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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HUMAN SERVICES-- AUTOMOBILE ACCIDENT SOCIAL PROTECTION ACT

Introduced By: Representatives Perez, Williams, Fogarty, Slater, and Winfield

Date Introduced: January 26, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23

4 AUTOMOBILE ACCIDENT SOCIAL PROTECTION ACT

5 **40-23-1. Short title.**

6 This chapter shall be known as the "Automobile Accident Social Protection Act".

7 **40-23-2. Definitions.**

8 As used in this chapter, the following terms shall have the meaning expressed below:

9 (1) "AACA" means the Automobile Accident Compensation Administration.

10 (2) "Board" means the board of directors of the automobile accident compensation
11 division of human services.

12 (3) "Children" means children, stepchildren, children by adoption and foster children, it
13 being understood by the latter those individuals who without being children, stepchildren or
14 children by adoption, have been fostered by other persons as if they were their own children,
15 during a term of not less than three (3) years, or during two-thirds (2/3) of the life of such
16 persons, whichever of the two (2) terms is the shorter, immediately and consecutively preceding
17 the date of the accident which originates a claim under the provisions of this chapter.

18 (4) "Department of human services" means the automobile accident compensation

1 division of the department of human services.

2 (5) "Dependency" means whenever it is required that a person be dependent on another,
3 such dependency shall be economic, real and direct, of a substantial nature and not merely
4 financial assistance, by which a person depends on the financial contributions of another for
5 sustenance.

6 (6) "Disability" means a disability of such a nature as to prevent the victim from
7 engaging fully and continuously in any employment or occupation for which the person is
8 capable by education, experience and training.

9 (7) "Employer" means any private person or entity that employs one or more workers or
10 employees to render any service. The government of the state, the various municipal
11 governments, boards, commissions, authorities, instrumentalities, public corporations and
12 agencies of the state shall also be deemed as employers with regard to the workers, employees
13 and officials they hire.

14 (8) "Employment" means any service which the victim was performing in exchange for a
15 salary, commission or any other kind of remuneration, at the time the disability occurred.
16 Services rendered by a person shall be deemed as employment under of this chapter, regardless of
17 whether there is an employer-employee relationship, unless and until the existence of the
18 following conditions is demonstrated:

19 (i) The employer does not exert, nor can exert, any command or supervision over the
20 person;

21 (ii) The person renders the service beyond the employer's normal course, or place of
22 business;

23 (iii) The person renders the service as part of the normal activity of the person's work,
24 business or profession, which service is available to other people and does not cease when the
25 contractual relationship with the employer ceases.

26 (8) "Executive director" means the executive director of the automobile accident
27 compensation division of the department of human services.

28 (9) "Maintenance" means any type of essential, sudden or unexpected repairs or servicing
29 required by a motor vehicle to start or continue to operate legally and safely on the public
30 highways. It excludes vehicle maintenance done in the home, activities related to motor vehicle
31 cleaning and enhancements, activities related to the business of bodywork, paint and repair of
32 motor vehicle parts that are not physically attached thereto.

33 (10) "Motor vehicles" means any vehicle, including trailers, designed to operate on public
34 highways propelled by power other than muscular, which type of vehicle is authorized to travel

1 on the public highways by the department of transportation by issuing a motor vehicle license to
2 it.

3 (11) "Parents" means father, mother, parents by adoption or foster parents, it being
4 understood by the latter those individuals who, without being the father, mother or parents by
5 adoption of other persons, have fostered these persons as if they were their own children, during a
6 term of not less than three (3) years, or during two-thirds (2/3) of the life of the person so fostered
7 and treated as their own child, whichever of the two (2) terms is the shorter, immediately and
8 consecutively preceding the date of the accident which originates a claim under the provisions of
9 this chapter.

10 (12) "Person not responsible for the accident" means any person who does not cause a
11 traffic accident, but who, at the time the accident occurs, is among the non-coverage exclusions in
12 this chapter. In these cases, the department of human services shall recover what it disbursed on
13 such person.

14 (13) "Person responsible for the accident" means any person who causes an accident
15 while driving a motor vehicle recklessly or negligently.

16 (14) "Use of the motor vehicle as such" means the use of a motor vehicle for the purpose
17 of a person transporting the person or others to a different place or to carry, push or tow animals,
18 plants or objects. It does not include uses of the vehicle incidental to the purpose mentioned
19 above, nor fortuitous events that do not occur during, or as a direct result of, such use at that
20 moment or reasonably soon afterwards. It includes loading or unloading the vehicle.

21 (15) "Victim" means a natural person who suffers bodily injuries or sickness or death as a
22 result thereof, as a consequence of the maintenance or use by the natural person or by another
23 person of a motor vehicle as such vehicle.

24 (16) "Wife or husband" means the legal spouse or the woman or man who at the time of
25 the death of the victim and during the three (3) years immediately preceding the injury live
26 together with the victim as husband and wife even though not married.

27 **40-23-3. Applicability and benefits.**

28 Every natural person who suffers bodily injury, sickness or death as a result thereof, as a
29 consequence of the maintenance or use by the person or by another person of a motor vehicle as
30 such shall be entitled to the benefits provided in this chapter. Said person shall hereinafter be
31 known as "the victim".

32 **40-23-4. Beneficiaries.**

33 The following persons shall be deemed as beneficiaries of the victim with the rights and
34 limitations established hereinbelow:

1 (1) The children of the victim under eighteen (18) years of age on the date of the
2 accident.

3 (2) The children of the victim between the ages of eighteen (18) and twenty-one (21) who
4 depended on the victim and were students at the moment of the accident.

5 (3) The husband or wife of the victim who depends thereon for support.

6 (4) The parents of the victim when they depended thereon for their support because they
7 were unable to provide for themselves and have no other means of support.

8 (5) Any person who depends on the victim and is unable to be independent and without
9 help therefrom.

10 **40-23-5. Benefits. General.**

11 (a) Benefits. The benefits provided herein include disability payments, medical hospital
12 services, dismemberment, death and funeral expenses.

