

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

FILED SENATE
Mar 25, 2025
S.B. 480
PRINCIPAL CLERK

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SENATE BILL DRS45248-LR-113D

Short Title: NC Paid Family Leave Insurance Act. (Public)

Sponsors: Senators Batch, Meyer, and Chitlik (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA PAID FAMILY LEAVE INSURANCE ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Effective January 1, 2026, the General Statutes are amended by adding
5 a new Chapter to read:

6 **"Chapter 96A.**

7 **"Paid Family Leave Insurance Act.**

8 **"§ 96A-1. Short title; definitions.**

9 (a) This Chapter shall be known and may be cited as the "North Carolina Paid Family
10 Leave Insurance Act."

11 (b) The following definitions apply in this Chapter:

12 (1) Application year. – The 12-month period beginning on the first day of the
13 calendar week in which an individual files an application for family and
14 medical leave insurance benefits.

15 (2) Assistant Secretary. – The Assistant Secretary of the Division of Employment
16 Security.

17 (3) Covered individual. – Any person who does all of the following:

18 a. Meets the monetary eligibility criteria set forth in G.S. 96-14.1(b) or
19 is self-employed, elects coverage, and meets the requirements of
20 G.S. 96A-13.

21 b. Meets the administrative requirements outlined in this Chapter and in
22 the rules adopted under this Chapter.

23 c. Submits an application.

24 (4) Covered service member. – Either:

25 a. A member of the Armed Forces, including a member of the National
26 Guard or Reserves, who is (i) undergoing medical treatment,
27 recuperation, or therapy, (ii) otherwise in outpatient status, or (iii) is
28 otherwise on the temporary disability retired list for a serious injury or
29 illness that was incurred by the member in the line of duty on active
30 duty in the Armed Forces or a serious injury or illness that existed
31 before the beginning of the member's active duty and was aggravated
32 by service in the line of duty on active duty in the Armed Forces; or

33 b. A former member of the Armed Forces, including a former member of
34 the National Guard or Reserves, who is undergoing medical treatment,
35 recuperation, or therapy for a serious injury or illness that was incurred
36 by the member in the line of duty on active duty in the Armed Forces



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- or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and manifested before or after the member was discharged or released from service.
- (5) Division. – The Division of Employment Security of the Department of Commerce.
- (6) Employee. – Any individual employed by an employer.
- (7) Employer. – Any person acting directly or indirectly in the interest of an employer in relation to an employee. As used in this subdivision, "person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons. For the purposes of this Chapter, it also means the State of North Carolina, any city, town, county, municipality, or any State or local agency or instrumentality of government. The term does not include the government of the United States and any agency of the United States (including the United States Postal Service and Postal Rate Commission).
- (8) Family and medical leave insurance benefits. – The benefits provided under the terms of this Chapter.
- (9) Family member. – Any of the following:
- a. Regardless of age, a biological, adopted, or foster child, stepchild, or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or a person to whom the employee stood in loco parentis when the person was a minor.
 - b. A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or the employee's spouse or domestic partner was a minor.
 - c. A person to whom the employee is legally married under the laws of any state or a domestic partner of an employee as registered under the laws of any state or political subdivision.
 - d. A grandparent, grandchild, or sibling (whether a biological, foster, adoptive, or step relationship) of the employee or the employee's spouse or domestic partner.
 - e. Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.
- (10) Health care provider. – Any person licensed under federal or North Carolina law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel, or certified midwives.
- (11) Next of kin. – As defined in section 101(17) of the Family and Medical Leave Act, 29 U.S.C. § 2611(17).
- (12) Qualifying exigency leave. – Leave based on a need arising out of a covered individual's family member's active duty service or notice of an impending call or order to active duty in the Armed Forces, including, but not limited to, providing for the care or other needs of the military member's child or other family member, making financial or legal arrangements for the military member, attending counseling, attending military events or ceremonies, spending time with the military member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.
- (13) Retaliatory personnel action. – Denial of any right guaranteed under this Chapter, including, but not limited to, any threat, discharge, suspension,

demotion, reduction of hours, any other adverse action against an employee for the exercise of any right guaranteed herein, or reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of a family member of the employee to a federal, State, or local agency. Retaliatory personnel actions shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under this Chapter.

(14) Serious health condition. – An illness, injury, impairment, pregnancy, recovery from childbirth, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.

