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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- HEALTHY AND SAFE FAMILIES
AND WORKPLACES ACT

Introduced By: Representatives Regunberg, Craven, Serpa, Maldonado, and Fogarty

Date Introduced: February 08, 2017

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. The General Assembly hereby finds and declares that:

2 (1) Most Rhode Islanders will at some time during each year need limited time off from
3 work to take care of their own health needs or the health needs of their family members.

4 (2) Nationally, thirty-six (36%) of private sector employees do not have any paid sick
5 leave time. In Rhode Island, access to paid sick leave is lower than the national average. Nearly
6 one hundred sixty-nine thousand one hundred ninety-five (169,195) Rhode Islanders who work in
7 the private sector or forty-one and a half percent (41.5%) of all private sector employees in Rhode
8 Island, lack paid sick time.

9 (3) Employees' access to paid sick leave time varies significantly by wage level and race.
10 Nationally, only one in four of the lowest-income employees, (twenty-seven percent (27%)) has
11 access to paid sick leave time, compared to eighty-seven percent (87%) of the highest-income
12 employees. In addition, Hispanic employees are less likely to have access to paid sick time than
13 white employees. Less than half of Hispanic employees (forty-six percent (46%)) have access to
14 paid sick leave, compared to sixty-three percent (63%) of white employees.

15 (4) Providing employees time off to attend to their own health care and the health care of
16 family members will help ensure a healthier and more productive workforce in the state of Rhode
17 Island.

18 (5) Seventy-six percent (76%) of children in Rhode Island are in families where all

1 parents work, which means that parents without paid sick time must lose income and risk losing
2 their jobs when a child is ill or is in need of medical care.

3 (6) In the state of Rhode Island, one hundred thirty-four thousand (134,000) people serve
4 as caregivers for family members, work which has an aggregate value of nearly one billion, seven
5 hundred eighty million dollars (\$1,780,000,000) per year. Nationally, sixty-one percent (61%) of
6 employees who juggle work with caregiving responsibilities have reported the need to make work
7 accommodations such as adjusting their work schedules or taking time off to provide care for a
8 family member. Working family caregivers cannot adequately care for their relatives without
9 access to paid sick time.

10 (7) Paid sick time will have a positive effect on the individuals and the overall public
11 health of Rhode Island by allowing employees to earn a limited number of hours per year to care
12 for themselves or a family member when illness strikes or medical needs arise. Earned paid sick
13 time will reduce recovery time, promote the use of regular medical providers rather than hospital
14 emergency departments, and reduce the likelihood of people spreading illness to other members
15 of the workforce and to the public.

16 (8) Paid sick time will allow parents to provide personal care for their sick children.
17 Parental care reduces a child's recovery time and can prevent future health problems. Parents who
18 do not have paid sick time are nearly twice as likely as parents with paid sick time to send a sick
19 child to school or daycare. In addition, parents who do not have paid sick time are two and one-
20 half (2.5) times more likely to report taking their child or a family member to a hospital
21 emergency room because they were unable to take time away from work during their regular
22 work hours.

23 (9) Providing a minimal amount of paid sick time is affordable for employers and good
24 for business. Paid sick time results in reduced employee turnover, which leads to reduced costs
25 incurred from advertising, interviewing and training new hires. Replacing employees can cost the
26 employer approximately twenty-one percent (21%) percent of an employee's annual
27 compensation.

28 (10) Earned paid sick time will reduce the risk of "presenteeism" -- employees coming to
29 work with illnesses and health conditions that reduce their productivity -- a problem that costs
30 employers one hundred sixty billion dollars (\$160,000,000,000) annually (two hundred seven
31 billion dollars (\$207,000,000,000) after adjusting for inflation).

32 (11) Earned paid sick time levels the playing field by enabling smaller companies to
33 compete with larger companies.