13 (b) Payable benefits and available services. The payable benefits shall be as hereinbelow
14 stipulated, after deducting therefrom any other benefits from other insurance programs to which
15 the victim or the victim's beneficiaries are eligible and which deduction is provided for hereunder.

16 (c) If the victim receives from the department of human services services to which the
17 victim is eligible under other insurance programs and for which deduction is herein provided, and
18 said deduction is not made in the cases where it applies, the amount of the corresponding
19 deduction shall be deducted from the benefits to which the victim is entitled in accordance with
20 said programs and shall be paid by the agency in charge of the department of human services of
21 said programs directly to the department of human services, up to the limit of the coverage of the
22 insurance programs.

23 (d) If a victim eligible to weekly compensation benefits for bodily injuries received from
24 the state insurance fund, by reason of the same automobile accident, benefit payments for
25 transitory disability, and the manager of the fund decides that the injury of the victim is one of a
26 non-occupational nature, said payments shall be deducted from the weekly compensation benefits
27 to which the victim is entitled under this chapter. This deduction shall never be made for an
28 amount exceeding the weekly compensation benefits to which the victim is entitled. The amount
29 so deducted shall be reimbursed by the department of human services to the state insurance fund,
30 upon previous presentation by the manager of the fund of a certified voucher showing liquidation
31 of the payments made to the victim.

32 (e) The claiming and obtaining of benefits by a claimant under the provisions of this
33 chapter through false information or statements shall be guilty of the crime of perjury.

34 (f) If the victim receives payments from other sources for medical-surgical and

1 hospitalization services rendered as provided in this chapter, the department of human services
2 may recover from the victim's beneficiaries up to a sum equal to the value of the services
3 rendered.

4 (g) Deductible benefits. All benefits or advantages that the victim or the victims
5 beneficiaries may receive or may be entitled to receive from other sources on account of the
6 injuries suffered shall be deducted from the benefits corresponding to the victim under this
7 chapter, except when otherwise provided herein. Whenever the victim uses the services provided
8 by this chapter, the payments that the victim or the victims beneficiaries may receive or may be
9 entitled to receive from other insurance programs by reason of said services shall be paid to the
10 department of human services, up to a sum not to exceed the amount expended by the department
11 of human services to render said service.

12 (h) Nondeductible benefits. The following benefits shall be considered nondeductible
13 benefits and shall not diminish the amount to be collected or received from the department of
14 human services, nor shall they be payable to the department of human services in case the
15 services herein provided are used:

16 (1) Benefits by reason of the obligation of the family support;

17 (2) Inheritance estates;

18 (3) Life insurance;

19 (4) Gifts;

20 (5) Social security benefits. Payments made by the employer to employees shall not be
21 considered as gifts.

22 (i) The death benefit provided in §40-23-7 shall be paid provided the victim dies as a
23 result of the injuries suffered within one year after the date of the accident.

24 (j) If the injuries suffered in an accident caused the losses set forth in this chapter within
25 fifty-two (52) weeks after the date of the accident, the department of human services shall pay the
26 sum provided for such losses.

27 (k) The board of directors of the department of human services, with the approval of the
28 commissioner of insurance of Rhode Island, shall increase the benefits provided by this chapter,
29 including payments for disability, medical-hospital services, dismemberment, death and funeral
30 expenses benefits. The office of commissioner of insurance shall have sixty (60) days to
31 determine the source or denial of the increase proposed by the board of directors of AACA. If the
32 sixty (60) days elapse without any statement from the office of commissioner of insurance, it
33 shall be understood that there is no objection to the proposed benefits increase and they shall take
34 effect immediately and/or on the date provided in the determination of increase made by the

1 board of directors of AACA.

2 (l) Benefits for dismemberment. The following benefits for dismemberment shall be paid
3 by the department of human services in the event the indicated disabilities occur:

4 (1) Loss of sight of both (2) eyes \$ 10,000;

5 (2) Loss of both (2) feet at or above the ankle 10,000;

6 (3) Loss of both (2) arms at or above the wrist 10,000;

7 (4) Loss of one (1) arm and one (1) leg 10,000;

8 (5) Loss of one (1) arm at or above the wrist 7,500;

9 (6) Loss of one (1) leg at or above the ankle 7,500;

10 (7) Loss of one (1) hand or one (1) foot 5,000;

11 (8) Total loss of sight of one (1) eye 5,000;

12 (9) Loss of at least three (3) fingers or three (3) toes 2,500; and

13 (10) In case a person suffers more than one of the losses indicated above, the maximum
14 amount for all the losses shall be ten thousand (\$10,000).

15 (m) Compensation for loss of income due to disability; reinstatement.

16 **40-23-6. Compensation for loss of income due to disability - reinstatement.**

17 (a) Compensation:

18 (1) If within the twenty (20) days following the date of the accident the injuries received
19 disable a victim other than a housewife, the department of human services shall pay to the victim
20 a benefit for loss of income by disability. The benefit shall be equivalent to fifty percent (50%) of
21 the weekly income not received by the victim, subject to a maximum of one hundred dollars
22 (\$100) weekly while the victim is disabled, during the first fifty-two (52) weeks reckoning from
23 the date of the accident, and to fifty percent (50%) of the weekly income not received by the
24 victim, subject to a maximum of one hundred dollars (\$100) weekly while the victim is disabled,
25 during the subsequent fifty-two (52) weeks.

26 (2) To avail oneself of the benefit of weekly compensation it shall be required that at the
27 time of the accident or during any six (6) of the twelve (12) months preceding same the victim
28 was holding a remunerated job or performing an activity or engaged in a profession or in an
29 income-yielding business of the victim.

30 (3) The regular disability benefit provided by this subsection shall not be paid during the
31 first fifteen (15) days following the date the disability begins.

32 (b) For the purposes of computing the compensation contemplated in this chapter, there
33 shall be understood that the week consists of five (5) working days and the workday of eight (8)
34 hours; except that from the facts investigated it is deduced that the victim worked regularly more

1 than forty (40) hours a week.

