

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 875
May 4, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40542-LR-37

Short Title: Enact KinCare and Safe Days. (Public)

Sponsors: Representative Clemmons.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE WAGE AND HOUR ACT TO ALLOW EMPLOYEES TO USE
3 SICK LEAVE FOR THE CARE OF FAMILY MEMBERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. This act shall be known and may be cited as the "KinCare Act."

6 SECTION 2. Article 2A of Chapter 95 of the General Statutes is amended by adding
7 a new section to read:

8 "**§ 95-25.12A. Sick leave plans.**

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

10 (1) Child. – A biological, foster, or adopted child; a stepchild; a legal ward; a child
11 of a domestic partner; or a child of a person standing in loco parentis.

12 (2) Employer. – Any person employing another under any appointment or
13 contract of hire. The term includes the State and any political subdivision of
14 the State.

15 (3) Family member. – A child, grandchild, sibling, spouse, domestic partner, civil
16 union partner, parent, or grandparent of an employee; or a spouse, domestic
17 partner, or civil union partner of a parent or grandparent of the employee; or
18 a sibling of a spouse, domestic partner, or civil union partner of the employee;
19 or any other individual related by blood to the employee or whose close
20 association with the employee is the equivalent of a family relationship.

21 (4) Parent. – A biological, foster, or adoptive parent; a stepparent; or a legal
22 guardian.

23 (5) Sick leave. – Accrued increments of compensated or uncompensated job
24 protected leave provided by an employer to an employee as a benefit of the
25 employment for use by the employee during an absence from the employment
26 for any of the following reasons:

27 a. The employee is physically or mentally unable to perform his or her
28 duties due to illness, injury, or a medical condition of the employee.

29 b. The absence is for the purpose of obtaining preventive health care or
30 professional diagnosis or treatment for a medical condition of the
31 employee.

32 c. The absence is for other medical reasons of the employee, such as
33 pregnancy or obtaining a physical examination.

34 d. The absence is necessary due to circumstances resulting from the
35 employee, or a family member of the employee, being a victim of
36 stalking or domestic or sexual violence, if the leave is to allow the



1 employee to obtain for the employee or the family member medical
2 attention needed to recover from physical or psychological injury or
3 disability caused by stalking or domestic or sexual violence, services
4 from a designated domestic violence agency or other victim services
5 organization, psychological or other counseling, relocation, or legal
6 services, including obtaining a restraining order or preparing for, or
7 participating in, any civil or criminal legal proceeding related to the
8 stalking or domestic or sexual violence.

9 (b) Any employer who provides compensated or uncompensated job protected sick leave
10 for employees shall permit an employee to use, in any calendar year, the employee's accrued and
11 available sick leave entitlement to attend to the care of a family member for no more than five
12 consecutive days. All conditions and restrictions placed by the employer upon the use by an
13 employee of sick leave also shall apply to the use by an employee of sick leave to attend to the
14 care of a family member.

15 (c) This section does not extend the maximum period of leave to which an employee is
16 entitled under the federal Family and Medical Leave Act of 1993 (29 U.S.C. § 2606, et seq.),
17 regardless of whether the employee receives sick leave compensation during that leave.

18 (d) This section does not apply to any of the following:

19 (1) Any benefit provided under an employee welfare benefit plan subject to the
20 federal Employee Retirement Income Security Act of 1974 (Public Law
21 93-406, as amended).

22 (2) Any insurance benefit, workers' compensation benefit, unemployment
23 compensation disability benefit, or other benefit not payable from the
24 employer's general assets.

25 (e) The rights and remedies specified in this section are cumulative and nonexclusive and
26 are in addition to any other rights or remedies afforded by contract or under other provisions of
27 law."

28 **SECTION 3.** G.S. 95-241(a)(1) reads as rewritten:

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

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

- 34 a. Chapter 97 of the General Statutes.
- 35 b. Article 2A or Article 16 of this Chapter.
- 36 c. Article 2A of Chapter 74 of the General Statutes.
- 37 d. G.S. 95-28.1.
- 38 e. Article 16 of Chapter 127A of the General Statutes.
- 39 f. G.S. 95-28.1A.
- 40 g. Article 52 of Chapter 143 of the General Statutes.
- 41 h. Article 5F of Chapter 90 of the General Statutes.
- 42 i. G.S. 95-25.12A."

43 **SECTION 4.** This act becomes effective October 1, 2021.