

Leave Laws: North Carolina

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A Q&A guide to state law on employee leave for private employers in North Carolina. This Q&A addresses the legal requirements for leave from employment and explains the rights and obligations of employees and employers under state law. Federal, local or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see *Leave Laws: State Q&A Tool* (<http://us.practicallaw.com/9-505-9585>)).

OVERVIEW OF STATE LEAVE LAW

1. What leave laws exist in your state (for example, mini-FMLA laws, disability leave, jury duty leave or domestic violence leave)? For each leave law please describe:

- Which employees are covered.
- Which employees are eligible to take the leave.
- The entity that administers the law.
- Whether the employee has a private right of action.

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

Covered Employers

All employers in North Carolina are covered (see *N.C. Gen. Stat. Ann.* § 95-28.3).

Eligible Employees

Eligible employees include all employees who are:

- A parent of a school-aged child.
- A guardian of a school-aged child.
- A person standing *in loco parentis* of a school-aged child.

(*N.C. Gen. Stat. Ann.* § 95-28.3(a).)

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

Employees may bring a civil action against the employer for:

- Any wages or benefits lost as a result of the violation.
- An order of reinstatement without loss of position, seniority, wages or benefits.

(*N.C. Gen. Stat. Ann.* § 95-28.3(c).)

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

Covered Employers

All employers in North Carolina are covered (*N.C. Gen. Stat. Ann.* § 9-32).

Eligible Employees

Eligible employees are those who are:

- Called to serve on a jury.
- Serving as grand jurors or petit jurors.

(*N.C. Gen. Stat. Ann.* § 9-32(a).)

Administration

The statute does not specify an entity to administer the law.

Private Right of Action

Employees may bring a civil action against the employer for violation of this law (*N.C. Gen. Stat. Ann.* § 9-32(b)).

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 AND 127B-15

Covered Employers

All employers in North Carolina are covered.



Eligible Employees

Eligible employees are those who are:

- Members of the North Carolina National Guard.
- Officers, warrant officers or enlisted persons of the US military forces.

(*N.C. Gen. Stat. Ann. §§ 127A-201 and 127B-14.*)

Administration

The North Carolina Department of Labor (NCDOL) enforces this law under the Retaliatory Employment Discrimination Act (REDA) (*N.C. Gen. Stat. Ann. §§ 127A-111(b) and 95-240 to 95-245.*)

The district attorney of each county enforce the criminal penalties of this law (*N.C. Gen. Stat. Ann. § 127B-14.*)

Private Right of Action

An aggrieved employee may bring a civil action to seek reinstatement and lost wages or benefits (*N.C. Gen. Stat. Ann. § 127A-203.*)

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5

Covered Employers

All employers in North Carolina are covered (see *N.C. Gen. Stat. Ann. § 50B-5.5.*)

Eligible Employees

All North Carolina employees are eligible for this leave.

Administration

The NCDOL enforces this statute under the REDA (*N.C. Gen. Stat. Ann. §§ 50B-5.5(b) and 95-240 to 95-245.*)

Private Right of Action

Any employee may file a civil claim under the REDA (*N.C. Gen. Stat. Ann. §§ 50B-5.5(b) and 95-240 to 95-245.*)

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

Covered Employers

All employers in North Carolina that offer paid vacation leave are covered (*N.C. Gen. Stat. Ann. § 95-25.12.*)

Eligible Employees

All North Carolina employees whose employer has a policy allowing paid vacation leave are eligible for this leave.