2 (c)(1) The loss of income shall be determined by taking as a basis the income earned by
3 the victim at the time of the accident. If the victim had then no income, the loss of income shall
4 be computed on the basis of the equivalent of the average weekly income earned by the victim
5 during the last six (6) of the last twelve (12) months immediately preceding the accident, when
6 the victim was holding a remunerated job or performed an activity or engaged in a profession or
7 in an income-yielding business of the victim.

8 (ii) The department of human services shall by regulation ad hoc establish the criteria that
9 may facilitate the determination of loss of income of the victims.

10 (iii) When the disabled victim is a housewife (man) the department of human services
11 shall pay the victim a benefit of twenty-five dollars (\$25.00) a week subject to a maximum of
12 sixteen (16) weeks.

13 (2) The loss of income requirement to be entitled to collect weekly compensation for total
14 and continuous disability shall be deemed as established even though the claimant continues to
15 receive regular salary payments for accumulated vacation leave, it being understood that in such a
16 case there is a real loss of income. However, there shall be no loss of income when one continues
17 to receive regular salary for accumulated sick leave; in that case, the loss of income shall be
18 established solely if the victim would have been entitled to liquidate sick leave accumulated and
19 not used, in cash, some time within the term of one year from the date of the accident, in which
20 case all the time that the victim is absent from work due to injuries suffered in the accident shall
21 be counted as accumulated and then the loss of income shall be determined in accordance with
22 what was actually earned or not earned.

23 (d) Reinstatement. In the cases of disability covered by this chapter, when the injured
24 person is employed, the employer shall reserve the job the worker was doing when the disability
25 commenced and to reinstate the worker in it, subject to the following conditions:

26 (1) That the worker requires the employer to reinstate the worker in said job within the
27 term of fifteen (15) days, counting from the date the worker is discharged from treatment,
28 provided said requirement is not made after six (6) months have passed from the date of inception
29 of the disability;

30 (2) That the worker is mentally and physically able to fill said job when the worker asks
31 the employer for reinstatement; and

32 (3) That said job exists when the worker requests reinstatement. It shall be understood
33 that the job exists when it is vacant or filled by another worker. It shall be presumed that the job
34 was vacant when it was filled by another worker within thirty (30) days following the date the

1 reinstatement was requested. If the employer does not comply with the provisions of this clause,
2 the worker shall be bound to pay the worker or beneficiaries the wages said worker would have
3 earned if reinstated. The worker shall also be liable for any damages caused. The worker or the
4 worker's beneficiaries shall file and process the corresponding claim for reinstatement and/or
5 damages in superior court.

6 **40-23-7. Death benefits.**

7 (a) A death benefit of one thousand dollars (\$1,000) shall be paid for funeral expenses.
8 This benefit may be paid, up to the sum of the expenses incurred, to any person who produces
9 acceptable evidence to the department of human services of having incurred the funeral expenses
10 of the victim. Any remaining balance shall be paid to the beneficiaries of the victim.

11 (b) There shall also be paid the following death benefits, subject to the conditions herein
12 below indicated:

13 (1) Ten thousand dollars (\$10,000) to the primary dependent;

14 (2) One Thousand dollars (\$1,000) to each secondary dependent up to a maximum of five
15 thousand dollars (\$5,000).

16 (3) The following benefits to the children of the victim:

17 (i) Five thousand dollars (\$5,000) for each disabled child regardless of their age;

18 (ii) Five thousand dollars (\$5,000) for each child four (4) years of age or under;

19 (iii) Four thousand dollars (\$4,000) for each child over four (4) years, but under ten (10)
20 years;

21 (iv) Three thousand dollars (\$3,000) for each child ten (10) years or more but under
22 fifteen (15) years;

23 (v) Two thousand dollars (\$2,000) for each child fifteen (15) years of age or over, but
24 under eighteen (18) years; those children between the ages of eighteen (18) and twenty-one (21)
25 years who depended on the victim and were students at the time of the accident shall also be
26 entitled to this benefit. If the benefit for the children, computed according to the preceding
27 formula, exceeds ten thousand dollars (\$10,000), each one's benefit shall be adjusted by
28 multiplying ten thousand dollars (\$10,000) by the ratio there is between the benefit corresponding
29 to each child according to the above scale and the sum total of the benefits corresponding to all
30 the children, according to that scale. If the children also qualify as primary dependents, the
31 benefit corresponding to each one shall be determined by multiplying ten thousand dollars
32 (\$10,000) by the ratio there is between the benefit corresponding to each child as such, and the
33 sum total of the benefits corresponding to all the children as such, according to the provisions of
34 this section.

- 1 (c) For the purposes of the death benefit, there shall be considered as primary dependents:
2 (1) The wife of the victim, or in lieu thereof;
3 (2) The husband of the victim, or in lieu thereof;
4 (3) The children of the victim, or in lieu thereof; and
5 (4) The parents of the victim.

- 6 (d) For purposes of the death benefit, there shall be considered as secondary dependent:
7 (1) The parents of the victim when they do not qualify as primary dependent, or in lieu
8 thereof; and
9 (2) Other dependents.

10 **40-23-8. Medical-hospital benefits.**

11 (a) The victim shall be entitled to receive the medical, hospitalization, convalescence
12 home, and rehabilitation services and medicines that may be reasonably required by the victim's
13 condition during the two (2) year term following the accident, which may be available within the
14 jurisdiction of the state of Rhode Island. In the case of paraplegics and quadriplegics, and in cases
15 of severe trauma and/or multiple fractures with complications of such a nature as to require
16 prolonged medical treatment, said services may be given for a term longer than two (2) years as
17 provided by the board through regulations. In connection with the above, "severe trauma" means
18 injuries whose treatment and rehabilitation require a term longer than two (2) years, in the
19 judgment of a medical evaluation committee created by the department of human services.