34 (12) Earned paid sick time will reduce contagion. Employees in jobs with high levels of

1 public contact, such as restaurant employees and child care employees, are very unlikely to have
2 paid sick time. As a result, these employees may have no choice but to go to work when they are
3 ill, thereby increasing the risk of passing illnesses on to co-workers and customers while also
4 jeopardizing their own health. Overall, people without paid sick time are one and one-half (1.5)
5 times more likely than people with paid sick time to go to work with a contagious illness like the
6 flu.

7 (13) A peer-reviewed epidemiological study found that nearly one in five (5) food service
8 employees had reported for work vomiting or with diarrhea in the past year, creating dangerous
9 health conditions. The largest national survey of U.S. restaurant employees found that nearly
10 sixty-three percent (63%) of restaurant wait staff and cooks have been ill when reporting for
11 work.

12 (14) In the event of an outbreak that presents a threat to public health for example, the
13 H1N1 outbreak of 2009 government officials request that sick employees stay home and keep
14 sick children home from school or child care to prevent the spread of the virus, and to safeguard
15 workplace productivity. However, because many employees lack paid sick time, they may be
16 unable to comply.

17 (15) During the height of the H1N1 pandemic, employees without access to paid sick
18 time were more likely than those with access to paid sick leave to go to work sick, and as a result,
19 the pandemic lasted longer in their workplaces as the virus spread from co-worker to co-worker.
20 One study estimates that lack of paid sick time was responsible for five million (5,000,000) cases
21 of influenza-like illness during the pandemic.

22 (16) More than one in four (4) American women report having experienced a negative
23 impact from sexual violence, physical violence and/or stalking by an intimate partner at some
24 point in their lives. Five million seven hundred thousand (5,700,000) women reported having
25 experienced intimate partner-related physical assaults and rapes in the last twelve (12) months. In
26 a national survey, nearly two million four hundred thousand (2,400,000) men reported having
27 experienced severe physical violence by an intimate partner in the previous twelve (12) months.
28 Many employees need time away from their jobs to care for their health after these incidents or to
29 find solutions, such as obtaining a restraining order or new housing, to prevent physical or sexual
30 abuse.

31 (17) Survivors of domestic and sexual violence are forced to lose days of paid
32 employment because of the violence they face. According to National Violence Against Women
33 Survey, the average intimate partner violence (IPV) rape victim misses eight and one-tenth (8.1)
34 days of paid work, the average IPV physical assault victim misses seven and two-tenths (7.2)

1 days of paid work and the average IPV stalking victim misses ten and one-tenth (10.1) days of
2 paid work following victimization. Each year, victims of domestic violence are forced to miss
3 nearly eight million (8,000,000) days of paid work, costing more than seven hundred million
4 dollars (\$700,000,000) annually due to victims' lost productivity in employment.

5 (18) Without job protection, survivors are in grave danger of losing their jobs. Between
6 twenty-five percent (25%) and fifty-two (52%) percent of domestic violence survivors report job
7 loss, due at least in part to the domestic violence. Loss of employment can be particularly
8 devastating for survivors of domestic violence, who often need economic security to ensure their
9 and their children's safety.

10 (19) As of November 2017, seven (7) states (including neighboring Connecticut and
11 Vermont), and the District of Columbia had adopted paid sick days legislation, as had two (2)
12 county governments, and 29 municipalities. In comparison, when Connecticut became the first
13 state to pass Paid Sick Days legislation in 2012, only San Francisco and DC had legislation in
14 place.

15 SECTION 2. Title 28 of the General Laws entitled "LABOR AND LABOR
16 RELATIONS" is hereby amended by adding thereto the following chapter:

17 CHAPTER 57

18 HEALTHY AND SAFE FAMILIES AND WORKPLACE ACT

19 **28-57-1. Short title.**

20 This chapter shall be known and may be cited as the "Healthy and Safe Families and
21 Workplaces Act."

22 **28-57-2. Legislative purpose.**

23 The purpose of this chapter is:

24 (1) To ensure that all employees in Rhode Island can address their own health and safety
25 needs, as well as the health and safety needs of their family members, by requiring employers to
26 allow employees to earn a minimum level of paid sick leave time including time to care for their
27 family members;