Administration

The NCDOL enforces this statute (*N.C. Gen. Stat. Ann. §§ 95-25-16 and 95-25.22(b).*)

Private Right of Action

Employees may file a civil action if the employer does not compensate employees for vacation time not taken (*N.C. Gen. Stat. Ann. § 95-25.22(c).*)

RULES REGARDING TAKING LEAVE

2. For each leave law, please describe:

- The circumstances under which an employee may take leave (for example, birth of a child).
- How much leave time is allowed to be taken by each employee each year?
- How is that leave time calculated?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

Valid Leave Reasons

An employee who is a parent, guardian or person standing *in loco parentis* may take leave to attend or otherwise be involved at the child's school (*N.C. Gen. Stat. Ann. § 95-28.3(a).*)

Leave Time for Each Employee

An employee may take up to four hours of leave each year (*N.C. Gen. Stat. Ann. § 95-28.3(a).*)

Calculating Leave Time

There is no specific method for calculating leave time.

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

Valid Leave Reasons

An employee may take leave if the employee is:

- Called to serve on a jury.
- Serving as a grand juror or a petit juror.

(*N.C. Gen. Stat. Ann. § 9-32.*)

Leave Time for Each Employee

The statute does not specify an amount of leave that may be taken each year. The amount of leave is likely determined by the length of the individual's jury service.

Calculating Leave Time

There is no specific method for calculating leave time.

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15

Valid Leave Reasons

Employees may take leave for active or emergency military duty, if they are members of the North Carolina National Guard (*N.C. Gen. Stat. Ann. §§ 127A-201 and 127B-14.*)

Employers cannot:

- Discharge a member of the North Carolina National Guard performing active or emergency military duty.
- Deny reemployment to honorably discharged North Carolina National Guard members.

(*N.C. Gen. Stat. Ann. §§ 127A-201 and 127B-14.*)

Leave Time for Each Employee

The statute does not specify an amount of leave that may be taken each year. The amount of leave is likely determined by the length of the individual's military service.

Calculating Leave Time

There is no specific method for calculating leave time.

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5**Valid Leave Reasons**

Employees may take leave to seek judicial protection from domestic violence (*N.C. Gen. Stat. Ann. § 50B-5.5(a)*).

Leave Time for Each Employee

Employees may take a reasonable period of time to obtain a protective order or other relief (*N.C. Gen. Stat. Ann. § 50B-5.5(a)*). The statute does not define "reasonable time."

Calculating Leave Time

There is no specific method for calculating leave time.

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12**Valid Leave Reasons**

If the employer offers paid vacation leave, employees may take time off for personal reasons according to the employer's vacation leave policy (*N.C. Gen. Stat. Ann. § 95-25.12*).

Leave Time for Each Employee

The amount of leave that an employee may take each year is determined by the employer's vacation leave policy. North Carolina law does not require employers to offer paid vacation leave. (*N.C. Gen. Stat. Ann. § 95-25.12*.)

Calculating Leave Time

There is no specific method for calculating leave time.

3. For each leave law, must the leave time run concurrently with other leave, and if so, which types of leave must it run concurrently with?

There is no provision in any of the laws listed in *Question 1* that addresses whether the leave runs concurrently with other leave laws.

4. For each leave law, can leave be taken intermittently, and if so, what rules apply to intermittent leave under each law?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

The law does not specifically address intermittent leave. However, employees are not required to take all four hours of leave at once.

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

The law does not specifically address intermittent leave.

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15

The law does not specifically address intermittent leave.

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5

The law does not specifically address intermittent leave. However, intermittent leave may be considered reasonable time off from work.

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

The law does not specifically address intermittent leave.

5. For each leave law, must an employee seeking leave:

- Give notice to their employer? If so, how much and what kind of notice?
- Provide medical or any other sort of certification?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3**Notice**

An employer may require that the employee provide up to 48 hours advance written notice before the employee takes leave under this law (*N.C. Gen. Stat. Ann. § 95-28.3(a)(2)*).

Certification

An employer may require that the employee provide written verification from the school that the employee attended or was otherwise involved at that school during the time of leave (*N.C. Gen. Stat. Ann. § 95-28.3(a)(3)*).

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32**Notice**

No notice is required.

Certification

The law does not specifically address whether an employer may require certification, but it is presumed that an employer may.