20 (b) The department of human services shall provide said services under contract with
21 physicians and facilities, or directly according to the limits, criteria, and methods of providing
22 services which it establishes through regulations to such effects. If the victim receives emergency
23 treatment in a hospital or other types of facilities which do not have service contracts with the
24 department of human services, or if the latter authorizes the victim to use such facilities, they
25 shall provide the services and the department of human services shall pay them for the cost of the
26 services rendered based on an average of the rates used by the department of human services at
27 present to pay for similar services to hospitals, physicians, laboratories and other entities which
28 provide health services under contract in the area they are located. In the event the victim has paid
29 for such services, the victim's would be entitled to claim from the department of human services
30 the cost of such services on the basis of the above-stated average. The invoices for claims for
31 health services rendered shall be filed no later than one hundred twenty (120) days as of the date
32 on which the services were rendered. All claims with respect to the return of invoices or
33 payments made by the department of human services for health services invoices shall be filed
34 within forty-five (45) days as of the date of the payment. When the last day to file invoices for

1 claims on time is Saturday, Sunday, or a non-working holiday for the department of human
2 services, said invoices shall be considered as filed on time, as long as they are filed on the next
3 working day. The department of human services shall not pay invoices received after the deadline
4 for their filing. All terms and conditions established in this clause are of a jurisdictional nature
5 and noncompliance therewith bars the department of human services or the court with authority
6 from considering such matters.

7 **40-23-9. Benefits: Payment.**

8 (a) The department of human services shall, by regulation, establish the standards that
9 will govern the payment of all benefits provided in this chapter, both to victims of accidents and
10 to their beneficiaries; provided, that:

11 (1) When the payment of a benefit for dismemberment is in order, same shall be
12 liquidated systematically so that the benefits that the victim may receive from the department of
13 human services do not exceed the equivalent of fifty dollars (\$50.00) weekly.

14 (2) The death benefits shall be paid at the rate of the equivalent of fifty dollars (\$50.00)
15 weekly for family unit. The department of human services shall determine by regulation what is a
16 family unit and how the benefit shall be paid when the latter does not exist.

17 (3) The department of human services may authorize payments of more than the
18 equivalent of fifty dollars (\$50.00) weekly or the liquidation of the benefit in one single sum,
19 when it is shown that it will redound in benefit of the victim or the victim's beneficiaries.

20 (4) If the amount of the benefit one is entitled to is greater than two thousand dollars
21 (\$2,000), the department of human services may require the victim or the victim's beneficiaries to
22 use said benefit or any part thereof for the purchase of a farm or house, or to acquire a productive
23 business or to make any other profitable investment.

24 (b) The benefits payable under this chapter may not be assigned, sold or transferred and
25 any contract to such effect shall be void. Benefits may not be seized or confiscated, nor shall the
26 victim or the victim's beneficiaries be deprived, through a lawsuit, of the possession of same.

27 (c) The following persons shall not be entitled to collect the benefits provided by this
28 chapter for the victim of the accident, but the victim's beneficiaries shall be entitled to the benefits
29 corresponding to them as such:

30 (1) Those whose injuries were caused by an act or omission on their part performed for
31 the purpose of causing damage to their own person.

32 (2) Those who at the time of the accident were driving a motor vehicle without a driver's
33 license in effect at the time and for the operation of that particular motor vehicle, or whose
34 vehicle has no valid motor vehicle license and license plate on that date. To the effects of this

1 clause, a learner's permit is not sufficient authorization to operate a motorcycle or moped.

2 (3) Those who at the time of the accident were participating in automobile races or in
3 speed tests, either as drivers, passengers, spectators or as officials or employees in areas reserved
4 for such activities.

5 (4) Those whose injuries occurred while committing a criminal act other than a violation
6 to the traffic laws.

7 (5) Those who at the time of the accident were driving their automobile in a state of
8 drunkenness or under the effect of drugs.

9 (d) The benefits provided by this chapter may not be used for the payment of fees for
10 legal services rendered to the victim by virtue of an application for benefits or of a lawsuit filed
11 under this chapter, except in the manner the department of human services may be regulation
12 provide.

13 (5) The benefits of this chapter shall only be paid for injuries which have occurred in
14 Rhode Island and the medical and hospital services shall only be rendered in the state of Rhode
15 Island.

16 **40-23-10. Rights of the department of human services to indemnity.**

17 (a)(1) The department of human services shall be entitled to be indemnified by the person
18 responsible for the accident for all the expenses incurred by the department of human services in
19 connection to said accident, if the damages were caused intentionally or under the effects of
20 alcohol or narcotic drugs, or while driving an automobile without a legal permit to do so, or while
21 committing a criminal act other than a violation of the traffic laws, or while participating in
22 automobile races or speed tests.

23 (2) The department of human services shall be entitled to be indemnified by the person
24 who is not responsible for the accident for all expenses incurred by the department of human
25 services with respect to said person.

26 (b) When the victim in the cases provided herein files a legal action against the driver
27 involved in the accident and the court grants said victim an indemnification under the principle of
28 liability on the grounds of negligence, the defendant shall inquire, before payment of the
29 judgment, if the department of human services is entitled to be reimbursed for any or all of the
30 benefits paid by the latter to the victim. If the department of human services is entitled to such
31 reimbursement, the payment shall be issued separately in favor of the department of human
32 services and of the claimant victim for the respective amount corresponding to them. In such
33 cases, if the defendant pays the judgment without considering the interests of the department of
34 human services, and if the latter is unable to recover the corresponding sum from the victim, the

1 department of human services shall be entitled to be indemnified by the defendant or the plaintiff
2 for the loss thus suffered.

3 (1) The department of human services shall be entitled to resort to the competent court of
4 first instance in any case seeking indemnification before the courts, based on the application of
5 the principle of liability on the grounds of negligence, for damages or injuries for which benefits
6 were provided pursuant to this chapter. The victim or the victim's legal heirs shall be required by
7 the corresponding court, so that prior to the continuation of the proceedings of the case, the
8 plaintiff to notify the department of human services with a copy of the claim filed, which shall
9 include in its caption or in one of its allegations, the number of the case of their claim in the
10 department of human services. Non-compliance with the provisions in this section shall be
11 sufficient cause for the corresponding legal action of the case to be dismissed without prejudice,
12 before the court grants a discretionary term for compliance with these provisions, which shall
13 never be of less than thirty (30) days.

