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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 STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representatives Blazejewski, and Filippi

Date Introduced: May 12, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 **ARTICLE I--STATUTORY REENACTMENT**

2 SECTION 1. It is the express intention of the General Assembly to reenact the entirety of
3 Title 28 of the General Laws of Rhode Island, including every chapter and section therein
4 and any chapters and sections of Title 28 not included in this act may be, and are hereby, reenacted
5 as if fully set forth herein.

6 SECTION 2. Section 28-2-9 of the general laws in Chapter 28-2 entitled “Duty to Work in
7 Time of War” is hereby amended to read as follows:

8 **28-2-9. Employment of personnel -- Assistance by other agencies.**

9 The director of labor and training is authorized to appoint or employ any employees that
10 may be necessary, and to use any agencies that may be available and appropriate, to aid him or her
11 in carrying out the provisions of this chapter, and the director may delegate any and all of his or
12 her powers and duties prescribed by the provisions of this chapter to the ~~division of employment~~
13 ~~service~~ workforce development services division.

14 SECTION 3. Section 28-3-12 of the general Laws in Chapter 28-3 entitled “Employment
15 of Women and Children” is hereby amended to read as follows:

16 **28-3-12. Posting of hours and wage rates.**

17 Every employer shall post, in one or more places in ~~his or her~~ the employer’s establishment
18 where it may be easily seen and read by all employees employed by ~~him or her~~ the employer, a
19 printed or typewritten notice stating the minimum rates of pay, including hourly rates, or piece rate

1 or both, as the case may be, which the employees are receiving for the various types of work
2 performed in the establishment, and the number of hours' work required of the person on each day
3 of the week, and the hours of commencing and stopping work. The employment of any minor for
4 a longer time in a period of twenty-four (24) consecutive hours than so stated shall be deemed a
5 violation of § 28-3-11. The provisions of §§ ~~28-3-11—28-3-12~~ 28-3-11, 28-3-11.1[Repealed], and
6 28-3-12 shall not be construed to impair any restriction placed upon the employment of any child
7 by the provisions of chapter 19 of title 16.

8 SECTION 4. Section 28-5-37 of the general Laws in Chapter 28-5 entitled “Fair
9 Employment Practices” is hereby amended to read as follows:

10 **28-5-37. Posting of statutory provisions.**

11 Every employer, employment agency, and labor union subject to this chapter shall post in
12 a conspicuous place or places on ~~his or her~~ the employer’s, employment agency’s or labor
13 union’s premises a notice to be prepared or approved by the commission, which shall set forth
14 excerpts of this chapter and any other relevant information which the commission deems necessary
15 to explain the chapter. Any employer, employment agency, or labor union refusing to comply with
16 the provisions of this section shall be punished by a fine of not less than one hundred dollars (\$100)
17 nor more than five hundred dollars (\$500).

18 SECTION 5. Section 28-6.5-1 of the General Laws in Chapter 28-6.5 entitled “Labor and
19 Labor Relations” is hereby amended to read as follows:

20 **28-6.5-1. Testing permitted only in accordance with this section.**

21 (a) No employer or agent of any employer shall, either orally or in writing, request, require,
22 or subject any employee to submit a sample of his or her urine, blood, or other bodily fluid or tissue
23 for testing as a condition of continued employment unless that test is administered in accordance
24 with the provisions of this section. Employers may require that an employee submit to a drug test
25 if:

26 (1) The employer has reasonable grounds to believe based on specific aspects of the
27 employee's job performance and specific contemporaneous documented observations, concerning
28 the employee's appearance, behavior or speech that the employee may be under the influence of a
29 controlled substance, which may be impairing his or her ability to perform his or her job;

30 (2) The employee provides the test sample in private, outside the presence of any person;

31 (3) Employees testing positive are not terminated on that basis, but are instead referred to
32 a substance abuse professional (a licensed physician with knowledge and clinical experience in the
33 diagnosis and treatment of drug related disorders, a licensed or certified psychologist, social
34 worker, or EAP professional with like knowledge, or a substance abuse counselor certified by the

1 National Association of Alcohol and Drug Abuse Counselors (all of whom shall be licensed in
2 Rhode Island)) for assistance; provided, that additional testing may be required by the employer in
3 accordance with this referral, and an employee whose testing indicates any continued use of
4 controlled substances despite treatment may be terminated;

5 (4) Positive tests of urine, blood or any other bodily fluid or tissue are confirmed by a
6 federally certified laboratory by means of gas chromatography/mass spectrometry or technology
7 recognized as being at least as scientifically accurate;

8 (5) The employer provides ~~the test~~ to the employee, at the employer's expense, the
9 opportunity to have the sample tested or evaluated by an independent testing facility and so advises
10 the employee;

11 (6) The employer provides the test to the employee with a reasonable opportunity to rebut
12 or explain the results;

13 (7) The employer has promulgated a drug abuse prevention policy which complies with
14 requirements of this chapter; and

15 (8) The employer keeps the results of any test confidential, except for disclosing the results
16 of a "positive" test only to other employees with a job-related need to know, and to defend against
17 any legal action brought by the employee against the employer.

18 (b) Any employer who subjects any person employed by him or her to this test, or causes,
19 directly or indirectly, any employee to take the test, except as provided for by this chapter, shall be
20 guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or not
21 more than one year in jail, or both.

22 (c) In any civil action alleging a violation of this section, the court may:

23 (1) Award punitive damages to a prevailing employee in addition to any award of actual
24 damages;

25 (2) Award reasonable attorney's fees and costs to a prevailing employee; and

26 (3) Afford injunctive relief against any employer who commits or proposes to commit a
27 violation of this section.

28 (d) Nothing in this chapter shall be construed to impair or affect the rights of individuals
29 under chapter 5 of this title.

30 (e) Nothing in this chapter shall be construed to:

31 (1) Prohibit or apply to the testing of drivers regulated under 49 C.F.R. § 40.1 et seq and
32 49 C.F.R. part 382 if that testing is performed pursuant to a policy mandated by the federal
33 government; or

34 (2) Prohibit an employer in the public utility or mass transportation industry from requiring

1 testing otherwise barred by this chapter if that testing is explicitly mandated by federal regulation
2 or statute as a condition for the continued receipt of federal funds.

3 (3) Prohibit an employer in the highway maintenance industry, which shall include the
4 construction, upkeep, maintenance and repair of the state's highways, roads and bridges including
5 the repaving or resurfacing of the same, from requiring testing otherwise barred by this chapter,
6 provided the testing is performed as regulated under 49 C.F.R. part 40.

7 (f) Notwithstanding the foregoing, this chapter shall not apply to members of the
8 International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers and its
9 signatory contractors jointly participating in the IMPACT National Substance Abuse Program for
10 purposes of pre-qualifying workers for employment on and ensuring the maintenance of designated
11 drug free work sites; provided, however, that:

12 (1) Participation by each worker is voluntary; and

13 (2) Workers who refuse to participate shall not be subjected to any adverse employment
14 action other than an inability to work on a designated drug free work site; and

15 (3) The penalty for a first "positive" test shall not exceed a thirty (30) day suspension from
16 work on designated drug free work sites.

