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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO HUMAN SERVICES -- AUTOMOBILE ACCIDENT SOCIAL PROTECTION
ACT

Introduced By: Representatives Perez, Slater, Diaz, Hull, J Lombardi, and McLaughlin

Date Introduced: February 09, 2022

Referred To: House Judiciary

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 division
11 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, during
15 a term of not less than three (3) years, or during two-thirds (2/3) of the life of the persons, whichever
16 of the two (2) terms is the shorter, immediately and consecutively preceding the date of the accident
17 which originates a claim under the provisions of this chapter.

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

1 of the department of human services.

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

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

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

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

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

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

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

24 (9) "Executive director" means the executive director of the automobile accident
25 compensation division of the department of human services.

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

31 (11) "Motor vehicles" means any vehicle, including trailers, designed to operate on public
32 highways propelled by power other than muscular, which type of vehicle is authorized to travel on
33 the public highways by the department of transportation by issuing a motor vehicle license to it.

34 (12) "Parents" means father, mother, parents by adoption or foster parents, it being

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

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

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

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

18 (16) "Victim" means a natural person who suffers bodily injuries or sickness or death as a
19 result thereof, as a consequence of the maintenance or use by the natural person or by another
20 person of a motor vehicle as the vehicle.

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

24 **40-23-3. Applicability and benefits.**

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

29 **40-23-4. Beneficiaries.**

30 The following persons shall be deemed as beneficiaries of the victim with the rights and
31 limitations established herein below:

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

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

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

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

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

6 **40-23-5. Benefits - General.**

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

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

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

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

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

30 (f) If the victim receives payments from other sources for medical-surgical and
31 hospitalization services rendered as provided in this chapter, the department of human services may
32 recover from the victim's beneficiaries up to a sum equal to the value of the services rendered.

33 (g) Deductible benefits. All benefits or advantages that the victim or the victims
34 beneficiaries may receive or may be entitled to receive from other sources on account of the injuries

1 suffered shall be deducted from the benefits corresponding to the victim under this chapter, except
2 when otherwise provided herein. Whenever the victim uses the services provided by this chapter,
3 the payments that the victim or the victims beneficiaries may receive or may be entitled to receive
4 from other insurance programs by reason of the services shall be paid to the department of human
5 services, up to a sum not to exceed the amount expended by the department of human services to
6 render the service.

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

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

12 (2) Inheritance estates;

13 (3) Life insurance;

14 (4) Gifts; and

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

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

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

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

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

33 (1) Loss of sight of both two (2) eyes ten thousand dollars (\$10,000);

34 (2) Loss of both two (2) feet at or above the ankle ten thousand dollars (\$10,000);

- 1 (3) Loss of both two (2) arms at or above the wrist ten thousand dollars (\$10,000);
2 (4) Loss of one (1) arm and one (1) leg ten thousand dollars (\$10,000);
3 (5) Loss of one (1) arm at or above the wrist seven thousand five hundred dollars (\$7,500);
4 (6) Loss of one (1) leg at or above the ankle seven thousand five hundred dollars (\$7,500);
5 (7) Loss of one (1) hand or one foot five thousand dollars (\$5,000);
6 (8) Total loss of sight of one eye five thousand dollars (\$5,000);
7 (9) Loss of at least three (3) fingers or three (3) toes 2,500; and
8 (10) In case a person suffers more than one of the losses indicated above, the maximum
9 amount for all the losses shall be ten thousand dollars (\$10,000).

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

11 **40-23-6. Compensation for loss of income due to disability - Reinstatement.**

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

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

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

26 (4) For the purposes of computing the compensation contemplated in this chapter, there
27 shall be understood that the week consists of five (5) working days and the workday of eight (8)
28 hours; except that from the facts investigated it is deduced that the victim worked regularly more
29 than forty (40) hours a week.