14 (2) The department of human services shall be entitled to be indemnified, for the
15 expenses incurred, by the owner of the motor vehicle according to the corresponding registration
16 in the department of transportation, who shall be severally liable therefor before the department
17 of human services, unless the victim is able to prove that the vehicle was stolen.

18 (3) In every circumstance under this section in which the department of human services is
19 entitled to indemnification, it shall exercise the corresponding action within fifteen (15) years
20 from the date of the accident. The filing of a claim before the court, the authentic extrajudicial
21 claim, or any act of recognition of a debt by the debtor shall interrupt the term of prescription. In
22 every case where the fifteen (15) year prescriptive term applies, once the term has elapsed and the
23 reasonable collections pursuant to the regulation it is hereby authorized to approve, the
24 department of human services shall proceed to remove the account off its books, having
25 accredited the collections made.

26 (4) In all cases whereby the department of human services is notified of an action under
27 this chapter, it shall appear in court to exercise its rights. Should the department of human
28 services fail to appear in court within a term of one year, its cause of action shall be understood to
29 have been abandoned with prejudice, and the court shall pass judgment to that effect.

30 (c) In all cases in which there is a right to recover, pursuant to the preceding subsection, a
31 lien shall be created over the motor vehicle and over the driver's license of the person liable to
32 indemnify the department of human services. The department of human services shall file an
33 application for a notation of lien for money it is owed at the department of transportation. Said
34 notation shall constitute an actual lien over said motor vehicle and a prohibition against the

1 transfer of said motor vehicle or the issuing or renewal of any type of motor vehicle license
2 and/or driver's license until the lien is paid, nullified or until an agreement to pay is reached with
3 the department of human services. The department of human services, shall establish the
4 procedure for the agreements to pay through regulations. Notwithstanding the provisions of the
5 previous subsection, the title of the motor vehicle with an annotation of lien may be transferred if
6 the lien is imposed after the date in which the motor vehicle changes owner; in other words, the
7 date of the formalized transfer on the back of the registration of the motor vehicle or trailer or by
8 attesting document. The secretary of the department of transportation shall notify the imposition
9 of the lien in the same manner it is done with respect to administrative fines and the victim shall
10 keep a register of liens. If the owner of the vehicle and/or driver's license holder affected by the
11 notation of administrative lien considers that the ACAA is not entitled to recover against the
12 victim or that the amount imposed for recovery is incorrect, the victim may request an
13 administrative review at the regional office of the ACAA corresponding to the victim domicile,
14 by filing a request for a review within thirty (30) days after being notified of the administrative
15 lien. The department of human services shall provide the procedure for the administrative review
16 before the ACAA through regulation. The decision from the administrative review shall be
17 reviewable by the court of first instance, using the procedure provided in the vehicles and traffic
18 act of Rhode Island for the review of administrative fines. The liens may be paid at the locations
19 and in the manner stated hereinbelow:

20 (1) At the department of transportation, taken in person or through an agent, in cash,
21 check or certified check, or money order, or a certified check or money order sent by mail,
22 payable to the automobile accident compensation division of the department of human services.

23 (2) At the regional offices or at the central office of the automobile accident compensation
24 division of the department of human services. Taken in person or through an agent in cash, or
25 certified check or money order payable to the automobile accident compensation division of the
26 department of human services. Should the payment of the lien be made in the offices of the
27 automobile accident compensation division of the department of human services, the latter shall
28 remit to the department of transportation an authorization to cancel the lien and it shall notify the
29 interested party in writing. The secretary of the department of transportation, the general
30 treasurer, and the automobile accident compensation division of the department of human
31 services are hereby authorized to establish by regulations those other provisions that are
32 necessary to implement the liens' system established herein.

33 **40-23-11. Claims.**

34 (a) Every accident which gives rise to a claim for benefits under this chapter shall be

1 notified to the police and to the department of human services.

2 (b) Every person entitled to claim a benefit under this chapter shall file a person's claim
3 with the department of human services, except in case of death benefits, within the fifteen (15)
4 days following the date of the accident.

5 (c) The persons entitled to death benefits shall file their claim within one hundred twenty
6 (120) days after the death of the victim, but in all cases the accident must have been notified to
7 the department of human services within the fifteen (15) days following the date of its
8 occurrence.

9 (d) Every person entitled to claim a benefit under this chapter shall submit to the
10 department of human services within the sixty (60) days following the date of the claim, all the
11 evidence that it may be reasonably possible to obtain in connection with the circumstances of the
12 accident and the loss suffered and any other data or evidence, including information on plans,
13 contracts or policies covering or that may cover the benefits provided by this chapter, as well as
14 any other additional evidence that may be required of the person.

15 (e) Noncompliance with the provisions of the preceding subsections may be sufficient
16 cause for the department of human services to deny the benefits provided by this chapter, unless
17 the claimant shows to the satisfaction of the department of human services that it was impossible
18 for the person to comply with the provisions hereof and that the person did it as soon as the
19 circumstances allowed.

20 **40-23-12. Tort and related items.**

21 (a) The benefits provided by this chapter for injuries sustained as a result of automobile
22 accidents which occurred in the state of Rhode Island shall be paid, up to the limits indicated in
23 this section, in substitution of the sums that the victim, the victim's survivors or any other person
24 would otherwise be entitled to claim by reason of the accident under the principle of liability on
25 the basis of tort, relieving the responsible party from the payment of all claims up to said limits or
26 up to the amount of the benefits collected by the victim and the victim's beneficiaries, whichever
27 is greater.

28 (b) Any person responsible, through a negligent act on the victim's part, for damages or
29 injuries for which benefits are provided herein, shall be exempted from application of the
30 principle of liability on the basis of negligence. Said exemption shall be limited to:

31 (1) The amount of one thousand dollars (\$1,000) for physical and mental sufferings
32 including pain, humiliation and similar damages; and

33 (2) The sum of two thousand dollars (\$2,000) by reason of other damages or losses not
34 included in subsection (b)(1) of this section.