17 SECTION 6. Section 28-7-48 of the general Laws in chapter 28-48 entitled "Labor
18 Relations Act" is hereby amended to read as follows:

19 **28-7-48. Prohibition against economic benefit to an unfair employer.**

20 Except for state payments to health care providers pursuant to the medical assistance
21 program in chapter 8 of title 40 and the ~~Rite~~ RIte Start program in § ~~23-13-18~~ chapter 12.3 of title
22 42, the state of Rhode Island or any subsidiary or agency of the state shall not enter into any new
23 contracts with, or provide any new subsidiary, payment, service or state revenue bond money to,
24 nor make any favorable administrative ruling which might reasonably lead to the financial gain of,
25 any employer who has been found guilty of any unfair labor practice by an administrative law judge
26 of the national labor relations board for the duration of any strike by the employer's employees

27 SECTION 7. Section 28-9.2-11 of the General Laws in Chapter 28-9.2 entitled "Municipal
28 Police Arbitration" is hereby amended to read as follows:

29 **28-9.2-11. Fees and expenses of arbitration.**

30 Fees and necessary expenses of arbitration shall be borne equally by the bargaining agent
31 and the corporate authorities. Notwithstanding any other remedies which ~~a court appointed~~ an
32 arbitrator ~~appointed by the chief justice pursuant to § 28-9.2-8~~ may have, the arbitrator or a party
33 who has paid its share of the fees and necessary expenses of ~~a court appointed~~ an arbitrator may
34 petition the superior court for sanctions against the party failing to make timely payment of its share

1 of the arbitrator's fees and expenses, and the superior court is authorized to enforce the sanctions
2 against the nonpaying party, including, but not limited to, contempt powers pursuant to § 8-6-1.

3 SECTION 8. Section 28-9.5-2 of the general laws in Chapter 28-9.5 entitled "State Police
4 Arbitration" is hereby amended to read as follows:

5 **28-9.5-2. Statement of policy.**

6 (a) The protection of the public health, safety, and welfare demands that the full-time state
7 police officers of the state of Rhode Island not be accorded the right to strike or engage in any work
8 stoppage or slowdown. This necessary prohibition does not require the denial to ~~such~~ these state
9 employees of other well recognized rights of labor, such as the right to organize, to be represented
10 by an organization of their choice, and the right to bargain collectively concerning wages, rates of
11 pay, and other terms and conditions of employment.

12 (b) It is declared to be the public policy of this state to accord to the full-time police officers
13 of the state all of the rights of labor other than the right to strike or engage in any work stoppage or
14 slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is
15 established.

16 (c) The establishment of this method of arbitration shall not in any way, be deemed to be
17 recognition by the state of compulsory arbitration as a superior method of settling labor disputes
18 between employees who possess the right to strike and their employers, but rather is a recognition
19 solely of the necessity to provide some alternative mode of settling disputes where employees must
20 as a matter of public policy be denied the usual right to strike.

21 SECTION 9. Section 28-9.7-2 of the General Laws in Chapter 28-9.7 entitled "Correctional
22 Officers Arbitration" is hereby amended to read as follows:

23 **28-9.7-2. Statement of policy.**

24 (a) The protection of the public health, safety and welfare demands that the full-time
25 correctional officers of the state of Rhode Island not be accorded the right to strike or engage in
26 any work stoppage or slowdown. This necessary prohibition does not, however, require the denial
27 to such state employees of other well recognized rights of labor, such as the right to organize, to be
28 represented by an organization of their choice, and the right to bargain collectively concerning
29 wages, rates of pay, and other terms and conditions of employment.

30 (b) It is hereby declared to be the public policy of this state to accord to the full-time
31 correctional officers of the state all of the rights of labor other than the right to strike or engage in
32 any work stoppage or slowdown. To provide for the exercise of these rights, a method of arbitration
33 of disputes is hereby established.

34 (c) The establishment of this method of arbitration shall not, however, in any way ~~whatever~~

1 [whatsoever](#), be deemed to be recognized by the state of compulsory arbitration as a superior
2 method of settling labor disputes between employees who possess the right to strike and their
3 employers, but rather shall be deemed to be a recognition solely of the necessity to provide some
4 alternative mode of settling disputes where employees must as a matter of public policy be denied
5 the usual right to strike.

6 SECTION 10. Section 28-12-4.3 of the General Laws in Chapter 28-12 entitled “Minimum
7 Wages” is hereby amended to read as follows:

8 **28-12-4.3. Exemptions.**

9 (a) The provisions of §§ 28-12-4.1 and 28-12-4.2 do not apply to the following employees:

10 (1) Any employee of a summer camp when it is open no more than six (6) months of the
11 year.

12 (2) Police officers.

13 (3) Employees of the state or political subdivision of the state who may elect through a
14 collective bargaining agreement, memorandum of understanding, or any other agreement between
15 the employer and representatives of the employees, or if the employees are not represented by an
16 exclusive bargaining agent, through an agreement or understanding arrived at between the
17 employer and the employee prior to the performance of work, to receive compensatory time off for
18 hours worked in excess of forty (40) in a week. The compensatory hours shall at least equal one
19 and one-half (1 1/2) times the hours worked over forty (40) in a week. If compensation is paid to
20 an employee for accrued compensatory time, the compensation shall be paid at the regular rate
21 earned by the employee at the time of payment. At the time of termination, unused accrued
22 compensatory time shall be paid at a rate not less than:

23 (i) The average regular rate received by the employee during the last three (3) years of the
24 employee's employment; or

25 (ii) The final regular rate received by the employee, whichever is higher.

26 (4) Any employee employed in a bona fide executive, administrative, or professional
27 capacity, as defined by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., compensated
28 for services on a salary basis of not less than two hundred dollars (\$200) per week.

29 (5) Any employee as defined in subsection (a)(4) of this section unless the wages of the
30 employee, if computed on an hourly basis, would violate the applicable minimum wage law.

31 (6) Any salaried employee of a nonprofit national voluntary health agency who elects to
32 receive compensatory time off for hours worked in excess of forty (40) hours per week.

33 (7) Any employee, including drivers, driver's helpers, mechanics, and loaders of any motor
34 carrier, including private carriers, with respect to whom the U.S. Secretary of Transportation has

1 power to establish qualifications and maximum hours of service pursuant to the provisions of 49
2 U.S.C. § 31502.

3 (8) Any employee who is a salesperson, parts person, or mechanic primarily engaged in
4 the sale and/or servicing of automobiles, trucks, or farm implements, and is employed by a non-
5 manufacturing employer primarily engaged in the business of selling vehicles or farm implements
6 to ultimate purchasers, to the extent that the employers are exempt under the ~~federal Wage Hour~~
7 ~~and Equal Pay Act, 29 U.S.C. § 201 et seq., and~~ Fair Labor Standards Act of 1938, 29 U.S.C. §
8 213(b)(10); provided, that the employee's weekly, bi-weekly, or monthly actual earnings exceed an
9 amount equal to the employee's basic contractual hourly rate of pay times the number of hours
10 actually worked plus the employee's basic contractual hourly rate of pay times one-half (1/2) the
11 number of hours actually worked in excess of forty (40) hours per week.

12 (9) Any employee employed in agriculture; however, this exemption applies to all
13 agricultural enterprises that produce greenhouse crops, fruit and vegetable crops, herbaceous crops,
14 sod crops, viticulture, viniculture, floriculture, feed for livestock, forestry, dairy farming,
15 aquaculture, the raising of livestock, furbearing animals, poultry and eggs, bees and honey,
16 mushrooms, and nursery stock. This exemption also applies to nursery workers.