28 (2) To diminish public and private health care costs and promote preventive health
29 services in Rhode Island by enabling employees to seek early and routine medical care for
30 themselves and their family members;

31 (3) To protect the public health in Rhode Island by reducing the risk of contagion;

32 (4) To promote the economic security and stability of employees and their families;

33 (5) To protect employees in Rhode Island from losing their jobs or facing workplace
34 discipline for using paid sick and safe leave time to care for themselves or their families;

1 (6) To assist victims of domestic violence, sexual assault, or stalking and their family
2 members by providing them with job-protected time away from work to allow them to receive
3 treatment and to take the necessary steps to ensure their protection;

4 (7) To safeguard the public welfare, health, safety and prosperity of the people of Rhode
5 Island; and

6 (8) To accomplish the purposes described above in a manner that is feasible for
7 employers.

8 **28-57-3. Definitions.**

9 As used in the chapter, the following words and terms have the following meanings:

10 (1) "Department" means the department of labor and training.

11 (2) "Domestic partner" means a party to a civil union as defined in chapter 3.1 of title 15
12 or a person who meets the requirements in §36-12-1(3)(i)-(v) has the same meaning as that term
13 is defined in §8-8.2-20.

14 (3) "Domestic violence" means certain crimes when committed by one family or
15 household member against another as defined in §12-29-2.

16 (4) "Employee" means any person suffered or permitted to work by an employer, except
17 that independent contractors or subcontractors shall not be considered employees.

18 (5) "Employer" means any individual or entity includes any individual, partnership,
19 association, corporation, business trust, or any person or group of persons acting directly or
20 indirectly in the interest of an employer, in relation to an employee as defined in §28-12-2, but
21 does not include the United States government.

22 (6) "Family member" means:

23 (i) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child
24 of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to
25 whom the employee stood in loco parentis when the individual was a minor;

26 (ii) A biological, foster, stepparent or adoptive parent or legal guardian of an employee's
27 spouse or domestic partner or a person who stood in loco parentis when the employee or
28 employee's spouse or domestic partner was a minor child;

29 (iii) A person to whom the employee is legally married under the laws of any state, or a
30 domestic partner of an employee;

31 (iv) A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step
32 relationship) of the employee or the employee's spouse or domestic partner; or

33 (v) Any other individual related by blood or affinity whose close association with the
34 employee is the equivalent of a family relationship.

1 (7) "Health care professional" means any person licensed under federal or Rhode Island
2 law to provide medical or emergency services, including, but not limited to, doctors, nurses, and
3 emergency room personnel.

4 (8) "Paid sick leave time" or "paid sick and safe leave time" means time that is
5 compensated at the same hourly rate and with the same benefits, including health care benefits, as
6 the employee normally earns during hours worked and is provided by an employer to an
7 employee for the purposes described in §28-57-4, but in no case shall the hourly wage paid leave
8 be less than that provided under §28-12-3.

9 (9) "Retaliatory personnel action" means denial of any right guaranteed under this chapter
10 and any threat, discharge, suspension, demotion, reduction of hours, reporting or threatening to
11 report an employee's suspected citizenship or immigration status, or the suspected citizenship or
12 immigration status of a family member of the employee to a federal, state or local agency, or any
13 other adverse action against an employee for the exercise of any right guaranteed herein including
14 any sanctions against an employee who is the recipient of public benefits for rights guaranteed
15 under this chapter. Retaliatory personnel action shall also include interference with or punishment
16 for in any manner participating in or assisting an investigation, proceeding, or hearing under this
17 chapter.

18 (10) "Sexual assault" means a crime as defined in §§11-37-2, 11-37-4 or 11-37-6.

19 (11) "Stalking" means a crime as defined in §§11-59-2 and 11-52-4.2, harassing another
20 person or willfully, maliciously and repeatedly following another person with the intent to place
21 that person in reasonable fear of bodily injury.