1 (c) Any person whom a court declares in a civil action responsible for having caused
2 through negligence injuries for which the victim, the victim's survivors or any other person are
3 entitled to receive benefits or medical-surgical and hospital services under this chapter, shall be
4 entitled to a reduction in the sentence to be imposed by the court up to the amount indicated in
5 this section.

6 (1) In each case in which this section applies the court must separately indicate the
7 amount of indemnity granted for damages due to pain and physical and mental sufferings and the
8 amount of indemnity granted for other losses.

9 (2) The deduction applicable to damages for physical and mental sufferings shall be one
10 thousand dollars (\$1,000).

11 (3) The deduction applicable to damages and losses for causes other than physical and
12 mental sufferings shall be the sum of two thousand dollars (\$2,000) or the amount of the total
13 benefits paid by the department of human services, if said amount is greater than two thousand
14 dollars (\$2,000).

15 (4) The indemnity that a court may grant to the survivors of the victim, even when it be
16 only by reason of moral damages sustained by them on account of the death of said victim, shall
17 be reduced by a sum equal to the amount of the benefits that the victim and the victim's
18 beneficiaries have received from the department of human services.

19 (5) If the liability for the damages caused lie upon two (2) or more persons, the
20 deductions provided in this section shall be deducted only once. Same shall be deducted from the
21 total judgment to be paid by all the parties. The court shall determine the amount of the deduction
22 which shall apply to each one of said parties.

23 (6) The provisions of this section shall be applicable to the judgments rendered in claim
24 actions brought in connection with accidents which have occurred on and from July 1, 2017.

25 **40-23-13. Examination, treatment and rehabilitation of injuries; Finding of fact.**

26 (a) Whenever the physical and mental condition of a person be of importance to a claim
27 filed or to be filed for payment of past or future benefits, the department of human services may
28 direct said person to submit to the medical examinations as may be necessary.

29 (b) If the person refuses to be submitted to said medical examination or to comply with
30 any order given by the department of human services in accordance with this section, the
31 department of human services shall not make any payment whatsoever to said person or to the
32 person's beneficiaries.

33 (c) The department of human services may direct any victim to submit to the
34 rehabilitation treatment or training that may be reasonable and justified. Refusal to comply with

1 these orders may entail the loss of the benefits provided under this chapter.

2 (d) Every employer shall be under obligation to allow the examining and copying of and
3 to furnish to the department of human services, at its request, payrolls, work records and sworn
4 statements showing the salaries earned by the victim subsequent to the date of the injuries and
5 during a period of one year prior to the date of the accident.

6 (e) Every physician, hospital, clinic or institution of medical services which provides any
7 services related with an injury for which benefits or services are claimed under this chapter or
8 which has previously attended the victim in connection with any former injury or condition which
9 may be connected in any way with the injury for which the claim is made, shall furnish, upon
10 request of the department of human services, all the information available from records or
11 memory, including a written report on the history, condition, treatment, dates and costs of the
12 treatment and other services rendered to the injured person, and shall produce and permit the
13 inspection of all the records related with said medical history, the condition, treatment, and the
14 dates and cost thereof, and any other information deemed necessary.

15 (f) Every physician-employer, hospital, clinic or any person or institution that furnishes
16 information requested under the terms of this section, may be reimbursed the cost of furnishing
17 such information, in accordance with the rates that the department of human services may
18 establish to that effect.

19 (g) The information obtained by the department of human services or by its duly
20 authorized employees during the course of the investigations performed in the exercise of the
21 powers granted in this chapter shall be privileged and confidential in nature and may only be
22 divulged with the authorization of the executive director or that of a court of competent
23 jurisdiction when the physical condition or the medical treatment of the victim who has filed a
24 claim against the department of human services is a controversial fact in a judicial proceeding. In
25 the latter case, the court's authorization shall be deemed to extend only to information related to
26 the claimant's physical condition or treatment.

27 **40-23-14. Proceedings to facilitate the investigation and award claims.**

28 (a) When there is required the appearance of persons, their testimony or the production of
29 any document or evidence pertinent to any proceeding or investigation under this chapter, the
30 following provisions shall govern:

31 (1) Every summons, requirement or certification issued by the executive director or
32 authorized representative, or by the board or any of its members, or by the secretary, shall bear
33 the seal of the department of human services or of the board, as the case may be, and may be
34 served at any place in the state.

1 (2) When a person summoned or required in accordance with the present provisions fails
2 to appear to testify or fails to produce or to permit the copying of the books, registries, payrolls,
3 records or documents, as required, or when any person thus summoned refuses to answer any
4 question in connection with any matter or investigation under consideration of the department of
5 human services, the latter may request the assistance of the court of first instance of Rhode Island
6 to compel the appearance and the testimony of such person and the production and delivery of the
7 books, registries, payrolls, records or documents requested on the matter under consideration.

8 (3) Once the petition is filed with the court of first instance, said court shall issue a
9 summons requiring and ordering the person to appear and depose or to produce the evidence
10 requested, or both. Disobedience of the order issued by the court shall be punished as contempt
11 and the payment of costs and lawyer's fees shall be imposed on the guilty person.

12 (b) Any person, except government employees, summoned and appearing before the
13 board or the department of human services as witness shall receive for each day of appearance a
14 sum equal to that received by witnesses appearing before the courts of justice.

15 **40-23-15. The automobile accident compensation department of human services.**

16 (a) There is hereby created, to carry out the purposes of this chapter, a corporation as a
17 government instrumentality of the government of the state of Rhode Island to act by its own
18 authority, under the name of the automobile accident compensation division of the department of
19 human services.

