

House Bill 1772

By: Representatives Bordeaux of the 125th, Hudson of the 95th, Gardner of the 42nd, Post 3, Brown of the 89th, Burmeister of the 96th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to enact the "Nurse Involuntary Mandatory Overtime Act"; to provide for
3 regulations governing overtime obligations of persons licensed under Chapter 26 of Title 43;
4 to provide for a short title; to provide for legislative findings; to provide for definitions; to
5 provide for employment circumstances prohibiting mandatory overtime; to provide for
6 employment circumstances permitting mandatory overtime; to provide for applicability; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
11 is amended by adding a new chapter immediately following Chapter 3 to be designated as
12 Chapter 3A to read as follows:

13 style="text-align:center">"CHAPTER 3A

14 34-3A-1.

15 This chapter shall be known and may be cited as the 'Nurse Involuntary Mandatory
16 Overtime Act.'

17 34-3A-2.

18 The Georgia General Assembly finds that requiring registered professional nurses and
19 licensed practical nurses to work beyond regularly scheduled hours increases the possibility
20 that fatigue and stress may cause errors in the delivery of patient care. In order to minimize
21 the potential harm caused by such lapse in patient safety, it is a declaration of public policy
22 that nurses providing direct patient care in health care facilities shall not be required, as a
23 condition of employment, to work beyond a predetermined work schedule.

1 34-3A-3.

2 For purposes of this chapter, the term:

3 (1) 'Employer' means a health care facility licensed or permitted under Title 31.

4 (2) 'Nurse' means a person licensed as either a registered professional nurse or a licensed
5 practical nurse under Chapter 26 of Title 43.

6 (3) 'Overtime' means hours worked in excess of a predetermined work schedule.

7 (4) 'Predetermined work schedule' means a regular and systematic duration of work
8 hours set at no more than 12 hours of work per daily shift and no more than 40 hours of
9 work in a calendar week.

10 34-3A-4.

11 (a) Except as provided in subsections (b) and (c) of this Code section, an employer shall
12 not require a nurse to work more than the regularly scheduled hours according to a
13 predetermined work schedule. The employer shall post a nurse's predetermined work
14 schedule at least ten calendar days in advance of the commencement of the work schedule.

15 (b) A nurse may be required to work overtime if:

16 (1) The work is a consequence of an emergency situation which could not have been
17 reasonably anticipated by the employer;

18 (2) The emergency situation is nonrecurring and is not caused by or aggravated by the
19 employer's inattention or lack of reasonable contingency planning;

20 (3) The employer has exhausted all good faith and reasonable attempts to obtain
21 voluntary nurses during the succeeding shifts;

22 (4) The nurse has critical skills and expertise which are required for the work; and

23 (5) The standard of care for a patient assignment requires continuity of care through
24 completion of a case, treatment, or procedure.

25 (c) In addition to the provisions of subsection (b) of this Code section, a nurse may be
26 required to work overtime if a condition of employment includes on-call rotation or a
27 written employment arrangement agreed to by the nurse and the employer.

28 (d) This Code section shall not be construed to prohibit a nurse from voluntarily agreeing
29 to work more than the number of hours set forth in a predetermined work schedule,
30 provided that such agreement is not achieved through threats, intimidation, or coercion by
31 the employer against the nurse.

32 34-3A-5.

33 (a) An employer shall exhaust all good faith and reasonable attempts to ensure that
34 appropriate staff is available to accept responsibility for a patient's care beyond a nurse's
35 predetermined work schedule.

1 (b) Except as provided for in subsections (b) and (c) of Code Section 34-3A-4, a nurse
2 shall not be considered responsible for the care of a patient beyond the nurse's
3 predetermined work schedule if the nurse:

4 (1) Has notified another appropriate nurse of the patient's status; and

5 (2) Has transferred responsibility for the patient's care to another appropriate nurse or
6 properly designated individual.

7 (c) An employer shall provide a nurse with written instructions detailing the employer's
8 procedure for notifying another nurse of a patient's status and transferring responsibility
9 for a patient's care to another appropriate nurse or properly designated individual. A nurse
10 who performs in accordance with the written instructions of the employer shall be deemed
11 to have acted in accordance with subsection (b) of this Code section.

12 34-3A-6.

13 Notwithstanding any provision in this chapter to the contrary, an employer shall not
14 discipline a nurse for refusing to work more than 12 consecutive hours during the course
15 of a single work shift. An employer which requires a nurse to work more than 12
16 consecutive hours shall schedule the nurse to have at least 12 consecutive hours of off-duty
17 time immediately following the time worked beyond a nurse's predetermined work
18 schedule."

19 **SECTION 2.**

20 All laws and parts of laws in conflict with this Act are repealed.