(15) State average weekly wage. – The average weekly insured wage as defined in G.S. 96-1(b)(2).

"§ 96A-2. Eligibility for benefits.

Beginning January 1, 2027, family and medical leave insurance benefits are payable to an individual who:

(1) Meets the definition of "covered individual" as defined by G.S. 96A-1(b)(3); and

(2) Meets one of the following requirements:

a. Because of birth, adoption, or placement through foster care, is caring for a new child within 12 months of the anticipated birth, adoption, or placement of that child, or has a need to be absent from work before an actual placement of a child in order for an adoption or foster care to proceed.

b. Is caring for a family member with a serious health condition.

c. Has a serious health condition.

d. Is caring for a covered service member who is the covered individual's next of kin or other family member.

e. Because of any "qualifying exigency leave" arising out of the fact that the family member of the covered individual is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces.

"§ 96A-3. Duration of benefits.

(a) The maximum number of weeks during which family and medical leave insurance benefits are payable under G.S. 96A-2(2)c. in an application year is 18 weeks.

(b) The maximum number of weeks during which family and medical leave insurance benefits are payable under G.S. 96A-2(2)a., (2)b., or (2)e. in an application year is 12 weeks.

(c) The maximum number of weeks during which family and medical leave insurance benefits are payable under G.S. 96A-2(2)d. in an application year is 26 weeks.

(d) The first payment of benefits must be made to an individual within two weeks after the claim is filed, and subsequent payments must be made every two weeks thereafter.

"§ 96A-4. Amount of benefits.

(a) The amount of family and medical leave insurance benefits shall be determined as follows:

(1) The weekly benefit shall be determined as follows: (i) the portion of the covered individual's average weekly wage that is equal to or less than one hundred percent (100%) of the State average weekly wage shall be replaced at a rate of ninety percent (90%) and (ii) the portion of an employee's or self-employed individual's average weekly wage that is more than one

- hundred percent (100%) of the State average weekly wage shall be replaced at a rate of fifty percent (50%).
- (2) The maximum benefit shall be one hundred percent (100%) of the statewide average weekly wage.
- (3) The minimum weekly benefit shall not be less than one hundred dollars (\$100.00) per week except that if the covered individual's average weekly wage is less than one hundred dollars (\$100.00) per week, the weekly benefit shall be the employee's full wage.
- (4) For purposes of this section, a covered individual's average weekly wage shall be the average weekly wage during the 12 months preceding submission of the application (or the average weekly wage during the time the covered individual worked, if it was less than 12 months).
- (b) A covered individual with multiple jobs may elect whether to take leave from one job or multiple jobs.
- (c) Family and medical leave insurance benefits pursuant to G.S. 96A-2(2)c. shall be reduced by the amount of benefits that a covered individual received under G.S. 96-6. During any period of leave pursuant to G.S. 96A-2(2)c., family and medical leave insurance benefits shall be reduced by the amount of benefits or wage replacement that a covered individual receives under the Workers' Compensation Law of this State, other than for partial disability under the State Workers' Compensation Law, or under other State or federal temporary or permanent disability benefits law. The Assistant Secretary shall adopt regulations to establish additional requirements concerning the coordination of family and medical leave insurance benefits with workers' compensation benefits for partial disability under the Workers' Compensation Law of this State.
- "§ 96A-5. Contributions.**
- (a) Payroll contributions shall be authorized in order to finance the payment of benefits under the family and medical leave insurance program.
- (b) Beginning on January 1, 2026, for each employee, an employer shall remit to the Paid Family and Medical Leave Fund (Fund), established under G.S. 96A-16, contributions in the form and manner determined by the Division. Annually, not later than October 1, the Assistant Secretary shall fix the contribution rate for the coming calendar year in the manner described in this subsection. For calendar years 2026 and 2027, the Assistant Secretary shall do so based on sound actuarial principles. For calendar year 2028 and thereafter, the Assistant Secretary shall first certify and publish the following information:
- (1) The total amount of family and medical leave insurance benefits paid by the Division during the previous fiscal year;
- (2) The total amount remaining in the Fund at the close of the fiscal year;
- (3) The total amount equal to one hundred forty percent (140%) of the previous fiscal year's expenditure for family and medical leave insurance benefits paid and for the administration of the family and medical leave insurance program;
- (4) The amount by which the total amount remaining in the Fund at the close of the previous fiscal year is less than or greater than one hundred forty percent (140%) of the previous fiscal year's expenditure for family and medical leave insurance benefits paid and for the administration of the family and medical leave insurance program; and
- (5) The amount by which the contribution rate shall be adjusted to ensure that the Fund shall maintain or achieve an annualized amount of not less than one hundred forty percent (140%) of the previous fiscal year's expenditure for family and medical leave insurance benefits paid and for the administration of the family and medical leave insurance program. The contribution rate adjustment, if any, made as the result of the Assistant Secretary's certification