20 (b) The corporate powers of the department of human services shall be exercised by a
21 board of directors which shall also be responsible for the department of human services of same
22 and of seeing to the enforcement of the provisions of this chapter. The board shall be composed
23 of four (4) members appointed by the governor with the advice and consent of the senate. At least
24 two (2) of the four (4) members shall represent the public interest and one shall be a person
25 conversant with the insurance business. The first appointments shall be made for a term of two
26 (2) years in the case of the representatives of the public interest and of one year in the case of the
27 other two (2) members and until their successors are appointed and qualify. All subsequent
28 appointments shall be for a term of three (3) years. Three (3) members of the board shall
29 constitute a quorum. Vacancies of the board shall be filled by appointments made for the
30 unexpired term for which the member causing the vacancy was appointed. The governor may
31 remove any member of the board for incompetency in the discharge of duties or for any other
32 good cause, upon charges brought against the member and after giving the member an
33 opportunity to be heard. The board shall elect one of its members to act as chairperson and
34 another to act as secretary. Members of the board shall receive the per diems the board

1 determines by regulations for their services, and the department of human services shall
2 reimburse any necessary expenses incurred to discharge their functions. Those members of the
3 board who are officials of the government of the state of Rhode Island shall receive no
4 compensation for their services. The chairperson of the board may receive an additional fee to be
5 fixed by the board, which shall not exceed an amount equal to fifty percent (50%) of the per diem
6 received by members of the board. The board shall appoint an executive director who shall be
7 responsible for the direction of the department of human services of the corporation in accordance
8 with the standards and conditions that the board may establish.

9 (c) The board shall adopt rules for its organization and internal operation and shall
10 approve and shall cause the promulgation of the necessary regulations to enforce the provisions of
11 this chapter pursuant to the administrative procedures act including the proceedings for the
12 payment of premiums and for the payment of claims. In addition to the duties arising from this
13 chapter, the board shall have the following faculties and obligations:

14 (1) Hold, at least four (4) times a year, regular meetings and those special sessions as may
15 be deemed necessary. The board shall keep full minutes of all its proceedings;

16 (2) Consider and take resolutions on matters referred by the executive director;

17 (3) Approve the investment of the resources of the department of human services that the
18 executive director may propose;

19 (4) May investigate and shall decide on appeal, at the request of a party, controversies
20 arising between claimants of the department of human services and the executive director, and

21 (5) As soon as possible after each fiscal year, but not later than the first of November of
22 each year, revise, approve and direct that it be transmitted to the governor and to the general
23 assembly an annual report containing, among other things, a balance sheet of the economic
24 conditions; a statement of the receipts and expenditures for the year; detailed statements on the
25 claims experience of the department of human services for the year, a report on titles of property
26 investment of the department of human services; and other statistics and financial data that may
27 be considered necessary for an adequate interpretation of the situation of the department of
28 human services and of the results of its operations.

29 **40-23-16. Proceedings of claim awards appeals.**

30 (a) The executive director shall investigate and decide the claims filed against the
31 department of human services using such proceedings as the director may deem convenient, as
32 long as the rights of the parties are guaranteed. In the event that a claimant disagrees with the
33 executive director's decision, the claimant may request its reconsideration within thirty (30) days
34 from the date of notice thereof the determination is served or from the date of the postmark if the

1 claimant presents it, whichever is later. The claimant may be represented by counsel in this phase
2 and give testimony and present the evidence the claimant deems convenient. If the claimant
3 disagrees with the result of the reconsideration, the claimant may request a public hearing before
4 the executive director or an examiner designated by the claimant within thirty (30) days from the
5 date the determination is served or the date of the postmark if the claimant presents it, whichever
6 is later. At this public hearing the claimant cannot submit any evidence to the consideration of the
7 executive director which the executive director did not have when making the determination,
8 unless the impossibility of obtaining it previously is shown to the satisfaction of the executive
9 director. The claimant may appear in person or represented by counsel and a record shall be kept
10 of the proceedings and of all the testimony given at the hearing, but the testimony need not be
11 transcribed unless a subsequent appeal is made. In the event that more than one claim is presented
12 in connection with the same victim and the evidence submitted is the same or substantially the
13 same in nature, only one record shall be kept of the proceedings and such evidence as may be
14 produced with respect to one proceeding may be deemed to be produced with respect to the
15 others, provided none of the claimant is harmed thereby. The rules of evidence that prevail in a
16 court of justice shall not be mandatory in any proceeding before the executive director. After the
17 hearing is held, the executive director shall make determinations and conclusions and shall
18 furnish to each party a copy of a decision and of the findings and conclusions on which it is
19 based. This decision shall be final unless an appeal is filed before the board.

20 (b) The appeal shall be executed by filing a writ of appeal before the secretary of the
21 board within the thirty (30) days following the date the decision of the executive director is
22 served or of the date of the postmark if presented, whichever is later. The claimant shall be
23 entitled to appear in the claimant's own right or assisted by counsel. The executive director shall
24 cause a certified copy of the record of the case and the transcription of the oral evidence to be
25 transmitted to the board. The parties may stipulate that the record be limited to a part of the
26 proceedings or the transcription of the oral evidence. The board shall decide on the basis of the
27 record before it and of any brief the parties may wish to present. It may, at its discretion, grant
28 oral hearings to hear the arguments of the parties before deciding. Its decision may be to sustain,
29 modify or revoke the decision of the executive director, or it may return the case to the latter, with
30 the pertinent instructions, including an order to consider additional evidence. In cases in which
31 the board holds oral hearings, these may be presided by a single member of the board designated
32 by its chairman or by one or more examiners designated by it. The board and each one of its
33 members, the examiners and the executive director shall be empowered to administer oaths.

34 (c) The decision of the board shall be final unless the claimant or the executive director

1 requests its judicial review by filing a petition to that effect with the circuit court of appeals
2 within thirty (30) days after the parties and their respective counsel have been notified of the
3 decision of the board by mail or in person. The jurisdiction of the court of first instance shall be
4 limited to issues of law, and the findings of facts, if sustained by substantial evidence, shall be
5 final.

6 (d) All the terms established in this section are of a jurisdictional nature and their
7 noncompliance deprives the department of human services or the court of authority to deal with
8 the petition filed. For the department of human services's effects the date of filing of a petition for
9 reconsideration, for a public hearing before the executive director or for an appeal before the
10 board of directors shall be the date it is received in the department of human services, when filed
11 personally, or that of the postmark when it is sent by mail.