30 (b)(1) Loss of income. The loss of income shall be determined by taking as a basis the
31 income earned by the victim at the time of the accident. If the victim had then no income, the loss
32 of income shall be computed on the basis of the equivalent of the average weekly income earned
33 by the victim during the last six (6) of the last twelve (12) months immediately preceding the
34 accident, when the victim was holding a remunerated job or performed an activity or engaged in a

1 profession or in an income-yielding business of the victim.

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

4 (iii) When the disabled victim is an unemployed spouse the department of human services
5 shall pay the victim a benefit of twenty-five dollars (\$25.00) a week subject to a maximum of
6 sixteen (16) weeks.

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

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

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

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

25 (3) That the job exists when the worker requests reinstatement. It shall be understood that
26 the job exists when it is vacant or filled by another worker. It shall be presumed that the job was
27 vacant when it was filled by another worker within thirty (30) days following the date the
28 reinstatement was requested. If the employer does not comply with the provisions of this clause,
29 the employer shall be bound to pay the worker or beneficiaries the wages the worker would have
30 earned if reinstated. The worker shall also be liable for any damages caused. The worker or the
31 worker's beneficiaries shall file and process the corresponding claim for reinstatement and/or
32 damages in superior court.

33 **40-23-7. Death benefits.**

34 (a) A death benefit of one thousand dollars (\$1,000) shall be paid for funeral expenses.

1 This benefit may be paid, up to the sum of the expenses incurred, to any person who produces
2 acceptable evidence to the department of human services of having incurred the funeral expenses
3 of the victim. Any remaining balance shall be paid to the beneficiaries of the victim.

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

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

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

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

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

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

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

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

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

27 (c) For the purposes of the death benefit, there shall be considered as primary dependents:

28 (1) The wife of the victim, or in lieu thereof;

29 (2) The husband of the victim, or in lieu thereof;

30 (3) The children of the victim, or in lieu thereof; and

31 (4) The parents of the victim.

32 (d) For purposes of the death benefit, there shall be considered as a secondary dependent:

33 (1) The parents of the victim when they do not qualify as primary dependent, or in lieu
34 thereof; and

1 (2) Other dependents.

2 **40-23-8. Medical - Hospital benefits.**

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

12 (b) The department of human services shall provide the services under contract with
13 physicians and facilities, or directly according to the limits, criteria, and methods of providing
14 services which it establishes through regulations. If the victim receives emergency treatment in a
15 hospital or other types of facilities which do not have service contracts with the department of
16 human services, or if the latter authorizes the victim to use the facilities, they shall provide the
17 services and the department of human services shall pay them for the cost of the services rendered
18 based on an average of the rates used by the department of human services at present to pay for
19 similar services to hospitals, physicians, laboratories and other entities which provide health
20 services under contract in the area they are located. In the event the victim has paid for the services,
21 the victim's would be entitled to claim from the department of human services the cost of the
22 services on the basis of the above-stated average. The invoices for claims for health services
23 rendered shall be filed no later than one hundred twenty (120) days as of the date on which the
24 services were rendered. All claims with respect to the return of invoices or payments made by the
25 department of human services for health services invoices shall be filed within forty-five (45) days
26 as of the date of the payment. When the last day to file invoices for claims on time is Saturday,
27 Sunday, or a non-working holiday for the department of human services, the invoices shall be
28 considered as filed on time, as long as they are filed on the next working day. The department of
29 human services shall not pay invoices received after the deadline for their filing. All terms and
30 conditions established in this clause are of a jurisdictional nature and noncompliance therewith bars
31 the department of human services or the court with authority from considering the matters.

32 **40-23-9. Benefits - Payment.**

33 (a) The department of human services shall, by regulation, establish the standards that will
34 govern the payment of all benefits provided in this chapter, both to victims of accidents and to their

1 beneficiaries; provided, that:

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

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

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

11 (4) If the amount of the benefit one is entitled to is greater than two thousand dollars
12 (\$2,000), the department of human services may require the victim or the victim's beneficiaries to
13 use the benefit or any part thereof for the purchase of a farm or house, or to acquire a productive
14 business or to make any other profitable investment.