17 (10) Any employee of an air carrier subject to the provisions of 45 U.S.C. § 181 et seq., of
18 the Railway Labor Act when the hours worked by that employee in excess of forty (40) in a work
19 week are not required by the air carrier, but are arranged through a voluntary agreement among
20 employees to trade scheduled work hours.

21 (b) Nothing in this section exempts any employee who under applicable federal law is
22 entitled to overtime pay or benefits related to overtime pay.

23 SECTION 11. Section 28-14-23 of the General laws in Chapter 28-14 entitled "Payment
24 of Wages" is hereby amended to read as follows:

25 **28-14-23. Assignment of wage claims to director -- Prosecution of actions.**

26 The director shall have the power and authority to:

27 (1) Take assignments of wage claims and rights of action for penalties as provided by §§
28 28-14-17 and ~~28-14-18~~ 28-14-19 without being bound by any of the technical rules with reference
29 to the validity of the assignments;

30 (2) Prosecute actions for the collection of the claims of persons who, in the judgment of
31 the director, have claims which are valid and enforceable in the courts; and

32 (3) Join various claimants in one preferred claim or lien, and in case of suit to join them in
33 one cause of action.

34 SECTION 12. Section 28-16-1 of the General Laws in Chapter 28-6 entitled "Enforcement

1 of Wage and Hour Laws” is hereby amended to read as follows:

2 **28-16-1. Power of department to assist in enforcement of federal law.**

3 The Rhode Island department of labor and training is empowered to assist and cooperate
4 with the administrator of the wage and hour and public contracts division and the director of the
5 bureau of labor standards of the United States Department of Labor, in the administration and the
6 enforcement within this state of the provisions of the Fair Labor Standards Act [of 1938](#), 29 U.S.C.
7 § 201 et seq. The department is further authorized to accept payment and/or reimbursement for its
8 services as provided by that act. Assistance and cooperation may include the designation by the
9 director of the department of labor and training of state employees to investigate federal and state
10 violations of wage, hour, and child labor provisions and regulations and may provide for joint
11 inspection.

12 SECTION 13. Section 28-21-18 of the General Laws in Chapter 28-21 entitled “Hazardous
13 Substances Right-to-Know Act” is hereby amended to read as follows:

14 **28-21-18. Labeling.**

15 (a) The employer shall ensure that each container of designated substances in the workplace
16 as listed in § 28-21-3 is labeled, tagged, or marked with the following information:

- 17 (1) Identity of the designated substance; and
- 18 (2) Hazard warnings.

19 (b) When stationary containers in a work area have similar contents and hazards, the
20 employer may post signs or placards to convey the required information rather than affixing labels
21 to each individual container.

22 (c)(1) The employer shall ensure that each container of designated substance present or
23 leaving the workplace is labeled, tagged, or marked with the following information:

- 24 (i) Identity of the designated substance;
- 25 (ii) Hazard warnings; and
- 26 (iii) Name and address of the manufacturer or other responsible party who can provide
27 additional information on the designated substance and appropriate emergency procedures, if
28 necessary.

29 (2) There shall be no conflict with the requirements of the Hazardous Materials
30 Transportation Act, ~~18 U.S.C. § 1801 et seq.~~ [49 U.S.C § 5101](#) et seq., and regulations issued under
31 that act by the department of transportation.

32 (d) The employer need not affix new labels to comply with this section if existing labels
33 already convey the necessary information.

34 (e) The employer is not required to label portable containers into which designated

1 substances are transferred from labeled containers, and which are intended only for the immediate
2 use of the employee who performs the transfer.

3 (f) The employer shall not remove or deface existing labels on incoming containers of
4 designated substances unless the container is immediately marked with the required information.

5 (g) "Container" as used in this chapter means any receptacle or formed flexible covering,
6 including but not limited to bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and
7 stationary or mobile storage tanks used solely for the storage of designated substances, but shall
8 not include containers used as equipment where the designated substances are formulated,
9 chemically reacted, or otherwise processed so long as records are available within the immediate
10 location of the piece of equipment to designate the activity taking place in the container.

11 SECTION 14. Section 28-27-24.1 of the General Laws in Chapter 28-27 entitled
12 "Mechanical Trades" are hereby amended to read as follows:

13 **28-27-24.1. Compelling obedience to subpoenas.**

14 In case of failure of any person to comply with any ~~subpoena~~ lawfully issued subpoena or
15 subpoena duces tecum, or on the refusal of any witness to testify to any matter regarding which he
16 or she may be lawfully interrogated, it shall be the duty of the district court or any judge of the
17 district court, on application by the director, to compel obedience by proceedings in the nature of
18 those for contempt.

19 SECTION 15. Section 28-33-5 of the General laws in Chapter 28-33 entitled "Workers
20 Compensation – Benefits" is hereby amended to read as follows:

21 **28-33-5. Medical services provided by employer.**

22 The employer shall, subject to the choice of the employee as provided in § 28-33-8,
23 promptly provide for an injured employee any reasonable medical, surgical, dental, optical, or other
24 attendance or treatment, nurse and hospital service, medicines, crutches, and apparatus for such
25 period as is necessary, in order to cure, rehabilitate or relieve the employee from the effects of his
26 injury; provided, that no fee for major surgery shall be paid unless permission for it is first obtained
27 from the workers' compensation court, the employer, or the insurance carrier involved, except
28 where compliance with it may prove fatal or detrimental to the employee. Irrespective of the date
29 of injury, the liability of the employer for hospital service rendered under this section to the injured
30 employee shall be the cost to the hospital of rendering the service at the time the service is rendered.
31 The director, after consultations with representatives of hospitals, employers, and insurance
32 companies, shall establish administrative procedures regarding the furnishing and filing of data and
33 the time and method of billing and may accept as representing the costs for both routine and special
34 services to patients, costs as computed for the federal Medicare program. Each hospital licensed

1 under chapter ~~16~~ 17 of title 23 which renders services to injured employees under the Workers'
2 Compensation Act, chapters 29 -- 38 of this title, shall submit and certify to the director, in
3 accordance with requirements of the administrative procedures established by him or her, its costs
4 for those services. The employer shall also provide all medical, optical, dental, and surgical
5 appliances and apparatus required to cure or relieve the employee from the effects of the injury,
6 including but not being limited to the following: ambulance and nursing service, eyeglasses,
7 dentures, braces and supports, artificial limbs, crutches, and other similar appliances; provided, that
8 the employer shall not be liable to pay for or provide hearing aids or other amplification devices.

