

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 162  
Committee Substitute Favorable 4/25/23

Short Title: Living Donor Protection Act.

(Public)

Sponsors:

Referred to:

February 22, 2023

A BILL TO BE ENTITLED

AN ACT TO PROTECT LIVING DONORS FROM POTENTIAL INSURANCE DISCRIMINATION, TO PROVIDE AN INCOME TAX CREDIT FOR UNREIMBURSED MEDICAL EXPENSES RESULTING FROM CERTAIN ORGAN AND MARROW DONATIONS, AND TO PROVIDE UP TO THIRTY DAYS' PAID LEAVE TO STATE EMPLOYEES AND OTHER STATE-SUPPORTED PERSONNEL WHO SERVE AS LIVING ORGAN DONORS AND UP TO SEVEN DAYS' PAID LEAVE FOR BONE MARROW DONORS.

The General Assembly of North Carolina enacts:

**PART I. INSURANCE PROTECTIONS**

**SECTION 1.(a)** G.S. 58-3-25 is amended by adding a new subsection to read:

"(d) No insurer shall refuse to insure or to continue to insure an individual; limit the amount, extent, or kind of coverage available to an individual; charge an individual a different amount for the same coverage; or otherwise discriminate against an individual in the offering, issuance, cancellation, price, or conditions of a policy, or in the amount of coverage provided under a policy, based solely and without any additional actuarial risks on the status of an individual as a living organ donor. This subsection shall apply to health benefit plans and life, accident and health, disability, disability income, and long-term care insurance policies. For the purposes of this subsection, the phrase "a living organ donor" shall mean a living individual who donates one or more of that individual's human organs, including bone marrow, to be medically transplanted into the body of another individual."

**SECTION 1.(b)** This section is effective 30 days after it becomes law and applies to insurance contracts issued, renewed, or amended on or after that date.

**PART II. TAX CREDIT**

**SECTION 2.(a)** Part 2 of Article 4 of Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

**§ 105-153.11. Credit for live organ donation.**

(a) Definitions. – The following definitions apply in this section:

(1) Human organ. – Human bone marrow or any organ of a human, including the intestine, kidney, liver, lung, or pancreas.

(2) Live organ donation. – A donation by a living individual of one or more of the individual's human organs to another human to be transplanted using a medical procedure to the body of another individual.



1           (3)   Live organ donation expenses. – The total amount of the expenses listed in  
2           this subdivision that are incurred by the taxpayer, that are directly related to a  
3           live organ donation, and that are not reimbursed to the taxpayer by any person.  
4           An expense is "directly related" if it is incurred due to a live organ donation  
5           procedure or due to evaluation, recovery, follow-up visits, or rehospitalization  
6           associated with a live organ donation procedure. The expenses are:

7           a.     Lost wages.

8           b.     Transportation, lodging, and meals.

9           (4)   Lost wages. – All monetary payments from employment or services that are  
10          taxable as income under the Code and that are not reimbursed through another  
11          source, such as sick pay or short-term disability benefits. The term does not  
12          include capital gains, IRA distributions, pensions, annuities, unemployment  
13          compensation, State workers' compensation benefits, medical retirement  
14          benefits, or Social Security benefits.

15          (b)   Credit. – A taxpayer who makes a live organ donation or who is allowed to claim as  
16          a dependent a person who makes a live organ donation is allowed a credit against the tax imposed  
17          by this Part equal to the lesser of the live organ donation expenses or five thousand dollars  
18          (\$5,000). For the purposes of this section, "dependent" means a qualifying child or qualifying  
19          relative as defined in section 152 of the Code.

20          (c)   Limitation. – The credit allowed under this section may not exceed the amount of tax  
21          imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except  
22          tax payment made by or on behalf of the taxpayer.

23          (d)   Carryforward. – Any unused portion of a credit allowed in this section may be carried  
24          forward for the succeeding five years."

25                **SECTION 2.(b)** G.S. 105-153.5(a) reads as rewritten:

26                "(a)   Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may  
27                deduct from adjusted gross income either the standard deduction amount provided in subdivision  
28                (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this  
29                subsection. The deduction amounts are as follows:

30                ...

31                (2)   Itemized deduction amount. – An amount equal to the sum of the items listed  
32                in this subdivision. The amounts allowed under this subdivision are not  
33                subject to the overall limitation on itemized deductions under section 68 of  
34                the Code:

35                ...

36                c.     Medical and Dental Expense. – The amount allowed as a deduction for  
37                medical and dental expenses under section 213 of the Code for that  
38                taxable year. No deduction is allowed for live organ donation expenses  
39                for which a credit was taken under G.S. 105-153.11.

40                ...."

41                **SECTION 2.(c)** G.S. 105-160.3(b) reads as rewritten:

42                "(b)   The tax credits allowed under G.S. 105-153.9 or G.S. 105-153.11 may not be claimed  
43                by an estate or trust."

44                **SECTION 2.(d)** This section is effective for taxable years beginning on or after  
45                January 1, 2023.

### 46                **PART III. PAID LEAVE FOR STATE EMPLOYEES**

47                **SECTION 3.(a)** Article 2 of Chapter 126 of the General Statutes is amended by  
48                adding a new section to read:

49                "**§ 126-8.6. Paid leave for State employees and State-supported personnel for organ**  
50                **donation.**  
51

1       (a) Full-Time Employees. – The State Human Resources Commission shall adopt rules  
2 and policies to provide that a permanent, full-time State employee may take, in addition to any  
3 other leave available to the employee, up to (i) 30 days of paid leave for the purposes of serving  
4 as a living organ donor and (ii) seven days for serving as a bone marrow donor. The employee  
5 must have been continuously employed by the State for at least 12 months immediately preceding  
6 the first request for paid organ or bone marrow donation leave.

7       (b) Part-Time Employees. – The State Human Resources Commission shall adopt rules  
8 and policies to provide that a permanent, part-time State employee may take, in addition to any  
9 other leave available to the employee, a prorated amount of up to (i) 30 days of paid leave for the  
10 purposes of serving as a living organ donor and (ii) seven days for serving as a bone marrow  
11 donor. The employee must have been continuously employed by the State for at least 12 months  
12 immediately preceding the first request for paid organ or bone marrow donation leave.

13       (c) Program Requirements. – The paid leave for organ or bone marrow donation  
14 authorized by this section:

15           (1) Is available without exhaustion of the employee's sick and vacation leave.

16           (2) Is in addition to, and not in lieu of, shared leave under G.S. 126-8.3, or other  
17 leave authorized by federal or State law.

18           (3) May not be used for retirement purposes.

19           (4) Has no cash value upon termination from employment.

20       (d) Applicability. – This section applies to all (i) State employees and (ii) State-supported  
21 personnel, with the appropriate governing board adopting rules and policies to provide paid leave  
22 for organ donation to its employees as provided by this section.

23       (e) Reporting. – By April 1, 2024, and then annually thereafter, the State Human  
24 Resources Commission, the State Board of Education, the State Board of Community Colleges,  
25 and all State agencies, departments, and institutions shall annually report to the Office of State  
26 Human Resources on the paid organ donation leave program."

27       **SECTION 3.(b)** G.S. 126-5 is amended by adding a new subsection to read:

28       "(c19) The provisions of G.S. 126-8.6 shall apply to all State employees, public school  
29 employees, and community college employees."

#### 30 **PART IV. EFFECTIVE DATE**

31       **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
32 law.  
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