15 (b) The benefits payable under this chapter may not be assigned, sold or transferred and
16 any contract assigned, sold or transferred shall be void. Benefits may not be seized or confiscated,
17 nor shall the victim or the victim's beneficiaries be deprived, through a lawsuit, of the possession
18 of same.

19 (c) The following persons shall not be entitled to collect the benefits provided by this
20 chapter for the victim of the accident, but the victim's beneficiaries shall be entitled to the benefits
21 corresponding to them:

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

24 (2) Those who at the time of the accident were driving a motor vehicle without a driver's
25 license in effect at the time and for the operation of that particular motor vehicle, or whose vehicle
26 has no valid motor vehicle license and license plate on that date. To the effects of this clause, a
27 learner's permit is not sufficient authorization to operate a motorcycle or moped.

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

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

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

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

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

6 **40-23-10. Rights of the department of human services to indemnity.**

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

13 (2) The department of human services shall be entitled to be indemnified by the person
14 who is responsible for the accident for all expenses incurred by the department of human services
15 with respect to the person.

16 (b) When the victim in the cases provided herein files a legal action against the driver
17 involved in the accident and the court grants the victim an indemnification under the principle of
18 liability on the grounds of negligence, the defendant shall inquire, before payment of the judgment,
19 if the department of human services is entitled to be reimbursed for any or all of the benefits paid
20 by the latter to the victim. If the department of human services is entitled to the reimbursement, the
21 payment shall be issued separately in favor of the department of human services and of the claimant
22 victim for the respective amount corresponding to them. If the defendant pays the judgment without
23 considering the interests of the department of human services, and if the latter is unable to recover
24 the corresponding sum from the victim, the department of human services shall be entitled to be
25 indemnified by the defendant or the plaintiff for the loss thus suffered.

26 (1) The department of human services shall be entitled to resort to the competent court of
27 first instance in any case seeking indemnification before the courts, based on the application of the
28 principle of liability on the grounds of negligence, for damages or injuries for which benefits were
29 provided pursuant to this chapter. The victim or the victim's legal heirs shall be required by the
30 corresponding court, so that prior to the continuation of the proceedings of the case, the plaintiff is
31 to notify the department of human services with a copy of the claim filed, which shall include in its
32 caption or in one of its allegations, the number of the case of their claim in the department of human
33 services. Non-compliance with the provisions in this section shall be sufficient cause for the
34 corresponding legal action of the case to be dismissed without prejudice, before the court grants a

1 discretionary term for compliance with these provisions, which shall never be less than thirty (30)
2 days.

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

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

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

18 (c) In all cases in which there is a right to recover, pursuant to the preceding subsection, a
19 lien shall be created over the motor vehicle and over the driver's license of the person liable to
20 indemnify the department of human services. The department of human services shall file an
21 application for a notation of lien for money it is owed at the department of transportation. The
22 notation shall constitute an actual lien over the motor vehicle and a prohibition against the transfer
23 of the motor vehicle or the issuing or renewal of any type of motor vehicle license and/or driver's
24 license until the lien is paid, nullified or until an agreement to pay is reached with the department
25 of human services. The department of human services shall establish the procedure for the
26 agreements to pay through regulations. Notwithstanding the provisions of the previous subsection,
27 the title of the motor vehicle with an annotation of lien may be transferred if the lien is imposed
28 after the date in which the motor vehicle changes owner; in other words, the date of the formalized
29 transfer on the back of the registration of the motor vehicle or trailer or by attesting document. The
30 secretary of the department of transportation shall notify the imposition of the lien in the same
31 manner it is done with respect to administrative fines and the victim shall keep a register of liens.
32 If the owner of the vehicle and/or driver's license holder affected by the notation of administrative
33 lien considers that the ACAA is not entitled to recover against the victim or that the amount
34 imposed for recovery is incorrect, the victim may request an administrative review at the regional