22 (12) "Year" means a regular and consecutive twelve (12) month period as determined by
23 the employer; except that for the purposes of §§28-57-8 and 28-57-10 of this chapter, "year"
24 means a calendar year.

25 (13) "CCAP Family child care provider" means a child care worker as defined in §40-6.6-
26 2(2)

27 **28-57-4. Accrual of paid sick and safe leave time.**

28 (a) All employees in Rhode Island shall accrue a minimum of one hour of paid sick and
29 safe leave time for every thirty (30) hours worked up to a maximum of fifty-six (56) hours per
30 year, unless the employer chooses to provide a higher annual limit.

31 (b) Employees who are exempt from the overtime requirements under 29 USC §213(a)

32 (1) Of the Federal Fair Labor Standards Act, 29 U.S.C. §§201 et seq., will be assumed to
33 work forty (40) hours in each work week for purposes of paid sick and safe leave time accrual
34 unless their normal work week is less than forty (40) hours, in which case paid sick and safe leave

1 time accrues based upon that normal work week.

2 (c) Paid sick and safe leave time as provided in this chapter shall begin to accrue at the
3 commencement of employment or pursuant to the law's effective date, whichever is later. An
4 employer may provide all paid sick and safe leave time that an employee is expected to accrue in
5 a year at the beginning of the year.

6 (d) Employees shall be entitled to use accrued paid sick and safe leave time beginning on
7 the ninetieth calendar day following commencement of their employment, unless otherwise
8 permitted by the employer. On and after the ninetieth calendar day of employment, employees
9 may use paid sick and safe leave time as it is accrued.

10 (e) Paid sick and safe leave time shall be carried over to the following calendar year;
11 however, an employee's use of paid sick and safe leave time provided under this chapter in each
12 calendar year shall not exceed fifty-six (56) hours. Alternatively, in lieu of carryover of unused
13 earned paid sick and safe leave time from one year to the next, an employer may pay an employee
14 for unused earned paid sick and safe leave time at the end of a year and provide the employee
15 with an amount of paid sick and safe leave that meets or exceeds the requirements of this chapter
16 that is available for the employee's immediate use at the beginning of the subsequent year.

17 (f) Any employer with a paid leave time off policy who makes available an amount of
18 paid leave time off sufficient to meet the accrual requirements of this section that may be used for
19 the same purposes and under the same conditions, including with regards to employee notice and
20 documentation, as paid sick and safe leave time under this chapter is not required to provide
21 additional paid sick and safe leave time.

22 (g) Nothing in this chapter shall be construed as requiring financial or other
23 reimbursement to an employee from an employer upon the employee's termination, resignation,
24 retirement, or other separation from employment for accrued paid sick and safe leave time that
25 has not been used.

26 (h) If an employee is transferred to a separate division, entity or location, but remains
27 employed by the same employer, the employee is entitled to all paid sick and safe leave time
28 accrued at the prior division, entity or location and is entitled to use all paid sick and safe leave
29 time as provided in this chapter. When there is a separation from employment and the employee
30 is rehired within one year of separation by the same employer, previously accrued paid sick and
31 safe leave time that had not been used shall be reinstated. Further, the employee shall be entitled
32 to use accrued paid sick and safe leave time and accrue additional sick and safe leave time at the
33 re-commencement of employment.

34 (i) When a different employer succeeds or takes the place of an existing employer, all

1 employees of the original employer who remain employed by the successor employer are entitled
2 to all earned paid sick and safe leave time they accrued when employed by the original employer,
3 and are entitled to use earned paid sick and safe leave time previously accrued.

4 (j) At its discretion, an employer may loan sick and safe leave time to an employee in
5 advance of accrual by such employee.