9 SECTION 16. Sections 28-35-8 and 28-35-41 of the General Laws in Chapter 28-35
10 entitled "Workers Compensation – Procedure" are hereby amended to read as follows:

11 **28-35-8. Filing of non-prejudicial memorandum of agreement.**

12 (a) Notwithstanding § 28-35-1, if the employer files a memorandum of agreement but
13 specifically designates that agreement as a "non-prejudicial" or "without prejudice", the employer
14 may pay weekly compensation benefits not exceeding thirteen (13) weeks. In these cases, the
15 employer shall send a copy of the non-prejudicial memorandum and any amendments to it to the
16 employee and his or her attorney or the representative of the decedent and his or her attorney by
17 certified mail, return receipt requested, at the same time as it is filed with the department in the
18 same manner as if it were a memorandum of agreement. The non-prejudicial memorandum of
19 agreement shall contain all information as directed by § 28-35-1. Having done so, the non-
20 prejudicial memorandum of agreement and any action taken pursuant to it shall be without
21 prejudice to any party subsequently maintaining any position as to employer liability for payments
22 under chapters 29 -- 38 of this title, maintainable in the absence of an agreement. If at any time
23 within or at the close of the thirteen-week period after payments of compensation have commenced
24 the employer or insurer terminates weekly payments to the employee or to those entitled to
25 payments on account of death of an employee, the employer or insurer shall notify the employee
26 and his or her attorney or the representative of the decedent employee and his or her attorney within
27 ten (10) days on a form prescribed by the department that:

- 28 (1) Payments have terminated;
- 29 (2) The claim has not been formally accepted; and
- 30 (3) The employee has the right to file a petition, within the two (2) year limitation as set
31 forth in § 28-35-57, to formally establish liability of the employer or insurer.

32 (b) If the employer or insurer makes payments of weekly benefits to the employee or to
33 those entitled to payments on account of death of an employee for more than the thirteen (13) week
34 period, the payments shall constitute a conclusive admission of liability and ongoing incapacity as

1 to the injuries set forth in the non-prejudicial memorandum of agreement. The employer or insurer
2 shall within ten (10) days of making additional payments file a memorandum of agreement pursuant
3 to § 28-35-1.

4 **28-35-41. Time for payment or notification to employee of controverted question.**

5 For all injuries occurring on or before February 28, 1986, within twenty-one (21) days after
6 the employer has notice of an injury or death as provided in chapters 29 -- 38, of this title and has
7 received the initial medical report referred to in § ~~28-35-9~~ 28-33-8, the employer or employer's
8 insurer shall either immediately begin the payment of compensation, or advise the director and the
9 employee or his or her representative that the right to benefits under those chapters is controverted.
10 In the event that the employer or his or her insurer does not immediately begin the payment of
11 compensation to the employee, or does not notify the director and the employee that the right to
12 benefits under those chapters is controverted, within the time prescribed by this section, the
13 employer or employer's insurer may be required to pay to an employee who successfully prosecutes
14 a petition for workers' compensation an additional fifty dollars (\$50.00), which is to be awarded to
15 that employee by the workers' compensation court in its discretion and added to his or her first
16 week's compensation.

17 SECTION 17. Section 28-37-1 of the General Laws in chapter 28-37 entitled "Workers
18 Compensation Administrative Fund" is hereby amended to read as follows:

19 **28-37-1. Establishment -- Sources -- Administration.**

20 (a) There is established in the department of labor and training a special account to be
21 known as the workers' compensation administrative account, an account within the general fund.
22 This account, referred to as the "workers' compensation administrative account," shall consist of
23 payments made to it as provided in this chapter, or penalties paid pursuant to this chapter, and of
24 all other moneys paid into and received by the fund, of property and securities acquired by and
25 through the use of moneys belonging to the fund, and of interest earned upon the moneys belonging
26 to the fund. All moneys in the fund shall be mingled and undivided. The fund shall be administered
27 by the director of labor and training or his or her designee.

28 (b) The purposes for which this fund shall be used are as follows:

29 (1) To provide funds to the Chief Judge Robert F. Arrigan rehabilitation center for suitable
30 structures, personnel, and equipment necessary for the rendering of rehabilitative services,
31 including, but not limited to, physical therapy, psychotherapy, and occupational therapy to injured
32 workers coming within the purview of chapters 29 -- 38 of this title;

33 (2) To provide funds for all expenditures of the education unit created pursuant to § ~~42-16-~~
34 ~~4~~ 42-16.1-5 and all expenditures of the workers' compensation fraud prevention unit created

1 pursuant to § 42-16.1-12;

2 (3) To provide funds for all expenditures of the workers' compensation court. The
3 administrator of the fund shall on July 1st of each fiscal year transfer those funds that are reasonable
4 and necessary to fund all expenditures of the workers' compensation court for the fiscal year from
5 the administrative account, to a restricted receipt account to be established in the judicial
6 department. The administrator of the workers' compensation court is authorized to draw funds from
7 the restricted receipt account for all court expenditures;

8 (4) To provide funds to the department of labor and training for all expenditures incurred
9 in administering its responsibilities under chapters 29 -- 38 of this title;

10 (5) To provide funds to the department of labor and training for all expenditures incurred
11 in investigating and processing or otherwise administering its responsibilities regarding claims for
12 benefits or payments under §§ 28-35-20, 28-37-4 [\[Repealed\]](#), and 28-37-8;

13 (6) To provide funds to the department of labor and training for the maintenance and
14 operation of a system of data collection as provided for in § 28-37-31. The director shall be
15 authorized to purchase and/or lease equipment necessary to effectuate the purposes of § 28-37-31;

16 (7) To provide funds for loans to the state compensation insurance fund as provided in §§
17 27-7.2-19 and 27-7.2-20.1[Repealed]; and

18 (8) To provide funds for the payment or reimbursement of actual incremental costs of
19 COLA increases mandated by § 28-33-17 respecting injuries occurring prior to September 1, 1990,
20 in such amounts as the director, in his or her sole discretion, deems appropriate. These amounts
21 may be paid out of the fund by order of the director and shall be made by order drawn on the general
22 treasury to be charged against the fund.

23 (9) To provide funds to the workers' compensation advisory council created pursuant to the
24 provisions of § 28-29-30 for expenditures to carry out its responsibilities.

25 (10) To provide funds to the department of business regulation relating to the evaluation
26 of rate filings, reviews, and pricing procedures pursuant to the provisions of § 27-9-52.

27 SECTION 18. Sections 28-39-2 and 28-39-28 of the general laws in Chapter 28-39 entitled
28 "Temporary Disability Insurance – General Provisions" are hereby amended to read as follows:

29 **28-39-2. Definitions.**

30 The following words and phrases, as used in chapters 39 -- 41 of this title, have the
31 following meanings unless the context clearly requires otherwise:

32 (1) "Average weekly wage" means the amount determined by dividing the individual's total
33 wages earned for services performed in employment within his or her base period by the number
34 of that individual's credit weeks within the base period;

1 (2) "Base period" with respect to an individual's benefit year when the benefit year begins
2 on or after October 7, 1990, means the first four (4) of the most recently completed five (5) calendar
3 quarters immediately preceding the first day of an individual's benefit year; provided, that for any
4 individual's benefit year when the benefit year begins on or after October 4, 1992, and for any
5 individual deemed monetarily ineligible for benefits under the "base period" as defined in this
6 subdivision, the department shall make a re-determination of entitlement based upon an alternate
7 base period which consists of the last four (4) completed calendar quarters immediately preceding
8 the first day of the claimant's benefit year. Notwithstanding anything contained to the contrary in
9 this subdivision, the base period shall not include any calendar quarter previously used to establish
10 a valid claim for benefits; provided, however, that the "base period" with respect to members of the
11 United States military service, the Rhode Island National Guard, or a United States military reserve
12 force, and who served in a United States declared combat operation during their military service,
13 who file a claim for benefits following their release from their state or federal active military service
14 and who are deemed to be monetarily ineligible for benefits under this section, shall mean the first
15 four (4) of the most recently completed five (5) calendar quarters immediately preceding the first
16 day the individual was called into that state or federal active military service; provided, that for any
17 individual deemed monetarily ineligible for benefits under the "base period" as defined in this
18 section, the department shall make a re-determination of entitlement based upon an alternative base
19 period which consists of the last four (4) completed calendar quarters immediately preceding the
20 first day the claimant was called into that state or federal active military service. Notwithstanding
21 any provision of this section of the general or public laws to the contrary, the base period shall not
22 include any calendar quarter previously used to establish a valid claim for benefits;