12 **40-23-17. Other faculties and duties of the executive director.**

13 (a) The executive director shall direct and supervise all technical and administrative
14 activity of the department of human services and shall appoint or shall hire with the approval of
15 the board of directors the administrative and technical personnel necessary to carry out the
16 functions of the department of human services and to pay for such services the compensation that
17 the board may determine. The officials and employees of the department of human services shall
18 be included in the exempt service of the personnel act of the state. The executive director shall
19 also have the following faculties and obligations:

20 (1) To establish an office for the department of human services and to provide everything
21 necessary for the installation of a complete and adequate system of accounting, registries and
22 adjustment of claims;

23 (2) To adopt the procedures necessary to compile and keep the statistical data that may be
24 necessary to make periodical analysis of the operation costs of the department of human services
25 and actuarial studies of its operations;

26 (3) To attend all meetings of the board and to execute all the resolutions recommended by
27 it;

28 (4) To certify all the necessary payments which have to be made according to the
29 provisions of this chapter;

30 (5) To remit or deposit in the name of the department of human services and to render
31 accounts, according to law and with the regulations in force, of all the monies received belonging
32 to the department of human services;

33 (6) To prepare regulations for the approval of the board;

34 (7) To make recommendations to the board for the investment of the resources of the

1 department of human services;

2 (8) To prepare the annual report and to submit it to the board for its revision and
3 approval;

4 (9) Submit to the board any report that it may request; and

5 (10) Personally, or through the persons whom may delegate, to administer oaths, require
6 the appearance of persons and the production of any documents or evidence pertinent to any
7 procedure or investigation authorized by this chapter.

8 **40-23-18. Other powers and faculties of the department of human services.**

9 (a) The department of human services shall have the following powers and functions, in
10 addition to those established in this chapter:

11 (1) It shall have perpetual existence, may sue and be sued, and in any action in which it
12 may intervene it shall be exempt from the payment of costs, charges and counsel fees; counsel
13 shall be officially designated.

14 (2) Investigate all the phases of the problem of automobile accidents including the phases
15 of the financial liability and of accident prevention and make the pertinent recommendations to
16 the governor and to the legislature.

17 (3) Contract physicians, hospitals, clinics, laboratories and other suppliers of medical
18 services to carry out the purposes of this chapter. It may also enter into agreements with the state
19 insurance fund, established under the workmen's accident compensation act, to use its medical-
20 hospital facilities and with the department of health for the use of the medical hospital facilities of
21 the state.

22 (4) Fix, annually, with the approval of the insurance commissioner the premium that each
23 vehicle shall pay at the time of registering same, in accordance with the experience and the
24 corresponding actuarial study.

25 (5) To acquire properties for its corporate purposes by purchase or donation, grant or
26 bequest; to own and exercise all property rights thereon and to dispose of them in accordance
27 with the terms and conditions that its board of directors may determine; as well as to borrow
28 money or use any other facility or type of financing for the acquisition of goods that it deems
29 necessary in the form and means the board of directors deems convenient.

30 (6) Acquire all kinds of properties in partial or full payment of debts previously
31 contracted with the department of human services, when such acquisition is necessary to diminish
32 or avoid losses in connection with same, to retain such properties for the time it may deem
33 convenient, to exercise thereon all property rights and to dispose of same in accordance with the
34 terms and conditions that its board of directors may determine.

1 (7) Exercise all those incidental powers as may be necessary or convenient for the
2 purposes of carrying out its businesses or purposes.

3 (8) Exercise all those corporate powers compatible with those herein set forth which are
4 conferred by the laws of Rhode Island to corporations and to exercise all those powers, within
5 and without Rhode Island in the same extent as would or may be done as a natural person.

6 (9) Own an official seal and alter same when it so deems convenient.

7 **40-23-19. Financing.**

8 (a) The cost of this insurance shall be distributed among all the motor vehicle owners
9 through an annual contribution to be paid at the time of registering the vehicle.

10 (b) At the time of its registration, every vehicle shall pay the annual premium fixed by the
11 department of human services with the approval of the insurance commissioner. Said premium
12 shall be renewed on the same date on which the motor vehicle or trailer's license and plates must
13 be renewed. Van trailer vehicles engaged in maritime transportation to bring freight to Rhode
14 Island from abroad, and which enter Rhode Island as transients, may choose to pay a special
15 premium instead of the above stated annual premium, based on their short stay in Rhode Island,
16 regardless of whether or not they are registered, or regardless of the type of registry. This special
17 premium shall be fixed by the board of directors of the department of human services as
18 previously provided and based on how many times these trailers enter Rhode Island. The payment
19 mechanism for these special premiums shall be provided through a procedure that shall be
20 established by the department of human services to such effect.

21 (c) At the time of registration every vehicle shall pay an annual premium fixed by the
22 department of human services with the approval of the insurance commissioner. Said premium
23 shall be renewed on the same date on which the vehicle's or trailer's license and plates must be
24 renewed.

25 (d) Any receipts not required for the payment of claims and expenses shall be deposited
26 in a reserve fund which shall be used exclusively for the payment of claims in subsequent years,
27 in case that the claims incurred in any of the said years exceeds the advance claims upon
28 determining the type of contribution.

29 (e) If in any year the receipts and the reserves accrued are not sufficient to cover the
30 losses and the expenses incurred, the general treasurer shall provide to the department of human
31 services from any funds available in the general fund of the government, as an advance, the sums
32 required to remediate [cover] the deficiency.

33 **40-23-20. Appropriation.**

34 The sum of one million dollars (\$1,000,000) is hereby appropriated from unencumbered

1 [funds in the general fund to the department of human services as initial capital to carry out the](#)
2 [purposes of this chapter.](#)

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

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LC000115
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES-- AUTOMOBILE ACCIDENT SOCIAL PROTECTION
ACT

- 1 This act would create an accident compensation fund to provide payments and benefits to
- 2 those injured by uninsured motorists, to be administered by the department of human services.
- 3 This act would take effect upon passage.

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