6 **28-57-5. Use of paid sick and safe leave time.**

7 (a) Paid sick and safe leave time shall be provided to an employee by an employer for:

8 (1) An employee's mental or physical illness, injury or health condition; an employee's
9 need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health
10 condition; an employee's need for preventive medical care;

11 (2) Care of a family member with a mental or physical illness, injury or health condition;
12 care of a family member who needs medical diagnosis, care, or treatment of a mental or physical
13 illness, injury or health condition; care of a family member who needs preventive medical care;

14 (3) Closure of the employee's place of business by order of a public official due to a
15 public health emergency or an employee's need to care for a child whose school or place of care
16 has been closed by order of a public official due to a public health emergency, or care for oneself
17 or a family member when it has been determined by the health authorities having jurisdiction or
18 by a health care provider that the employee's or family member's presence in the community may
19 jeopardize the health of others because of their exposure to a communicable disease, whether or
20 not the employee or family member has actually contracted the communicable disease; or

21 (4) Time off needed when the employee or a member of the employee's family is a victim
22 of domestic violence, sexual assault or stalking.

23 (b) Paid sick and safe leave time shall be provided upon the request of an employee. Such
24 request may be made orally, in writing, by electronic means or by any other means acceptable to
25 the employer. When possible, the request shall include the expected duration of the absence.

26 (c) When the use of paid sick and safe leave time is foreseeable, the employee shall make
27 a good faith effort to provide notice of the need for such time to the employer in advance of the
28 use of the sick and safe leave time and shall make a reasonable effort to schedule the use of sick
29 and safe leave time in a manner that does not unduly disrupt the operations of the employer.

30 (d) An employer that requires notice of the need to use earned paid sick and safe leave
31 time where the need is not foreseeable shall provide a written policy that contains procedures for
32 the employee to provide notice. An employer that has not provided to the employee a copy of its
33 written policy for providing such notice shall not deny earned paid sick and safe leave time to the
34 employee based on non-compliance with such a policy.

1 (e) Paid sick and safe leave time may be used in the lesser of hourly increments or the
2 smallest increment that the employer's payroll system uses to account for absences or use of other
3 time.

4 (f) For paid sick and safe leave time of more than three (3) consecutive work days, an
5 employer may require reasonable documentation that the paid sick and safe leave time has been
6 used for a purpose covered by subsection (a) of this section if the employer has notified the
7 employee in writing of this requirement in advance of the employee's use of paid sick and safe
8 time. An employer may not require that the documentation explain the nature of the illness or the
9 details of the domestic violence, sexual assault, or stalking.

10 (1) Documentation signed by a health care professional indicating that paid sick leave
11 time is necessary shall be considered reasonable documentation under subsection (a) of this
12 section.

13 (2) One of the following, of the employee's choosing, shall be considered reasonable
14 documentation of an absence under subsection (a)(4) of this section:

15 (i) An employee's written statement that the employee or the employee's family member
16 is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of
17 the purposes of §28-57-5(a)(4);

18 (ii) A police report indicating that the employee or employee's family member was a
19 victim of domestic violence, sexual assault, or stalking;

20 (iii) A court document indicating that the employee or employee's family member is
21 involved in legal action related to domestic violence, sexual assault, or stalking; or

22 (iv) A signed statement from a victim and witness advocate affirming that the employee
23 or employee's family member is receiving services from a victim services organization or is
24 involved in legal action related to domestic violence, sexual assault, or stalking.

25 (g) An employer's requirements for verification may not result in an unreasonable burden
26 or expense on the employee and may not exceed privacy or verification requirements otherwise
27 established by law.

28 (h) An employer may not require, as a condition of an employee's taking paid sick and
29 safe leave time, that the employee search for or find a replacement worker to cover the hours
30 during which the employee is using paid sick and safe leave time.

31 **28-57-6. Family child care providers.**

32 CCAP family child care providers, shall accrue and may use paid sick and safe leave in
33 the same manner as do employees under this chapter. The implementation, but not the amount, of
34 paid sick and safe leave for CCAP family child care providers shall be a subject of negotiation

1 with director of the department of administration under §40-6.6-4. The department of human
2 services shall promulgate any necessary regulations to implement the requirement of paid sick
3 and safe leave for CCAP family child care providers.