1 office of the ACAA corresponding to the victim domicile, by filing a request for a review within
2 thirty (30) days after being notified of the administrative lien. The department of human services
3 shall provide the procedure for the administrative review before the ACAA through regulation. The
4 decision from the administrative review shall be reviewable by the court of first instance, using the
5 procedure provided in the vehicles and traffic act of Rhode Island for the review of administrative
6 finances. The liens may be paid at the locations and in the manner stated herein below:

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

10 (2) At the regional offices or at the central office of the automobile accident compensation
11 division of the department of human services. Taken in person or through an agent in cash, or
12 certified check or money order payable to the automobile accident compensation division of the
13 department of human services. Should the payment of the lien be made in the offices of the
14 automobile accident compensation division of the department of human services, the latter shall
15 remit to the department of transportation an authorization to cancel the lien and it shall notify the
16 interested party in writing. The secretary of the department of transportation, the general treasurer,
17 and the automobile accident compensation division of the department of human services are hereby
18 authorized to establish by regulations those other provisions that are necessary to implement the
19 liens' system established herein.

20 **40-23-11. Claims.**

21 (a) Every accident which gives rise to a claim for benefits under this chapter shall be
22 notified to the police and to the department of human services.

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

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

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

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

6 **40-23-12. Tort and related items.**

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

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

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

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

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

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

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

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

34 (4) The indemnity that a court may grant to the survivors of the victim, even when it be

1 only by reason of moral damages sustained by them on account of the death of the victim, shall be
2 reduced by a sum equal to the amount of the benefits that the victim and the victim's beneficiaries
3 have received from the department of human services.

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

8 (6) The provisions of this section shall be applicable to the judgments rendered in claim
9 actions brought in connection with accidents which have occurred on and from July 1, 2018.

10 **40-23-13. Examination, treatment and rehabilitation of injuries - Finding of fact.**

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

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

18 (c) The department of human services may direct any victim to submit to the rehabilitation
19 treatment or training that may be reasonable and justified. Refusal to comply with these orders may
20 entail the loss of the benefits provided under this chapter.

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

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

34 (f) Every physician-employer, hospital, clinic or any person or institution that furnishes

1 information requested under the terms of this section, may be reimbursed the cost of furnishing the
2 information, in accordance with the rates that the department of human services may establish to
3 that effect.

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

12 **40-23-14. Proceedings to facilitate the investigation and award claims.**

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

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

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

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

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

34 **40-23-15. The automobile accident compensation division of the department of**

1 **human services.**

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

6 (b) The corporate powers of the department of human services shall be exercised by a board
7 of directors which shall also be responsible for the department of human services of same and of
8 seeing to the enforcement of the provisions of this chapter. The board shall be composed of four
9 (4) members appointed by the governor with the advice and consent of the senate. At least two (2)
10 of the four (4) members shall represent the public interest and one shall be a person conversant with
11 the insurance business. The first appointments shall be made for a term of two (2) years in the case
12 of the representatives of the public interest and of one year in the case of the other two (2) members
13 and until their successors are appointed and qualified. All subsequent appointments shall be for a
14 term of three (3) years. Three (3) members of the board shall constitute a quorum. Vacancies of the
15 board shall be filled by appointments made for the unexpired term for which the member causing
16 the vacancy was appointed. The governor may remove any member of the board for incompetency
17 in the discharge of duties or for any other good cause, upon charges brought against the member
18 and after giving the member an opportunity to be heard. The board shall elect one of its members
19 to act as chairperson and another to act as secretary. Members of the board shall receive the per
20 diems the board determines by regulations for their services, and the department of human services
21 shall reimburse any necessary expenses incurred to discharge their functions. Those members of
22 the board who are officials of the government of the state of Rhode Island shall receive no
23 compensation for their services. The chairperson of the board may receive an additional fee to be
24 fixed by the board, which shall not exceed an amount equal to fifty percent (50%) of the per diem
25 received by members of the board. The board shall appoint an executive director who shall be
26 responsible for the direction of the department of human services of the corporation in accordance
27 with the standards and conditions that the board may establish.

