

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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SENATE BILL 535*

Short Title: Caregiver Relief Act. (Public)

Sponsors: Senators Kinnaird, Parmon, and Bryant (Primary Sponsors).

Referred to: Rules and Operations of the Senate.

April 1, 2013

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

Whereas, there are 1.2 million caregivers in North Carolina providing care to older and disabled adults; and

Whereas, North Carolina ranks 6th in the nation in the number of children under 18 living in households where a grandparent provides that child's primary care. The number of children cared for by their grandparents has increased over the last five years, from 86,000 in 2007 to 113,000 in 2011; and

Whereas, of the almost 100,000 grandparents responsible for their own grandchildren, 61,000 grandparents with caregiving responsibilities for grandchildren are working; and

Whereas, by 2030, North Carolina's population of aged 65 and older is expected to grow by 80%; and

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

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

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

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

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

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

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

Whereas, the federal Family and Medical Leave Act is a critical caregiving support but only accessible to eligible employees caring for immediate family members and not grandparents, grandchildren, siblings, or stepparents; Now, therefore,



1 The General Assembly of North Carolina enacts:

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

4 "Article 24.

5 "Caregiver Relief Act.

6 **"§ 95-274. Short title; purpose.**

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

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

11 **"§ 95-275. Definitions.**

12 The following definitions apply to this Article:

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

14 (2) Eligible employee. – As defined in the FMLA at 29 U.S.C. section 2611(2),
15 as amended.

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

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

20 (5) Grandparent. – The parent of a parent as defined by 29 U.S.C. section
21 2611(7), as amended.

22 **"§ 95-276. Eligibility.**

23 (a) General Rule. – An employer required to comply with the FMLA shall provide the
24 same leave to an eligible employee to care for a sibling, grandparent, grandchild, stepparent, or
25 parent-in-law that the eligible employee is entitled to under the FMLA at 29 U.S.C. sections
26 2614 and 2615, as amended, with respect to a spouse, son, daughter, or parent of the eligible
27 employee for the eligible employee's sibling, grandparent, grandchild, stepchild, stepparent, or
28 parent-in-law.

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

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

36 **"§ 95-277. Enforcement; applicability.**

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

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

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

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

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

47 a. Chapter 97 of the General Statutes.

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

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

50 d. G.S. 95-28.1.

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

- 1 f. G.S. 95-28.1A.
- 2 g. Article 52 of Chapter 143 of the General Statutes.
- 3 h. Article 5F of Chapter 90 of the General Statutes.
- 4 i. Article 24 of this Chapter.
- 5 (2) Cause any of the activities listed in subdivision (1) of this subsection to be
- 6 initiated on an employee's behalf.
- 7 (3) Exercise any right on behalf of the employee or any other employee afforded
- 8 by Article 2A or Article 16 of this Chapter, by Article 2A of Chapter 74 of
- 9 the General Statutes, or by Article 52 of Chapter 143 of the General Statutes.
- 10 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
- 11 Statutes.
- 12 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
- 13 shall be in accordance with the provisions of G.S. 50B-5.5."
- 14 **SECTION 3.** This act becomes effective July 1, 2013, and applies to covered
- 15 employers and eligible employees on or after that date.