23 (3) "Benefit" means the money payable, as provided in chapters 39 -- 41 of this title, to an
24 individual as compensation for his or her unemployment caused by sickness;

25 (4) "Benefit credits" means the total amount of money payable to an individual as benefits,
26 as provided in § 28-41-7;

27 (5) "Benefit rate" means the money payable to an individual as compensation, as provided
28 in chapters 39 -- 41 of this title, for his or her wage losses with respect to any week during which
29 his or her unemployment is caused by sickness;

30 (6) "Benefit year" with respect to any individual who does not already have a benefit year
31 in effect, and who files a valid claim for benefits as of November 16, 1958, or any later date, means
32 fifty-two (52) consecutive calendar weeks, the first of which shall be the week containing the day
33 as of which he or she first files that valid claim in accordance with regulations adopted as
34 subsequently prescribed; provided, that for any benefit year beginning on or after October 7, 1990,

1 the benefit year shall be fifty-three (53) consecutive calendar weeks if the subsequent filing of a
2 new valid claim immediately following the end of a previous benefit year would result in the
3 overlapping of any quarter of the base period of the prior new claim. In no event shall a new benefit
4 year begin prior to the Sunday next following the end of the old benefit year;

5 (i) For benefit years that begin on or after July 1, 2012, an individual's benefit year will
6 begin on the Sunday of the calendar week in which an individual first became unemployed due to
7 sickness and for which the individual has filed a valid claim for benefits;

8 (7) "Board" means the board of review as created under chapter ~~19 of title 42~~ [16.1 of title](#)
9 [42](#);

10 (8) "Calendar quarter" has the same definition as contained in chapter 42 of this title;

11 (9) "Credit week" means any week within an individual's base period in which that
12 individual earns wages amounting to at least twenty (20) times the minimum hourly wage as
13 defined in chapter 12 of this title, for performing services in employment for one or more employers
14 subject to chapters 39 -- 41 of this title;

15 (10) "Director" means the director of the department of labor and training;

16 (11) "Employee" means any person who is or has been employed by an employer subject
17 to chapters 39 -- 41 of this title and in employment subject to those chapters;

18 (12) "Employer" means any employing unit that is an employer under chapters 42 -- 44 of
19 this title;

20 (13) "Employing unit" has the same definition as contained in chapter 42 of this title and
21 includes any governmental entity that elects to become subject to the provisions of chapters 39 --
22 41 of this title, in accordance with the provisions of §§ 28-39-3.1 and 28-39-3.2;

23 (14) "Employment" has the same definition as contained in chapter 42 of this title;

24 (15) "Employment office" has the same definition as contained in chapter 42 of this title;

25 (16) "Fund" means the Rhode Island temporary disability insurance fund established by
26 this chapter;

27 (17) "Partial unemployment due to sickness." For weeks beginning on or after January 1,
28 2006 an individual shall be deemed partially unemployed due to sickness in any week of less than
29 full-time work if he or she fails to earn in wages for services for that week an amount equal to the
30 weekly benefit rate for total unemployment due to sickness to which he or she would be entitled if
31 totally unemployed due to sickness and eligible.

32 (i) For the purposes of this subdivision and subdivision (22) of this section, "Wages"
33 includes only that part of remuneration for any work, which is in excess of one-fifth (1/5) of the
34 weekly benefit rate for total unemployment, rounded to the next lower multiple of one dollar

1 (\$1.00), to which the individual would be entitled if totally unemployed and eligible in any one
2 week, and "services" includes only that part of any work for which remuneration in excess of one-
3 fifth (1/5) of the weekly benefit rate for total unemployment, rounded to the next lower multiple of
4 one dollar (\$1.00), to which the individual would be entitled if totally unemployed and eligible in
5 any one week is payable; provided, that nothing contained in this paragraph shall permit any
6 individual to whom remuneration is payable for any work performed in any week in an amount
7 equal to, or greater than, his or her weekly benefit rate to receive benefits under this subdivision
8 for that week.

9 (18) "Reserve fund" means the temporary disability insurance reserve fund established by
10 § 28-39-7;

11 (19) "Services" means all endeavors undertaken by an individual that are paid for by
12 another or with respect to which the individual performing the services expects to receive wages or
13 profits;

14 (20) "Sickness." An individual shall be deemed to be sick in any week in which, because
15 of his or her physical or mental condition, including pregnancy, he or she is unemployed and unable
16 to perform his or her regular or customary work or services;

17 (21)(i) "Taxes" means the money payments required by chapters 39 -- 41 of this title, to be
18 made to the temporary disability insurance fund or to the temporary disability insurance reserve
19 fund.

20 (ii) Wherever and whenever in chapters 39 -- 41 of this title, the words "contribution"
21 and/or "contributions" appear, those words shall be construed to mean the "taxes," as defined in
22 this subdivision, which are the money payments required by those chapters to be made to the
23 temporary disability insurance fund or to the temporary disability insurance reserve fund;

24 (22) "Wages" has the same definition as contained in chapter 42 of this title; provided, that
25 no individual shall be denied benefits under chapters 39 -- 41 of this title because his or her
26 employer continues to pay to that individual his or her regular wages, or parts of them, while he or
27 she is unemployed due to sickness and unable to perform his or her regular or customary work or
28 services. The amount of any payments, whether or not under a plan or system, made to or on behalf
29 of an employee by his or her employer after the expiration of six (6) calendar months following the
30 last calendar month in which the employee performed actual bona fide personal services for his or
31 her employer, shall not be deemed to be wages either for the purpose of paying contributions
32 thereon under chapter 40 of this title, or for the purpose of being used as a basis for paying benefits
33 under chapter 41 of this title; and

34 (23) "Week" has the same definition as contained in chapter 42 of this title.

1 **28-39-28. Disposition of fines.**

2 All fines specified or provided for in §§ 28-39-23 -- ~~28-39-32~~ 28-39-27 shall be paid to the
3 temporary disability insurance reserve fund.

4 SECTION 19. Sections 28-41-13 and 28-41-35 of the General Laws in Chapter 28-41
5 entitled “Temporary Disability Insurance – Benefits” are hereby amended to read as follows:

6 **28-41-13. Disqualification by receipt of unemployment compensation benefits.**

7 (a)(1) An individual shall be disqualified from receiving benefits during any week with
8 respect to which he or she will receive remuneration in the form of benefits under an unemployment
9 compensation law of any state or of the United States.

10 (2) Notwithstanding any provisions of chapters 39 -- 41 of this title to the contrary, an
11 individual receiving unemployment compensation and who is injured while unemployed and who
12 is then denied unemployment compensation as a result of those injuries, shall, if otherwise eligible,
13 be entitled to receive temporary disability insurance benefits without serving a waiting period as
14 required in § 28-41-12.~~[repealed]~~

15 (b) Notwithstanding any provisions of chapters 39 -- 41 of this title to the contrary, if an
16 individual has been determined to have been paid unemployment compensation benefits and/or
17 dependents' allowances under chapters 42 -- 44 of this title, for the same week or weeks with respect
18 to which the individual was entitled to receive temporary disability insurance benefits and/or
19 dependents' allowances under chapters 39 -- 41 of this title, that individual shall, at the discretion
20 of the director, be liable to have that sum deducted from any benefits payable to him or her under
21 chapters 39 -- 41 of this title for the same week or weeks, to reimburse the director for the
22 employment security fund.