and report under this subsection shall supersede the rate previously set forth and shall become effective on January 1 of the following calendar year.

(c) A self-employed individual who is electing coverage under G.S. 96A-13 shall be responsible for the employee's share of contributions set forth in subsection (b) of this section on that individual's income from self-employment.

(d) An employer shall not deduct more than fifty percent (50%) of the contribution required for an employee by subsection (b) of this section from that employee's wages and shall remit the full contribution required under said subsection to the Fund.

"§ 96A-6. Reduced leave schedule.

(a) A covered individual shall be entitled, at the option of the covered individual, to take paid family and medical leave on an intermittent or reduced leave schedule in which all of the leave authorized under this Chapter is not taken sequentially. Family and medical leave insurance benefits for intermittent or reduced leave schedules shall be prorated.

(b) The covered individual shall make a reasonable effort to schedule paid family and medical leave under this section so as not to unduly disrupt the operations of the employer. The covered individual shall provide the employer with prior notice of the schedule on which the covered individual will take the leave, to the extent practicable. Paid family and medical leave taken under this section shall not result in a reduction of the total amount of leave to which an employee is entitled beyond the amount of leave actually taken.

(c) Nothing in this section shall be construed to entitle a covered individual to more leave than required under G.S. 96A-3.

"§ 96A-7. Leave and employment protection.

(a) Any covered individual who exercises his or her right to family and medical leave insurance benefits shall, upon the expiration of that leave, be entitled to be restored by the employer to the position held by the covered individual when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment, including fringe benefits and service credits that the covered individual had been entitled to at the commencement of leave.

(b) During any leave taken pursuant to G.S. 96A-2, the employer shall maintain any health care benefits the covered individual had prior to taking such leave for the duration of the leave as if the covered individual had continued in employment continuously from the date he or she commenced the leave until the date the family and medical leave insurance benefits terminate; provided, however, that the covered individual shall continue to pay the covered individual's share of the cost of health benefits as required prior to the commencement of the leave.

(c) Any employer who violates this section or G.S. 96A-8 shall be liable to any eligible employee affected as follows:

- (1) For damages equal to the amount of (i) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation, (ii) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee, (iii) the interest on the amount described in clause (i) of this subdivision calculated at the prevailing rate, and (iv) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) of this subdivision and the interest described in clause (ii) of this subdivision, except that if an employer who has violated this section or G.S. 96A-8 proves to the satisfaction of the court that the act or omission which violated the section was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation,

the court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii) of this subdivision, respectively.

(2) For such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(d) An action to recover the damages or equitable relief prescribed in subsection (c) of this section may be maintained against any employer (including a public agency) in any federal or State court of competent jurisdiction by any one or more employees for and on behalf of the employees or the employees and other employees similarly situated.

(e) The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(f) Except as provided by subsection (g) of this section, an action may be brought under this section not later than two years after the date of the last event constituting the alleged violation for which the action is brought.

(g) In the case of an action brought for a willful violation of this section or G.S. 96A-8, the action may be brought within three years of the date of the last event constituting the alleged violation for which such action is brought.

"§ 96A-8. Retaliatory personnel actions prohibited.

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, deny the exercise of, or the attempt to exercise any right protected under this Chapter.

(b) An employer, temporary help company, employment agency, employee organization, or other person shall not take retaliatory personnel action or otherwise discriminate against a person because he or she exercised rights protected under this Chapter. Such rights include, but are not limited to, the right to request, file for, apply for, or use benefits provided for under this Chapter; to take leave from work under this Chapter; communicate to the employer or any other person or entity an intent to file a claim, a complaint with the Division or courts, or an appeal; or has testified or is about to testify or has assisted in any investigation, hearing, or proceeding under this Chapter, at any time, including during the period in which the person receives family and medical leave insurance benefits under this Chapter; inform any person about any employer's alleged violation of this Chapter; and the right to inform any person of his or her rights under this Chapter.

