – The Department of Labor.

8 (2) Eligible employee. – As defined in the FMLA at 29 U.S.C. § 2611(2), as
9 amended.

10 (3) FMLA. – The federal Family and Medical Leave Act of 1993, 29 U.S.C.
11 section 2601, et seq., as amended.

12 (4) Grandchild. – The child of a biological, adopted, or foster child, stepchild,
13 legal ward, or a child of a person standing in loco parentis to the employee.

14 (5) Grandparent. – The parent of a parent as defined by 29 U.S.C. section
15 2611(7), as amended.

16 **"§ 95-276. Eligibility.**

17 (a) General Rule. – An employer required to comply with the FMLA shall provide the
18 same leave to an eligible employee to care for a sibling, grandparent, grandchild, stepparent, or
19 parent-in-law that the eligible employee is entitled to under the FMLA at 29 U.S.C. §§ 2614
20 and 2615, as amended, with respect to a spouse, son, daughter or parent of the eligible
21 employee for the eligible employee's sibling, grandparent, grandchild, step-child, stepparent or
22 parent-in-law.

23 (b) Protections. – An eligible employee who takes leave provided under subsection (a)
24 of this section is entitled to the same protections and rights that an eligible employee is entitled
25 to under the FMLA at 29 U.S.C. §§ 2614 and 2615, as amended, including protection from
26 discrimination and interference, the right to reinstatement, and the right to continuation of
27 health care benefits.

28 (c) Amount of Leave. – The leave granted under this Article shall be taken in the same
29 manner and under the same conditions and the same restrictions on use of leave apply.

30 **"§ 95-277. Enforcement; applicability.**

31 (a) Enforceability. – Any right or obligation created by this Article is enforceable by a
32 civil action in addition to any other remedies at law or in equity.

33 (b) Applicability. – This Article applies to all employers in this State who are subject to
34 the FMLA."

35 **SECTION 2.** G.S. 95-241(a) reads as rewritten:

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

38 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
39 proceeding or other action, or testify or provide information to any person
40 with respect to any of the following:

41 a. Chapter 97 of the General Statutes.

42 b. Article 2A or Article 16 of this Chapter.

43 c. Article 2A of Chapter 74 of the General Statutes.

44 d. G.S. 95-28.1.

45 e. Article 16 of Chapter 127A of the General Statutes.

46 f. G.S. 95-28.1A.

47 g. Article 52 of Chapter 143 of the General Statutes.

48 h. Article 5F of Chapter 90 of the General Statutes.

49 i. Article 24 of this Chapter.

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

- 1 (3) Exercise any right on behalf of the employee or any other employee afforded
2 by Article 2A or Article 16 of this Chapter, by Article 2A of Chapter 74 of
3 the General Statutes, or by Article 52 of Chapter 143 of the General Statutes.
4 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
5 Statutes.
6 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
7 shall be in accordance with the provisions of G.S. 50B-5.5."

8 **SECTION 3.** This act becomes effective January 1, 2012, and applies to covered
9 employers and eligible employees on or after that date.