23 **28-41-35. Benefits.**

24 (a) Subject to the conditions set forth in this chapter, an employee shall be eligible for
25 temporary caregiver benefits for any week in which he or she is unable to perform his or her regular
26 and customary work because he or she is:

27 (1) Bonding with a newborn child or a child newly placed for adoption or foster care with
28 the employee or domestic partner in accordance with the provisions of § ~~28-41-36(e)(1)~~ 28-41-
29 36(c); or

30 (2) Caring for a child, parent, parent-in-law, grandparent, spouse, or domestic partner, who
31 has a serious health condition, subject to a waiting period in accordance with the provisions of §
32 28-41-12 ~~[repealed]~~. Employees may use accrued sick time during the eligibility waiting period in
33 accordance with the policy of the individual's employer.

34 (b) Temporary caregiver benefits shall be available only to the employee exercising his or

1 her right to leave while covered by the temporary caregiver insurance program. An employee shall
2 file a written intent with his or her employer, in accordance with rules and regulations promulgated
3 by the department, with a minimum of thirty (30) days' notice prior to commencement of the family
4 leave. Failure by the employee to provide the written intent may result in delay or reduction in the
5 claimant's benefits, except in the event the time of the leave is unforeseeable or the time of the leave
6 changes for unforeseeable circumstances.

7 (c) Employees cannot file for both temporary caregiver benefits and temporary disability
8 benefits for the same purpose, concurrently, in accordance with all provisions of this act and
9 chapters 39 -- 41 of this title.

10 (d) Temporary caregiver benefits may be available to any individual exercising his or her
11 right to leave while covered by the temporary caregiver insurance program, commencing on or
12 after January 1, 2014, which shall not exceed the individual's maximum benefits in accordance with
13 chapters 39 -- 41 of this title. The benefits for the temporary caregiver program shall be payable
14 with respect to the first day of leave taken after the waiting period and each subsequent day of leave
15 during that period of family temporary disability leave. Benefits shall be in accordance with the
16 following:

17 (1) Beginning January 1, 2014, temporary caregiver benefits shall be limited to a maximum
18 of four (4) weeks in a benefit year;

19 (2) Beginning January 1, 2022, temporary caregiver benefits shall be limited to a maximum
20 of five (5) weeks in a benefit year;

21 (3) Beginning January 1, 2023, temporary caregiver benefits shall be limited to a maximum
22 of six (6) weeks in a benefit year.

23 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary
24 disability benefits that together exceed thirty (30) times his or her weekly benefit rate in any benefit
25 year.

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

32 (g) During any caregiver leave taken pursuant to this chapter, the employer shall maintain
33 any existing health benefits of the employee in force for the duration of the leave as if the employee
34 had continued in employment continuously from the date he or she commenced the leave until the

1 date the caregiver benefits terminate; provided, however, that the employee shall continue to pay
2 any employee shares of the cost of health benefits as required prior to the commencement of the
3 caregiver benefits.

4 (h) No individual shall be entitled to waiting period credit or temporary caregiver benefits
5 under this section for any week beginning prior to January 1, 2014. An employer may require an
6 employee who is entitled to leave under the federal Family and Medical Leave Act, Pub. L. No.
7 103-3 and/or the Rhode Island Parental and Family Medical Leave Act, § 28-48-1 et seq., who
8 exercises his or her right to benefits under the temporary caregiver insurance program under this
9 chapter, to take any temporary caregiver benefits received, concurrently, with any leave taken
10 pursuant to the federal Family and Medical Leave Act and/or the Rhode Island Parental and Family
11 Medical Leave Act.

12 (i) Temporary caregiver benefits shall be in accordance with the federal Family and
13 Medical Leave Act (FMLA), Pub. L. No. 103-3 and the Rhode Island Parental and Family Medical
14 Leave Act in accordance with § 28-48-1 et seq. An employer may require an employee who is
15 entitled to leave under the federal Family and Medical Leave Act, Pub. L. No. 103-3 and/or the
16 Rhode Island Parental and Family Medical Leave Act, § 28-48-1 et seq., who exercises his or her
17 right to benefits under the temporary caregiver insurance program under this chapter, to take any
18 temporary caregiver benefits received, concurrently, with any leave taken pursuant to the federal
19 Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical Leave Act.

20 SECTION 20. Sections 28-42-3, 28-42-14.1, 28-42-38.1, 28-42-38.2, 28-42-67, 28-42-69
21 and 28-42-78 of the General Laws in chapter 28-42 entitled "Employment Security – General
22 Provisions" are hereby amended to read as follows:

23 **28-42-3. Definitions.**

24 The following words and phrases, as used in chapters 42 -- 44 of this title, have the
25 following meanings unless the context clearly requires otherwise:

26 (1) "Administration account" means the employment security administration account
27 established by this chapter.

28 (2) "Average weekly wage" means the amount determined by dividing the individual's total
29 wages earned for service performed in employment within the individual's base period by the
30 number of that individual's credit weeks within the individual's base period.

31 (3) "Base period," with respect to an individual's benefit year, means the first four (4), of
32 the most recently completed five (5) calendar quarters immediately preceding the first day of an
33 individual's benefit year. For any individual's benefit year, and for any individual deemed
34 monetarily ineligible for benefits for the "base period" as defined in this subdivision, the department

1 shall make a re-determination of entitlement based upon the alternate base period that consists of
2 the last four (4) completed calendar quarters immediately preceding the first day of the claimant's
3 benefit year. Notwithstanding anything contained to the contrary in this subdivision, the base period
4 shall not include any calendar quarter previously used to establish a valid claim for benefits;
5 provided, that notwithstanding any provision of chapters 42 -- 44 of this title to the contrary, for
6 the benefit years beginning on or after October 4, 1992, whenever an individual who has received
7 workers' compensation benefits is entitled to reinstatement under § 28-33-47, but the position to
8 which reinstatement is sought does not exist or is not available, the individual's base period shall
9 be determined as if the individual filed for benefits on the date of the injury.

10 (4) "Benefit" means the money payable to an individual as compensation for the
11 individual's wage losses due to unemployment as provided in these chapters.

12 (5) "Benefit credits" means the total amount of money payable to an individual as benefits,
13 as determined by § 28-44-9.

14 (6) "Benefit rate" means the money payable to an individual as compensation, as provided
15 in chapters 42 -- 44 of this title, for the individual's wage losses with respect to any week of total
16 unemployment.

17 (7) "Benefit year," with respect to any individual who does not already have a benefit year
18 in effect and who files a valid claim for benefits, means fifty-two (52) consecutive calendar weeks,
19 the first of which shall be the week containing the day as of which he or she first files a valid claim
20 in accordance with regulations adopted as hereinafter prescribed; provided, that the benefit year
21 shall be fifty-three (53) weeks if the filing of a new, valid claim would result in overlapping any
22 quarter of the base period of a prior new claim previously filed by the individual. In no event shall
23 a new benefit year begin prior to the Sunday next following the end of the old benefit year.