4 **28-57-7. Exercise of rights protected, retaliation prohibited.**

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

7 (b) An employer shall not take retaliatory personnel action or discriminate against an
8 employee or former employee because the person has exercised rights protected under this
9 chapter. Such rights include, but are not limited to, the right to request or use paid sick and safe
10 leave pursuant to this chapter; the right to file a complaint with the department or the courts or
11 inform any person about any employer's alleged violation of this chapter; the right to participate
12 in an investigation, hearing or proceeding or cooperate with or assist the department in its
13 investigations of alleged violations of this chapter; and the right to inform any person of their
14 potential rights under this chapter.

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

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

20 (e) There shall be a rebuttable presumption of unlawful retaliatory personnel action under
21 this section whenever an employer takes action against a person within ninety (90) days of when
22 that person:

23 (1) Files a complaint with the department or a court alleging a violation of any provision
24 of this chapter;

25 (2) Informs any person about an employer's alleged violation of this chapter;

26 (3) Cooperates with the department or other persons in the investigation or prosecution of
27 any alleged violation of this chapter;

28 (4) Opposes any policy, practice, or act that is unlawful under this chapter; or

29 (5) Informs any person of their rights under this chapter.

30 **28-57-8. Notice and posting.**

31 (a) Employers shall give employees written notice of the following at the commencement
32 of employment or by the effective date of this chapter, whichever is later, which shall include the
33 following information:

34 (1) Employees are entitled to paid sick and safe leave time;

1 (2) The amount of paid sick and safe leave time;

2 (3) The terms of paid sick and safe leave time use guaranteed under this chapter;

3 (4) That retaliatory personnel actions against employees who request or use paid sick and
4 safe leave time is prohibited;

5 (5) That each employee has the right to file a complaint or bring a civil action if paid sick
6 and safe leave time, as required by this chapter, is denied by the employer or the employee is
7 subjected to retaliatory personnel action for requesting or taking paid sick and safe leave time;
8 and

9 (6) Contact information for the department where questions about rights and
10 responsibilities under this chapter can be answered.

11 (b) Employers shall comply with this section by supplying each of their employees with a
12 notice in English and in any language that is the first language spoken by at least five percent
13 (5%) of the employer's workforce that contains the information required in subsection (a) of this
14 section, provided that the notice has been translated into such language by the department.

15 (c) The amount of paid sick and safe leave time available to the employee, the amount of
16 paid sick and safe leave time taken by the employee to date in the year and the amount of pay the
17 employee has received as paid sick and safe leave time shall be recorded in, or on an attachment
18 to, the employee's regular paycheck or be made available at the employees request.

19 (d) Employers shall display a poster in a conspicuous and accessible place in each
20 establishment where such employees are employed. The poster displayed shall be in English and
21 in any language that is the first language spoken by at least five percent (5%) of the employer's
22 workforce that contains the information required in subsection (a) of this section, provided that
23 the poster has been translated into such language by the department.

24 (e) The department shall create and make available to employers, in all languages spoken
25 by more than five percent (5%) of Rhode Island's population and any language deemed
26 appropriate by the department, posters that contain the information required under subsection (a)
27 of this section.

28 (f) An employer who willfully violates the notice and posting requirements of this section
29 shall be subject to a civil fine in an amount not to exceed one hundred dollars (\$100) for each
30 separate violation.

31 **28-57-9. Employer records.**

32 Employers shall retain records documenting hours worked by employees and paid sick
33 and safe leave time taken by employees, for a period of three (3) years, and shall allow the
34 department access to such records, with appropriate notice and at a mutually agreeable time, to

1 monitor compliance with the requirements of this chapter. When an issue arises as to an
2 employee's entitlement to paid sick and safe leave time under this chapter, if the employer does
3 not maintain or retain adequate records documenting hours worked by the employee and paid sick
4 and safe leave time taken by the employee, or does not allow the department reasonable access to
5 such records, it shall be presumed that the employer has violated the chapter, absent clear and
6 convincing evidence otherwise.