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15**Notice**

No notice is required.

However, members of the North Carolina National Guard must submit a written request for reinstatement within five days of release from either:

- Active duty.
- Hospitalization continuing after release from active duty.

(*N.C. Gen. Stat. Ann. § 127A-202*.)

Certification

The law does not specifically address whether an employer may require certification, but it is presumed that an employer may.

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5**Notice**

Unless the leave is taken for an emergency, an employer may require that employees comply with regular time off notice requirements (*N.C. Gen. Stat. Ann. § 50B-5.5(a)*).

Certification

For leave taken because of an emergency, the employer may require that the employee provide either:

- Documentation of the emergency.

- Any other information which supports the employee's reason for taking leave.

(N.C. Gen. Stat. Ann. § 50B-5.5(a).)

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

Notice

An employer that offers vacation leave may impose advance notice requirements (N.C. Gen. Stat. Ann. § 95-25.12).

Certification

An employer that offers vacation leave may impose certification requirements (N.C. Gen. Stat. Ann. § 95-25.12).

6. For each leave law, what rights and benefits does the law grant to an employee taking leave under it (for example, pay, right to return to their same position or right to bonuses that would have otherwise been earned)?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

An employer cannot retaliate against an employee for taking leave to attend or be involved in a child's school (N.C. Gen. Stat. § 95-28.3(b)).

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

An employer cannot discharge or demote an employee because the employee has been called for jury duty or is serving as a grand juror or petit juror (N.C. Gen. Stat. Ann. § 9-32).

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15

An employer cannot:

- Retaliate against any person or employee for taking leave for active duty with the North Carolina National Guard.
- Discharge an employee for taking leave for US military duty.

(N.C. Gen. Stat. Ann. §§ 127A-202 and § 127B-14.)

The employee, if he provides written notice five days after release from duty or hospitalization, has the following reinstatement rights, unless the employer's circumstances make the placement unreasonable:

- If the employee is still qualified for the previous position, reinstated with like seniority, status and salary.
- If the employee is no longer qualified for the previous position, placed in another position that the employee is qualified for, with appropriate seniority, status and salary.

(N.C. Gen. Stat. Ann. § 127A-202.)

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5

An employer cannot retaliate against the employee for taking leave to obtain a protective order or other relief (N.C. Gen. Stat. Ann. § 50B-5.5(a)).

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

For an employer that offers paid vacation leave, an employee is entitled to either:

- The leave, as described in the employer's leave policy.

- Pay instead of vacation leave, as described in the employer's leave policy.

(N.C. Gen. Stat. Ann. § 95-25.12.)

EMPLOYER OBLIGATIONS

7. For each leave law, what obligations does an employer have to inform its employees of their rights to the leave?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

The statute does not specify any obligations for employers to inform their employees of their rights to leave.

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

The statute does not specify any obligations for employers to inform their employees of their rights to leave.

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15

The statute does not specify any obligations for employers to inform their employees of their rights to leave.

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5

The statute does not specify any obligations for employers to inform their employees of their rights to leave.

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

An employer that offers paid vacation leave must provide written notification of vacation pay in advance and must address:

- How and when vacation is earned.
- Whether and how much vacation time may be carried forward from one year to another.
- When vacation must be taken.
- When and if vacation pay may be paid in lieu of time off.
- Under what conditions vacation pay will be forfeited.

(13 N.C. Admin. Code § 12.0306(a).)

8. For each leave law, what are the possible consequences for employers who violate the law?

PARENT INVOLVEMENT IN SCHOOL: N.C. GEN. STAT. ANN. § 95-28.3

An employee who suffers an adverse employment action for taking leave under this law may bring a civil action for:

- Wages or benefits lost as a result of the violation.
- Reinstatement with full seniority, benefits and wages.

(N.C. Gen. Stat. Ann. § 95-28.3(c).)

