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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY  
INSURANCE - BENEFITS

Introduced By: Senators Perry, Miller, DeVall, Nesselbush, and Metts

Date Introduced: March 06, 2012

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-41 of the General Laws entitled "Temporary Disability  
2 Insurance - Benefits" is hereby amended by adding thereto the following section:

3 **28-41-34. Temporary caregiver insurance.** – (a) Definitions as used in this chapter:

4 (1) "Child" means a biological, adopted, or foster son or daughter, a stepson or  
5 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a son or daughter of an  
6 employee who stands in loco parentis to that child.

7 (2) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian,  
8 or other person who stood in loco parentis to the employee or the employee's spouse or domestic  
9 partner when he/she was a child.

10 (3) "Domestic partner" means a party to a civil union as defined by chapter 15-3.1.

11 (4) "Spouse" means defined as a party in a common law marriage, a party in a marriage  
12 conducted and recognized by another state or country, or in a marriage as defined by chapter 15-  
13 3.

14 (5) "Serious health condition" means any illness, injury, impairment, or physical or  
15 mental condition that involves inpatient care in a hospital, hospice, residential health care facility,  
16 or continued treatment or continuing supervision by a health care provider.

17 (b) Benefits:

18 (1) An employee shall be eligible for temporary caregiver insurance on any day in which

1 he or she is unable to perform his or her regular and customary work because he or she is caring  
2 for a child or caring for a parent, grandparent, spouse, domestic partner, grandparent or in-law,  
3 subject to a waiting period of seven (7) days. Employees may use accrued sick time during  
4 eligibility waiting period.

5 (2) Temporary caregiver insurance shall be available only to the caregiver. An employee  
6 cannot file for both temporary caregiver insurance and temporary disability insurance for the  
7 same purpose.

8 (3) Any employee who exercises his or her right to leave covered by temporary caregiver  
9 insurance under this chapter shall, upon the expiration of that leave, be entitled to be restored by  
10 the employer to the position held by the employee when the leave commenced, or to a position  
11 with equivalent seniority, status, employment benefits, pay, and other terms and conditions of  
12 employment including fringe benefits and service credits that the employee had been entitled to at  
13 the commencement of leave.

14 (4) During any caregiver leave taken pursuant to this chapter, the employer shall maintain  
15 any existing health benefits of the employee in force for the duration of the leave as if the  
16 employee had continued in employment continuously from the date he or she commenced the  
17 leave until the date he or she returns to employment.

18 (c) Certification of eligibility for leave. A certificate filed to establish medical eligibility  
19 of the serious health condition of the employee's family member that warrants the care of the  
20 employee shall contain:

21 (1) A diagnosis and diagnostic code prescribed in the international classification of  
22 diseases, or where no diagnosis has yet been obtained, a detailed statement of symptoms;

23 (2) The date if known, on which the condition commenced;

24 (3) The probable duration of the condition;

25 (4) An estimate of the amount of time that the health care provider believes the employee  
26 is needed to care for the family member;

27 (5) A statement that the serious health condition warrants the participation of the  
28 employee to provide care for his or her family member. "Warrants the participation of the  
29 employee" includes, but is not limited to, providing psychological comfort, arranging third-party  
30 care for the family member as well as directly providing, or participating in the medical and  
31 physical care of the patient; and

32 (6) A certificate filed to establish medical eligibility of the serious health condition of the  
33 employee's family member shall be made by the family member's treating health care provider. If  
34 the family member resides or is in care outside of Rhode Island, the treating health care provider

1 must be duly licenses or certified by the state or foreign country in which the family member is  
2 receiving the care and treatment.

3 (d) Contributions: The temporary caregiver Insurance program will be funded solely  
4 through an employee contribution. The taxable rate will be in accordance with the employee  
5 contribution rate to the temporary disability insurance fund. The employee contribution rate shall  
6 be increased commencing January 1, 2013 by an amount no greater than one tenth of one percent  
7 (.1%) as determined by department of labor and training estimates. There shall be a one year  
8 period during which benefits shall not be paid. Benefit payments shall commence no later than  
9 February 1, 2014. The provisions of chapter 28-40 shall apply.

10 (e) The director of the department of labor and training shall promulgate regulations  
11 relative to the operation of the temporary caregiver insurance program, and disseminate  
12 information regarding the program to Rhode Island employers.

13 (f) The temporary caregiver insurance program shall be part of the temporary disability  
14 insurance fund.

15 (g) Misrepresentation with respect to benefits:

16 (1) An individual who has been convicted by a court of competent jurisdiction of  
17 knowingly or fraudulently making a false statement, or knowingly or fraudulently  
18 misrepresenting a material fact, with intent to defraud the temporary disability insurance fund of  
19 any benefit or wrongfully to obtain or increase any benefit, either for himself or herself or for any  
20 other person, shall be disqualified from receiving benefits for a period of one year following that  
21 conviction.

22 (2) If a physician or other health care provider licensed by a foreign country is under  
23 investigation by the department for assisting in the filing of false claims and the department does  
24 not have the legal remedies to conduct a criminal investigation or prosecution in that country, the  
25 department may suspend the processing of all further certifications until the health care provider  
26 fully cooperates and continues to cooperate with the investigation. A health care provider licensed  
27 by and practicing in a foreign country who has been convicted of filing false claims with the  
28 department shall be barred indefinitely from filing a certificate in support of a temporary  
29 disability insurance or temporary caregiver insurance claim in the state of Rhode Island.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY  
INSURANCE - BENEFITS

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- 1           This act would create a temporary caregiver insurance benefit as part of the temporary
- 2 disability insurance law.
- 3           This act would take effect upon passage.

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