7 **28-57-10. Regulations.**

8 The department shall coordinate implementation and enforcement of this chapter and
9 shall promulgate appropriate guidelines or regulations for such purposes.

10 **28-57-11. Enforcement.**

11 (a) The department shall enforce the provisions of this chapter. In effectuating such
12 enforcement, the department shall establish a system utilizing multiple means of communication
13 to receive complaints regarding noncompliance with this chapter and investigate complaints
14 received by the department in a timely manner. The department is empowered to hold hearings
15 and shall cooperate with any employee in the enforcement of a claim against their employer in
16 any case where the claim is just and valid.

17 (b) Any person alleging a violation of this chapter shall have the right to file a complaint
18 with the department within one year of the date the person knew or should have known of the
19 alleged violation. The department shall maintain confidential the identity of any complainant
20 unless disclosure of such complainant's identity is necessary for resolution of the investigation or
21 otherwise required by law. The department shall, to the extent practicable, notify such
22 complainant that the department will be disclosing their identity prior to such disclosure.

23 (c) Upon receiving a complaint alleging a violation of this chapter, the department shall
24 investigate such complaint and attempt to resolve it through mediation. The department shall keep
25 complainants reasonably notified regarding the status of their complaint and any resultant
26 investigation. If the department believes that a violation has occurred, it shall issue to the
27 offending person or entity a notice of violation. The commissioner shall prescribe the form and
28 content of such notices of violation. The notice of violation shall be returnable to the
29 administrative tribunal authorized to adjudicate violations of this chapter.

30 (d) The department shall have the power to impose penalties as provided in subsection (h)
31 of this section and to grant an employee or former employee all appropriate relief.

32 (e) In the event a complaint deemed just and valid cannot be resolved by the department
33 through mediation, the department shall order a hearing thereon at a time and place to be
34 specified, and shall give notice thereof, together with a copy of the complaint or the purpose

1 thereof, or a statement of the facts disclosed upon investigation, which notice shall be served
2 personally or by mail on any person, business, corporation, or entity of any kind affected thereby.
3 The hearing shall be scheduled within thirty (30) days upon determination that the complaint is
4 just and valid. The person, business, corporation, or entity shall have an opportunity to be heard
5 in respect to the matters complained of at the time and place specified in the notice. The hearing
6 shall be conducted by the department. The hearing officer in the hearing shall be deemed to be
7 acting in a judicial capacity, and shall have the right to issue subpoenas, administer oaths, and
8 examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by
9 Rhode Island civil practice law and rules. The hearing shall be expeditiously conducted and upon
10 such hearing the hearing officer shall determine the issues raised thereon and shall make a
11 determination and enter an order within thirty (30) days of the close of the hearing, and forthwith
12 serve a copy of the order, with a notice of the filing thereof, upon the parties to the proceeding,
13 personally or by mail. The order shall dismiss the complaint or direct payment of penalties under
14 subsection (h) of this section and direct payment of reasonable attorneys' fees and costs to the
15 successful complaining party.

16 (f) The director may institute investigations into violations of this chapter absent receipt
17 of a complaint and may institute any action to ensure compliance with this chapter.

18 (g) Any agreement between the employee and employer that purports to waive the
19 provisions of this chapter shall be deemed void as against public policy.

20 (h) An employer who violates this chapter shall be liable for a civil penalty in an amount
21 not less than five hundred dollars (\$500) and not greater than three thousand dollars (\$3,000) for
22 each violation of this chapter for a first offense and up to five thousand dollars (\$5,000) for each
23 violation of this chapter for any subsequent offense, which shall be shared equally between the
24 department and the aggrieved party.

25 (i) In determining the amount of any penalty imposed under this section, the director or
26 their designee shall consider the good faith of the employer, the size of the employer, the gravity
27 of the violation, the history of previous violations, and whether or not the violation was an
28 innocent mistake or willful.