JURY DUTY: N.C. GEN. STAT. ANN. § 9-32

An employee who is discharged or demoted for taking leave may bring a civil action:

- To recover damages.
- For an order for reinstatement without loss of position, seniority, wages or benefits, if the employee was discharged.

(N.C. Gen. Stat. Ann. § 9-32(b).)

MILITARY LEAVE: N.C. GEN. STAT. ANN. §§ 127A-201 TO 127A-203, 127B-14 TO 127B-15

A member of the North Carolina National Guard who is denied re-employment may bring a civil action for reinstatement and lost wages or benefits (N.C. Gen. Stat. Ann. § 127A-203).

An employer faces Class 2 misdemeanor charges for discharging any officer, warrant officer or enlisted person of the North Carolina or US military forces for taking leave (N.C. Gen. Stat. Ann. §§ 127B-14 and 127B-15).

LEAVE TO SEEK ORDER FOR DOMESTIC VIOLENCE: N.C. GEN. STAT. ANN. § 50B-5.5

An employee discharged or retaliated against may file a:

- Complaint with the North Carolina Department of Labor (NCDOL) under the Retaliatory Employment Discrimination Act (REDA).
- Civil action against the employer.

(N.C. Gen. Stat. Ann. §§ 50B-5.5(b), 95-242 and 95-243.)

An employee that files a civil suit may obtain:

- An injunction against continued violations.
- Reinstatement to the prior or equivalent position, with full benefits and seniority.
- Damages for lost wages, benefits or economic losses.
- Reasonable attorneys' fees, costs and expenses.

(N.C. Gen. Stat. Ann. § 95-243.)

VACATION LEAVE: N.C. GEN. STAT. ANN. § 95-25.12

An employee who is not provided vacation time or pay in lieu of vacation leave as required under the employer's policy, may file either or both a:

- Complaint with the NCDOL for unpaid wages.
- Civil action for unpaid wages.

If the employee is successful, the employee may recover:

- Unpaid wages.
- Liquidated damages up to the amount of unpaid wages, unless the employer can establish that the failure to pay was in good faith.
- Reimbursement of reasonable attorneys' fees, costs and expenses.

(N.C. Gen. Stat. Ann. § 95-25.22.)

RECORDKEEPING

9. What are the recordkeeping obligations for each type of leave?

None of the laws listed in *Question 1* address recordkeeping requirements, although laws requiring an employer to maintain wage records may apply (N.C. Gen. Stat. Ann. § 95-25.15(b); 13 N.C. Admin. Code §§ 12.0801 to 12.0802).

OTHER LEAVE LAWS

10. Please describe other laws relating to leave that employers should consider in your state (for example, laws not requiring leave, but prohibiting discrimination in provision of certain types of leave).

LEAVE FOR PARENT COMPLIANCE WITH JUVENILE COURT ORDERS: N.C. GEN. STAT. ANN. § 7B-2705

An employer cannot discharge, demote or deny a promotion or other benefit of employment to an employee whose child is under the jurisdiction of the juvenile court because the employee complies with a court order requiring the parent to attend:

- A court appearance.
- A parental responsibility class.
- The child's medical, surgical, psychiatric or psychological evaluation or treatment.

The North Carolina Department of Labor enforces this law. (N.C. Gen. Stat. Ann. § 7B-2705.)

NORTH CAROLINA PERSONS WITH DISABILITIES PROTECTION ACT: N.C. GEN. STAT. ANN. §§ 168A-1 TO 168A-12

An employer may be required to allow an employee to take leave as a reasonable accommodation for persons with disabilities under the North Carolina Persons with Disabilities Protection Act. The law prohibits disability discrimination and applies to employers with 15 or more full-time workers in North Carolina. (N.C. Gen. Stat. Ann. §§ 168A-1 to 168A-12.) For more information on disability discrimination in North Carolina, see *State Q&A, Anti-discrimination Laws: North Carolina* (<http://us.practicallaw.com/w-000-2332>).

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