24 (8) "Calendar quarter" means the period of three (3) consecutive calendar months ending
25 March 31, June 30, September 30, and December 31; or the equivalent thereof, in accordance with
26 regulations as subsequently prescribed.

27 (9) "Contributions" means the money payments to the state employment security fund
28 required by those chapters.

29 (10) "Credit amount," effective July 6, 2014, means earnings by the individual in an amount
30 equal to at least eight (8) times the individual's weekly benefit rate.

31 (11) "Credit week," prior to July 1, 2012, means any week within an individual's base
32 period in which that individual earned wages amounting to at least twenty (20) times the minimum
33 hourly wage as defined in chapter 12 of this title for performing services in employment for one or
34 more employers subject to chapters 42 -- 44 of this title, and for the period July 1, 2012, through

1 July 5, 2014, means any week within an individual's base period in which that individual earned
2 wages amounting to at least the individual's weekly benefit rate for performing services in
3 employment for one or more employers subject to chapters 42 -- 44 of this title.

4 (12) "Crew leader," for the purpose of subdivision (19) of this section, means an individual
5 who:

6 (i) Furnishes individuals to perform service in agricultural labor for any other person;

7 (ii) Pays (either on the crew leader's own behalf or on behalf of that other person) the
8 individuals so furnished by the crew leader for the service in agricultural labor performed by them;
9 and

10 (iii) Has not entered into a written agreement with that other person (farm operator) under
11 which that individual (crew leader) is designated as an employee of that other person (farm
12 operator).

13 (13) "Director" means the head of the department of labor and training or the director's
14 authorized representative.

15 (14) "Domestic service employment." "Employment" includes domestic service in a
16 private home performed for a person who paid cash remuneration of one thousand dollars (\$1,000)
17 or more in any calendar quarter in the current calendar year, or the preceding calendar year, to
18 individuals employed in that domestic service.

19 (15) "Employee" means any person who is, or has been, employed by an employer subject
20 to those chapters and in employment subject to those chapters.

21 (16) "Employer" means:

22 (i) Any employing unit that was an employer as of December 31, 1955;

23 (ii) Any employing unit that for some portion of a day on and after January 1, 1956, has,
24 or had, in employment, within any calendar year, one or more individuals; except, however, for
25 "domestic service employment," as defined in subdivision (14) of this section;

26 (iii) For the effective period of its election pursuant to § 28-42-12, any other employing
27 unit that has elected to become subject to chapters 42 -- 44 of this title; or

28 (iv) Any employing unit not an employer by reason of any other paragraph of this
29 subdivision for which, within either the current or preceding calendar year, service is, or was,
30 performed with respect to which that employing unit is liable for any federal tax against which
31 credit may be taken for contributions required to be paid into this state's employment security fund;
32 or which, as a condition for approval of chapters 42 -- 44 of this title for full tax credit against the
33 tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. § 3301 et seq., is required, pursuant
34 to that act, to be an "employer" under chapters 42 -- 44 of this title.

1 (17) "Employing unit" means any person, partnership, association, trust, estate, or
2 corporation, whether domestic or foreign, or its legal representative, trustee in bankruptcy, receiver,
3 or trustee, or the legal representative of a deceased person, that has, or had, in the unit's employ,
4 one or more individuals. For the purposes of subdivision (14) of this section, a private home shall
5 be considered an employing unit only if the person for whom the domestic service was performed
6 paid cash remuneration of one thousand dollars (\$1,000) or more in any calendar quarter in the
7 current calendar year, or the preceding calendar year, to individuals employed in that domestic
8 service in that private home.

9 (18)(i) "Employment," subject to §§ 28-42-4 -- 28-42-10, means service, including service
10 in interstate commerce, performed for wages, or under any contract of hire, written or oral, express
11 or implied; provided, that service performed shall also be deemed to constitute employment for all
12 the purposes of chapters 42 -- 44 of this title if performed by an individual in the employ of a
13 nonprofit organization as described in subdivision (25) of this section, except as provided in § 28-
14 42-8(7).

15 (ii) Notwithstanding any other provisions of this section, "Employment" also means service
16 with respect to which a tax is required to be paid under any federal law imposing a tax against
17 which credit may be taken for contributions required to be paid into this state's employment security
18 fund or which, as a condition for full tax credit against the tax imposed by the Federal
19 Unemployment Tax Act, is required to be covered under chapters 42 -- 44 of this title.

20 (iii) Employment not to include owners. Employment does not include services performed
21 by sole proprietors (owners), partners in a partnership, limited liability company -- single member
22 filing as a sole proprietor with the IRS, or members of a limited liability company filing as a
23 partnership with the IRS.

24 (19) "Employment -- Crew leader." For the purposes of subdivision (12) of this section:

25 (i) Any individual who is a member of a crew furnished by a crew leader to perform service
26 in agricultural labor for any other person shall be treated as an employee of that crew leader if:

27 (A) That crew leader holds a valid certificate of registration under the Migrant and Seasonal
28 Agricultural Worker Protection Act, 29 U.S.C. § 1801 et seq., or substantially all members of that
29 crew operate or maintain tractors, mechanized harvesting, or crop-dusting equipment, or any other
30 mechanized equipment that is provided by that crew leader; and

31 (ii) That individual is not an employee of the other person within the meaning of
32 subdivision (15) of this section; and

33 (iii) In the case of any individual who is furnished by a crew leader to perform service in
34 agricultural labor for any other person and who is not treated as an employee of that crew leader:

1 (A) That other person, and not the crew leader, shall be treated as the employer of that
2 individual; and

3 (B) That other person shall be treated as having paid cash remuneration to that individual
4 in an amount equal to the amount of cash remuneration paid to that individual by the crew leader
5 (either on the crew leader's own behalf or on behalf of that other person) for the service in
6 agricultural labor performed for that other person.

7 (20) "Employment office" means a free, public-employment office, or its branch, operated
8 by the director or by this state as part of a system of free, public-employment offices, or any other
9 agency that the director may designate with the approval of the Social Security Administration.

10 (21) "Fund" means the employment security fund established by this chapter.

11 (22) "Governmental entity" means state and local governments in this state and includes
12 the following:

13 (i) The state of Rhode Island or any of its instrumentalities, or any political subdivision of
14 the state, or any of its instrumentalities;

15 (ii) Any instrumentality of more than one of these entities; or

16 (iii) Any instrumentality of any of these entities and one or more other states or political
17 subdivisions.

18 (23) "Hospital" means an institution that has been licensed, certified, or approved by the
19 department of health as a hospital.

20 (24)(i) "Institution of higher education" means an educational institution in this state that:

21 (A) Admits, as regular students, only individuals having a certificate of graduation from a
22 high school, or the recognized equivalent of such certificate;

23 (B) Is legally authorized within this state to provide a program of education beyond high
24 school;

25 (C) Provides:

26 (I) An educational program for which it awards a bachelor's or higher degree, or a program
27 that is acceptable for full credit toward such a degree;

28 (II) A program of post-graduate or post-doctoral studies; or

29 (III) A program of training to prepare students for gainful employment in a recognized
30 occupation; and

31 (D) Is a public or other nonprofit institution.

32 (ii) Notwithstanding any of the preceding provisions of this subdivision, all colleges and
33 universities in this state are institutions of higher education for purposes of this section.