(c) It shall be unlawful for an employer's absence control policy to count paid family and medical leave taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

(d) Protections of this section shall apply to any person who mistakenly, but in good faith, alleges violations of this Chapter.

(e) This section shall be enforced as provided in subsections (c) through (g) of G.S. 96A-7.

"§ 96A-9. Coordination of benefits.

(a) Leave taken with wage replacement under this Chapter that also qualifies as leave under the Family and Medical Leave Act shall run concurrently with leave taken under the Family and Medical Leave Act.

(b) An employer may require that payment made pursuant to this Chapter be made concurrently or otherwise coordinated with payment made or leave allowed under the terms of disability or family care leave under a collective bargaining agreement or employer policy. The employer must give employees written notice of this requirement.

(c) This Chapter does not diminish an employer's obligation to comply with any of the following that provide more generous leave:

(1) A collective bargaining agreement;

(2) An employer policy; or

1 (3) Any law.

2 (d) An individual's right to leave under this Chapter may not be diminished by a collective
3 bargaining agreement entered into or renewed, or an employer policy adopted or retained, after
4 the effective date of this Chapter. Any agreement by an individual to waive his or her rights under
5 this Chapter is void as against public policy.

6 (e) Notwithstanding this subsection, under no circumstances shall an employee be
7 required to use or exhaust any accrued vacation leave, sick leave, or other paid time off prior to
8 or while receiving family and medical leave insurance under this Chapter. However, an
9 individual may choose to use any accrued vacation leave, sick leave, or other paid time off while
10 receiving family or medical leave insurance benefits under this Chapter, unless the aggregate
11 amount a covered individual would receive would exceed the covered individual's average
12 weekly earnings. Nothing in this subsection requires an employee to receive or use additional
13 paid time off as described in this section.

14 **"§ 96A-10. Notice.**

15 (a) Each employer shall provide written notice to each employee upon hiring and
16 annually thereafter. An employer shall also provide written notice to an employee when the
17 employee requests leave under this Chapter or when the employer acquires knowledge that an
18 employee's leave may be for a qualifying reason under G.S. 96A-2. Such notice shall include (i)
19 the employee's right to family and medical leave insurance benefits under this Chapter and the
20 terms under which it may be used, (ii) the amount of family and medical leave insurance benefits,
21 (iii) the procedure for filing a claim for benefits, (iv) the right to job protection and benefits
22 continuation under G.S. 96A-7, (v) that discrimination and retaliatory personnel actions against
23 a person for requesting, applying for, or using family and medical leave insurance benefits is
24 prohibited under G.S. 96A-8, and (vi) that the employee has a right to file a complaint for
25 violations of this Chapter. An employer shall also display and maintain a poster in a conspicuous
26 place accessible to employees at the employer's place of business that contains the information
27 required by this section in English, Spanish, and any language that is the first language spoken
28 by at least five percent (5%) of the employer's workforce, provided that such notice has been
29 provided by the Division. The Assistant Secretary may adopt regulations to establish additional
30 requirements concerning the means by which employers shall provide such notice.

31 (b) Employees shall provide notice to their employers as soon as practicable of their
32 intention to take leave under this Chapter.

33 **"§ 96A-11. Enforcement.**

34 (a) The Assistant Secretary shall establish a system for appeals in the case of a denial of
35 family and medical leave insurance benefits. In establishing such system, the Assistant Secretary
36 may utilize any and all procedures and appeals mechanisms established under G.S. 96-15.

37 (b) Judicial review of any decision with respect to family and medical leave insurance
38 benefits shall be permitted in a court of competent jurisdiction after a party aggrieved thereby
39 has exhausted all administrative remedies established by the Assistant Secretary.

40 (c) The Assistant Secretary shall implement procedures to ensure confidentiality of all
41 information related to any claims filed or appeals taken to the maximum extent permitted by
42 applicable laws.

43 **"§ 96A-12. Erroneous payments and disqualification for benefits.**

44 (a) A covered individual is disqualified from family and medical leave insurance benefits
45 for one year if the individual is determined by the Assistant Secretary to have willfully made a
46 false statement or misrepresentation regarding a material fact or willfully failed to report a
47 material fact to obtain benefits under this Chapter.