29 (j)(1) The department, the attorney general, any person aggrieved by a violation of this
30 chapter, or any entity a member of which is aggrieved by a violation of this chapter may bring a
31 civil action in a court of competent jurisdiction against an employer violating this section. Such
32 action may be brought by a person aggrieved by a violation of this section without first filing an
33 administrative complaint.

34 (2) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall

1 recover the full amount of any unpaid paid sick time plus any actual damages suffered as the
2 result of the employer's violation of this chapter plus liquidated damages of at least as much as
3 provided as penalty amounts in subsection (h) of this section. Successful aggrieved persons shall
4 also be entitled to reasonable attorneys' fees.

5 (3) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall
6 be entitled to such legal or equitable relief as may be appropriate to remedy the violation,
7 including, without limitation, reinstatement to employment, back pay and injunctive relief.

8 (4) The statute of limitations for a civil action brought pursuant to this section shall be for
9 a period of three (3) years from the date the alleged violation occurred or the date the employee
10 knew or should have known of the violation.

11 **28-57-12. Confidentiality and nondisclosure.**

12 An employer may not require disclosure of details relating to domestic violence, sexual
13 assault, sexual contact or stalking or the details of an employee's or an employee's family
14 member's health information as a condition of providing paid sick and safe leave time under this
15 chapter. If an employer possesses health information or information pertaining to domestic
16 violence, sexual assault, sexual contact, or stalking about an employee or employee's family
17 member, such information shall be treated as confidential and not disclosed except to the affected
18 employee or with the permission of the affected employee.

19 **28-57-13. Greater sick and safe leave policies.**

20 (a) This chapter provides minimum requirements pertaining to paid sick and safe leave
21 time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other
22 law, regulation, requirement, policy, or standard that provides for greater accrual or use by
23 employees of sick and safe leave time, whether paid or unpaid, or that extends other protections
24 to employees.

25 (b) Nothing in this chapter shall be construed to supersede or preempt any provision of
26 any local law that provides greater rights to paid sick and safe leave time than the rights
27 established under this chapter.

28 (c) Nothing in this chapter shall be construed in a manner to discourage or prohibit an
29 employer from the adoption of a paid sick and safe leave time policy greater that provides greater
30 rights or benefits than the one required in this chapter.

31 (d) Nothing in this chapter shall be construed as diminishing the obligation of an
32 employer to comply with any contract, collective bargaining agreement, employment benefit plan
33 or other agreement that provides greater sick and safe leave time to an employee than required in
34 this chapter.

1 (e) Nothing in this chapter shall be construed as diminishing the rights of public
2 employees regarding paid sick and safe leave or use of sick and safe leave time as provided in the
3 general laws.

4 **28-57-14. Public education and outreach.**

5 The department shall develop and implement a multilingual outreach program to inform
6 employees, parents, and persons who are under the care of a health care provider about the
7 availability of paid sick and safe leave time under this chapter. This program shall include the
8 distribution of notices and other written materials in English and in all languages spoken by more
9 than five percent (5%) of Rhode Island's population and any language deemed appropriate by the
10 department to all child care and elder care providers, domestic violence shelters or victim services
11 organizations, schools, hospitals, community health centers, and other health care providers.

12 **28-57-15. Severability.**

13 If any provision of this chapter or any rule or regulation created under this chapter, or the
14 application of any provision of this chapter to any person or circumstance shall be held invalid by
15 any court of competent jurisdiction, the remainder of the chapter, rule or regulation and the
16 application of such provision to other persons or circumstances shall not be affected thereby. The
17 invalidity of any section or sections or parts of any section of this chapter shall not affect the
18 validity of the remainder of this chapter and to this end the provisions of the chapter are declared
19 to be severable.

20 SECTION 3. This act shall take effect on January 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- HEALTHY AND SAFE FAMILIES
AND WORKPLACES ACT

- 1 This act would require all employers to provide their employees with a minimum level of
- 2 paid sick and safety leave including time to care for the employee's family members.
- 3 This act would take effect on January 1, 2018.

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LC001131
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