

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1582\*

Short Title: State Employee FMLA.

(Public)

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Sponsors: Representatives Gibson; Cox, Dedmon, Edwards, Ford, Goodwin, Hackney, Horn, McLawhorn, Melton, Pope, Thomas, Tucker, Wainwright, and Warwick.

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Referred to: State Personnel.

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May 18, 2000

A BILL TO BE ENTITLED

AN ACT CLARIFYING STATE EMPLOYEES' ELIGIBILITY FOR FAMILY AND MEDICAL LEAVE BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 126 of the General Statutes is amended by adding a new section to read:

**"§ 126-8.4. Family and medical leave.**

(a) Each eligible State employee, subject to the provisions of this Chapter, shall be entitled to a total of 12 workweeks of leave during any 12-month period for the following reasons:

- (1) For the employee to care for the employee's child after the child's birth, if the leave is taken within 12 months after the birth;
- (2) For the employee to care for a child placed with the employee for adoption, if the leave is taken within 12 months of the date of placement;
- (3) For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
- (4) Because the employee has a serious health condition that makes the employee unable to perform the functions of the employee's position.

1 In order to be eligible for this benefit, an employee must have been employed by the  
2 State for at least 12 months, and employed by the State for at least 1,250 hours of service  
3 during the previous 12-month period.

4 (b) No head of any State department, agency or institution, or other State  
5 employee exercising supervisory authority shall discharge, demote, transfer, or otherwise  
6 discriminate against any employee for the exercise of, or the attempt to exercise, any  
7 right provided by this section.

8 (c) The State Personnel Commission shall adopt rules to implement the provisions of  
9 this section."

10 Section 2. G.S. 126-34.1(a) reads as rewritten:

11 "(a) A State employee or former State employee may file in the Office of  
12 Administrative Hearings a contested case under Article 3 of Chapter 150B of the General  
13 Statutes only as to the following personnel actions or issues:

14 (1) Dismissal, demotion, or suspension without pay based upon an alleged  
15 violation of G.S. 126-35, if the employee is a career State employee.

16 (2) An alleged unlawful State employment practice constituting  
17 discrimination, as proscribed by G.S. 126-36, including:

18 a. Denial of promotion, transfer, or training, on account of the  
19 employee's age, sex, race, color, national origin, religion, creed,  
20 political affiliation, or handicapping condition as defined by  
21 Chapter 168A of the General Statutes.

22 b. Demotion, reduction in force, or termination of an employee in  
23 retaliation for the employee's opposition to alleged  
24 discrimination on account of the employee's age, sex, race, color,  
25 national origin, religion, creed, political affiliation, or  
26 handicapping condition as defined by Chapter 168A of the  
27 General Statutes.

28 (3) Retaliation against an employee, as proscribed by G.S. 126-17, for  
29 protesting an alleged violation of G.S. 126-16.

30 (4) Denial of the veteran's preference granted in accordance with Article 13  
31 of this Chapter in initial State employment or in connection with a  
32 reduction in force, for an eligible veteran as defined by G.S. 126-81.

33 (5) Denial of promotion for failure to post or failure to give priority  
34 consideration for promotion or reemployment, to a career State  
35 employee as required by G.S. 126-7.1 and G.S. 126-36.2.

36 (6) Denial of an employee's request for removal of allegedly inaccurate or  
37 misleading information from the employee's personnel file as provided  
38 by G.S. 126-25.

39 (7) Any retaliatory personnel action that violates G.S. 126-85.

40 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial  
41 determination found probable cause to believe there has been a violation  
42 of G.S. 126-14.2.

- 1           (9) Denial of employment in violation of G.S. 126-14.2, where an initial  
2           determination found probable cause to believe that there has been a  
3           violation of G.S. 126-14.2.
- 4           (10) Harassment in the workplace based upon age, sex, race, color, national  
5           origin, religion, creed, or handicapping condition, whether the  
6           harassment is based upon the creation of a hostile work environment or  
7           upon a quid pro quo.
- 8           (11) Denial of an eligible employee's request for family and medical leave,  
9           or retaliation against an employee for exercising rights provided by G.S.  
10          126-8.4.”

11           Section 3. Nothing in this act shall be construed as diminishing the rights of, or  
12 remedies available to any State employee under statute, rules or at common law.

13           Section 4. This act is effective when it becomes law.