48 (b) If family and medical leave insurance benefits are paid erroneously or as a result of
49 willful misrepresentation, or if a claim for family and medical leave insurance benefits is rejected
50 after benefits are paid, the Division may seek repayment of benefits from the recipient. The

Assistant Secretary shall exercise his or her discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

"§ 96A-13. Elective coverage.

(a) A self-employed person, including a sole proprietor, partner, or joint venturer, may elect coverage under this Chapter for an initial period of not less than three years. The self-employed person must file a notice of election in writing with the Assistant Secretary as required by the Division. The election becomes effective on the date of filing the notice. As a condition of election, the self-employed person must agree to supply any information concerning income that the Division deems necessary.

(b) A self-employed person who has elected coverage may withdraw from coverage within 30 days after the end of the three-year period of coverage, or at such other times as the Assistant Secretary may prescribe by rule, by filing written notice with the Assistant Secretary, such withdrawal to take effect not sooner than 30 days after filing the notice.

"§ 96A-14. Family and medical leave insurance program.

(a) The Division shall establish and administer a family and medical leave insurance program and begin collecting contributions as specified in this Chapter. By January 1, 2027, the Division shall start receiving claims from and paying family and medical leave insurance benefits to covered individuals.

(b) The Division shall establish reasonable procedures and forms for filing claims for benefits under this Chapter and shall specify what supporting documentation is necessary to support a claim for benefits, including any documentation required from a health care provider for proof of a serious health condition.

(c) The Division shall notify the employer within five business days of a claim being filed pursuant to this Chapter.

(d) The Division shall use information sharing and integration technology to facilitate the disclosure of relevant information or records, so long as an individual consents to the disclosure as required under State law.

(e) Information contained in the files and records pertaining to an individual under this Chapter are confidential and not open to public inspection other than to public employees in the performance of their official duties. However, the individual or an authorized representative of an individual may review the records or receive specific information from the records upon the presentation of the individual's signed authorization.

(f) The Department of Commerce shall adopt rules as necessary to implement this Chapter.

"§ 96A-15. Federal income tax.

If the Internal Revenue Service determines that family and medical leave insurance benefits under this Chapter are subject to federal income tax, the Division must advise an individual filing a new claim for family and medical leave insurance benefits, at the time of filing such claim, that the Internal Revenue Service has determined that benefits are subject to federal income tax and that requirements exist pertaining to estimated tax payments.

"§ 96A-16. Family and medical leave insurance account fund; establishment and investment.

(a) The Paid Family and Medical Leave Fund (Fund) is created in the custody of the Division. Expenditures from the Fund may be used only for the purposes of the family and medical leave insurance benefits program. Only the Assistant Secretary of the Division or the Assistant Secretary's designee may authorize expenditures from the Fund.

(b) Whenever, in the judgment of the Division, there shall be in the Fund an amount of funds in excess of that amount deemed by the Division to be sufficient to meet the current expenditures properly payable therefrom, the Division shall have full power to invest, reinvest, manage, contract, sell, or exchange investments acquired with such excess funds in the manner prescribed by North Carolina law.

"§ 96A-17. Reports.

Beginning January 1, 2028, the Division shall report to the General Assembly by April 1 of each year on projected and actual program participation by purpose listed in G.S. 96A-2, gender of beneficiary, premium rates, fund balances, outreach efforts, and, for leaves taken under G.S. 96A-2, family members for whom leave was taken to provide care. The reports shall be made publicly available immediately following submission to the General Assembly.

"§ 96A-18. Public education.

The Division shall conduct a public education campaign to inform workers and employers regarding the availability of family and medical leave insurance benefits. Outreach information shall be available in English, Spanish, French, German, Vietnamese, Chinese, Arabic, Korean, Tagalog, Hindi, Gujarati, Russian, Hmong, and other languages spoken by more than five percent (5%) of the State's population.

"§ 96A-19. Sharing technology.

The Division is encouraged to use State data collection and technology to the extent possible and to integrate the program with existing State policies.

"§ 96A-20. Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances is not affected."

SECTION 2. All rules necessary for implementation of this act shall be adopted by October 1, 2025.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.