

West's North Carolina General Statutes Annotated
Chapter 168A. Persons with Disabilities Protection Act (Refs & Annos)

N.C.G.S.A. § 168A-1

§ 168A-1. Title

Currentness

This Chapter may be cited as the North Carolina Persons With Disabilities Protection Act.

Credits

Added by Laws 1985, c. 571, § 1. Amended by S.L. 1999-160, § 1, eff. Oct. 1, 1999.

Notes of Decisions (8)

N.C.G.S.A. § 168A-1, NC ST § 168A-1

The statutes and Constitution are current through S.L. 2022-12 of the 2022 Regular Session of the General Assembly, subject to changes made pursuant to direction of the Revisor of Statutes. Some statute sections may be more current; see credits for details.

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Notes Of Decisions

Construction and application

Child handicapped by attention deficit hyperactivity disorder (ADHD) offered no evidence that his suspension from school for possession of gun clip and bullets, based on determination that such conduct was unrelated to his condition of disability, and assignment to facility for children with behavioral problems, which could implement individualized education program (IEP) and otherwise accommodate his needs for special services, violated his rights to equality, education, due process of law and equal protection under State Constitution, juvenile code provisions related to neglect and dependency, and statutes prohibiting discrimination against and failure to accommodate handicapped persons, where child admitted facts on which suspension was based and did not attend special educational facility, which would not have been a change in placement under IDEA, for reasons which were not discussed with child's advocate in suspension process. [Glen III By and Through Glen II v. Charlotte-Mecklenburg School Bd. of Educ.](#), 1995, 903 F.Supp. 918 . [Civil Rights 1069](#) ; [Education 901](#)

Handicap, generally

Former employee who was restricted to 25 pound lifting limitation failed to show that she was significantly restricted in her ability to lift, work or perform any major life activity under North Carolina Handicapped Persons Protection Act (NCHPPA). [Williams v. Channel Master Satellite Systems, Inc.](#), 1996, 101 F.3d 346 , certiorari denied 117 S.Ct. 1844, 520 U.S. 1240, 137 L.Ed.2d 1048 . [Civil Rights 1218\(3\)](#)

Under North Carolina Handicapped Persons Protection Act (NCHPPA), punch press operator did not have qualifying "handicap," where she had five percent permanent partial disability to back preventing lifting of over 25 pounds, heavy pulling and pushing, and excessive bending at waist. [Williams v. Avnet, Inc.](#), 1995, 910 F.Supp. 1124 , affirmed 101 F.3d 346 , certiorari denied 117 S.Ct. 1844, 520 U.S. 1240, 137 L.Ed.2d 1048 . [Civil Rights 1218\(3\)](#)

Claim under North Carolina Handicapped Persons Protection Act (NCHPPA) must be based solely on injury's impact upon employee's ability to work. [Williams v. Avnet, Inc.](#), 1995, 910 F.Supp. 1124 , affirmed 101 F.3d 346 , certiorari denied 117 S.Ct. 1844, 520 U.S. 1240, 137 L.Ed.2d 1048 . [Civil Rights 1218\(2\)](#)

Definition of "handicapped person" contained in North Carolina Handicapped Persons Protection Act does not encompass person solely because he or she suffers from communicable disease; rather, person suffering from such disease must have additional disability which qualifies as handicap. [Burgess v. Your House of Raleigh, Inc.](#), 1990, 388 S.E.2d 134, 326 N.C. 205 . [Civil Rights 1023](#)

Person who tests positive for human immunodeficiency virus (HIV), which is agent responsible for Acquired Immune Deficiency Syndrome (AIDS), but who is otherwise asymptomatic, is not "handicapped person" within meaning of North Carolina Handicapped Persons Protection Act; neither person's inability to continue working due to employer's concerns nor person's unwillingness to have children or engage in sexual relations due to concerns about transmitting disease involve "major life activities," and Act's provision that employer can discharge handicapped person if person has communicable disease which would disqualify nonhandicapped person makes clear that person suffering from communicable disease such as HIV has to have additional disability which qualifies as handicap. [Burgess v. Your House of Raleigh, Inc.](#), 1990, 388 S.E.2d 134, 326 N.C. 205 . [Civil Rights 1228](#)

Scope of review

Appellate court would review merits of former employee's interlocutory appeal of trial court's decision dismissing her Persons with Disabilities Protection Act claim against former employer, as her other claims against former employer, including wrongful discharge, remained, in that trial court denied former employer's motion to dismiss these claims, claim under Act and other claims involved same facts and circumstances, i.e., her termination, and, if appeal were refused, there was risk that two trials and possibly inconsistent verdicts could result. [Taylor v. Hospice of Henderson County, Inc.](#), 2008, 194 N.C.App. 179, 668 S.E.2d 923 . [Appeal And Error 70\(5\)](#)

Limitations of actions

Former employee's claim of handicap discrimination was barred on ground that it was not filed within reasonable time after repeal of Handicapped Persons Act and adoption of new Handicapped Persons

Protection Act; employee had 180 days after new Act became effective to bring claim where unexpired time for commencing suit under repealed Act exceeded the 180-day statute of limitations allowed under the new Act. [Spaulding v. R.J. Reynolds Tobacco Co., Inc.](#), 1989, 379 S.E.2d 49, 93 N.C.App. 770 , appeal dismissed 381 S.E.2d 786, 325 N.C. 229 , affirmed 387 S.E.2d 168, 326 N.C. 44 . [Limitation Of Actions](#) 6(10)