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

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

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

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

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

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

14 **40-23-16. Proceedings of claim awards appeals.**

15 (a) The executive director shall investigate and decide the claims filed against the
16 department of human services using the proceedings as the director may deem convenient, as long
17 as the rights of the parties are guaranteed. In the event that a claimant disagrees with the executive
18 director's decision, the claimant may request its reconsideration within thirty (30) days from the
19 date of notice thereof the determination is served or from the date of the postmark if the claimant
20 presents it, whichever is later. The claimant may be represented by counsel in this phase and give
21 testimony and present the evidence the claimant deems convenient. If the claimant disagrees with
22 the result of the reconsideration, the claimant may request a public hearing before the executive
23 director or an examiner designated by the claimant within thirty (30) days from the date the
24 determination is served or the date of the postmark if the claimant presents it, whichever is later.
25 At this public hearing the claimant cannot submit any evidence to the consideration of the executive
26 director which the executive director did not have when making the determination, unless the
27 impossibility of obtaining it previously is shown to the satisfaction of the executive director. The
28 claimant may appear in person or represented by counsel and a record shall be kept of the
29 proceedings and of all the testimony given at the hearing, but the testimony need not be transcribed
30 unless a subsequent appeal is made. In the event that more than one claim is presented in connection
31 with the same victim and the evidence submitted is the same or substantially the same in nature,
32 only one record shall be kept of the proceedings and the evidence as may be produced with respect
33 to one proceeding may be deemed to be produced with respect to the others, provided none of the
34 claimant is harmed thereby. The rules of evidence that prevail in a court of justice shall not be

1 mandatory in any proceeding before the executive director. After the hearing is held, the executive
2 director shall make determinations and conclusions and shall furnish to each party a copy of a
3 decision and of the findings and conclusions on which it is based. This decision shall be final unless
4 an appeal is filed before the board.

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

19 (c) The decision of the board shall be final unless the claimant or the executive director
20 requests its judicial review by filing a petition to that effect with the superior court for Providence
21 County, within thirty (30) days after the parties and their respective counsel have been notified of
22 the decision of the board by mail or in person. The jurisdiction of the court of first instance shall
23 be limited to issues of law, and the findings of facts, if sustained by substantial evidence, shall be
24 final.

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

31 **40-23-17. Other faculties and duties of the executive director.**

32 (a) The executive director shall direct and supervise all technical and administrative
33 activity of the department of human services and shall appoint or shall hire with the approval of the
34 board of directors the administrative and technical personnel necessary to carry out the functions

1 of the department of human services and to pay for the services the compensation that the board
2 may determine. The officials and employees of the department of human services shall be included
3 in the exempt service of the personnel act of the state. The executive director shall also have the
4 following faculties and obligations:

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

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

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

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

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

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

19 (7) To make recommendations to the board for the investment of the resources of the
20 department of human services;

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

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

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

26 **40-23-18. Other powers and faculties of the department of human services.**

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

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

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

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

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

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

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

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

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

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

25 **40-23-19. Financing.**

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

28 (b) At the time of its registration, every vehicle shall pay the annual premium fixed by the
29 department of human services with the approval of the insurance commissioner. The premium shall
30 be renewed on the same date on which the motor vehicle or trailer's license and plates must be
31 renewed. Van trailer vehicles engaged in maritime transportation to bring freight to Rhode Island
32 from abroad, and which enter Rhode Island as transients, may choose to pay a special premium
33 instead of the above stated annual premium, based on their short stay in Rhode Island, regardless
34 of whether or not they are registered, or regardless of the type of registry. This special premium

1 shall be fixed by the board of directors of the department of human services as previously provided
2 and based on how many times these trailers enter Rhode Island. The payment mechanism for these
3 special premiums shall be provided through a procedure that shall be established by the department
4 of human services.

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

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

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

16 **40-23-20. Appropriation.**

17 The sum of one million dollars (\$1,000,000) is hereby appropriated from unencumbered
18 funds in the general fund to the department of human services as initial capital to carry out the
19 purposes of this chapter.

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

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LC004308
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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. It
3 would also restructure the department of human services.

4 This act would take effect upon passage.

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LC004308
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