34 (25) "Nonprofit organization" means an organization, or group of organizations, as defined

1 in 26 U.S.C. § 501(c)(3), that is exempt from income tax under 26 U.S.C. § 501(a).

2 (26)(i) "Partial unemployment." An employee shall be deemed partially unemployed in any
3 week of less than full-time work if the employee fails to earn in wages for that week an amount
4 equal to the weekly benefit rate for total unemployment to which the employee would be entitled
5 if totally unemployed and eligible. For weeks beginning on or after May 23, 2021, through June
6 30, 2022, an employee shall be deemed partially unemployed in any week of less than full-time
7 work if the employee fails to earn wages for that week in an amount equal to or greater than one
8 hundred and fifty percent (150%) of the weekly benefit rate for total unemployment to which the
9 employee would be entitled if totally unemployed and eligible.

10 (ii) For the purposes of this subdivision and subdivision (28) of this section, "wages"
11 includes only that part of remuneration for any work that is in excess of one-fifth (1/5) of the weekly
12 benefit rate for total unemployment, rounded to the next lower multiple of one dollar (\$1.00), to
13 which the individual would be entitled if totally unemployed and eligible in any one week, and
14 "services" includes only that part of any work for which remuneration in excess of one-fifth (1/5)
15 of the weekly benefit rate for total unemployment, rounded to the next lower multiple of one dollar
16 (\$1.00), to which the individual would be entitled if totally unemployed and eligible in any one
17 week is payable; provided, that nothing contained in this paragraph shall permit any individual to
18 whom remuneration is payable for any work performed in any week in an amount equal to or greater
19 than his or her weekly benefit rate to receive benefits under this subdivision for that week.

20 (iii) Notwithstanding the foregoing, for weeks ending on or after May 23, 2021, through
21 June 30, 2022, "wages" includes only that part of remuneration for any work that is in excess of
22 fifty percent (50%) of the weekly benefit rate for total unemployment, rounded to the next lower
23 multiple of one dollar (\$1.00), to which the individual would be entitled if totally unemployed and
24 eligible in any one week, and "services" includes only that part of any work for which remuneration
25 in excess of fifty percent (50%) of the weekly benefit rate for total unemployment, rounded to the
26 next lower multiple of one dollar (\$1.00), to which the individual would be entitled if totally
27 unemployed and eligible in any one week is payable. Provided, that, during the period defined in
28 this subdivision, nothing contained in this subdivision shall permit any individual to whom
29 remuneration is payable for any work performed in any week in an amount equal to or greater than
30 one hundred fifty percent (150%) of their weekly benefit rate to receive benefits under this
31 subdivision for that week.

32 (iv) Notwithstanding anything contained to the contrary in this subdivision, "services," as
33 used in this subdivision and in subdivision (28) of this section, does not include services rendered
34 by an individual under the exclusive supervision of any agency of this state, or any of its political

1 subdivisions, by which the services are required solely for the purpose of affording relief, support,
2 or assistance to needy individuals performing those services, or services performed by members of
3 the national guard and organized reserves in carrying out their duties in weekly drills as members
4 of those organizations. "Wages," as used in this subdivision and in subdivision (28) of this section,
5 does not include either remuneration received by needy individuals for rendering the
6 aforementioned services when that remuneration is paid exclusively from funds made available for
7 that purpose out of taxes collected by this state or any of its political subdivisions, or remuneration
8 received from the federal government by members of the national guard and organized reserves, as
9 drill pay, including longevity pay and allowances.

10 (27) "Payroll" means the total amount of all wages paid by the employer to the employer's
11 employees for employment.

12 (28) "Total unemployment." An individual shall be deemed totally unemployed in any
13 week in which the individual performs no services (as used in subdivision (26) of this section) and
14 for which the individual earns no wages (as used in subdivision (26) of this section), and in which
15 the individual cannot reasonably return to any self-employment in which the individual has
16 customarily been engaged.

17 (29) "Wages" means all remuneration paid for personal services on or after January 1, 1940,
18 including commissions and bonuses and the cash value of all remuneration paid in any medium
19 other than cash, and all other remuneration that is subject to a tax under a federal law imposing a
20 tax against which credit may be taken for contributions required to be paid into a state
21 unemployment fund. Gratuities customarily received by an individual in the course of the
22 individual's employment from persons other than the individual's employing unit shall be treated
23 as wages paid by the individual's employing unit. The reasonable cash value of remuneration paid
24 in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and
25 determined in accordance with rules prescribed by the director; except that for the purpose of this
26 subdivision and of §§ ~~28-43-1 – 28-43-14~~ 28-43-1 – 28-43-8.1, 28-43-8.2[Repealed], 28-43-8.3,
27 28-43-8.4[Repealed], 28-43-8.5 – 28-43-8.10, 28-43-11[Repealed] and 28-43-12 – 28-43-14, this
28 term does not include:

29 (i) That part of remuneration that is paid by an employer to an individual with respect to
30 employment during any calendar year, after remuneration equal to the amount of the taxable wage
31 base as determined in accordance with § 28-43-7 has been paid during that calendar year by the
32 employer or the employer's predecessor to that individual; provided, that if the definition of
33 "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration
34 in excess of the taxable wage base for that employment, then, for the purposes of §§ 28-43-1 -- 28-

1 43-14, "wages" includes the remuneration as previously set forth, up to an amount equal to the
2 dollar limitation specified in the federal act. For the purposes of this subdivision, "employment"
3 includes services constituting employment under any employment security law of another state or
4 of the federal government;

5 (ii) The amount of any payment made to, or on behalf of, an employee under a plan or
6 system established by an employer that makes provision for employees generally, or for a class or
7 classes of employees (including any amount paid by an employer or an employee for insurance or
8 annuities, or into a fund, to provide for any such payment), on account of:

9 (A) Retirement;

10 (B) Sickness or accident disability;

11 (C) Medical and hospitalization expenses in connection with sickness or accident
12 disability; or

13 (D) Death; provided, that the employee has not the:

14 (I) Option to receive, instead of provision for that death benefit, any part of that payment
15 or, if that death benefit is insured, any part of the premiums (or contributions to premiums) paid by
16 the individual's employer; and

17 (II) Right, under the provisions of the plan or system or policy of insurance providing for
18 that death benefit, to assign that benefit, or to receive a cash consideration in lieu of that benefit
19 either upon the employee's withdrawal from the plan or system providing for that benefit or upon
20 termination of the plan or system or policy of insurance, or of the individual's employment with
21 that employer;

22 (E) The payment by an employer (without deduction from the remuneration of the
23 employee) of:

24 (I) The tax imposed upon an employee under 26 U.S.C. § 3101; or

25 (II) Any payment required from an employee under chapters 42 -- 44 of this title;

26 (iii) Any amount paid by an employee, or an amount paid by an employer, under a benefit
27 plan organized under the Internal Revenue Code [26 U.S.C. § 125].

28 (30) "Week" means the seven-day (7) calendar week beginning on Sunday at 12:01 A.M.
29 and ending on Saturday at 12:00 A.M. midnight.

30 **28-42-14.1. Treatment of Indian tribes.**

31 (a) "Employer" includes any Indian tribe for which service in employment as defined under
32 chapters 42 -- 44 of this title is performed.

33 (b) "Employment" includes service performed in the employ of an Indian tribe, as defined
34 in section 3306(u) of the Federal Unemployment Tax Act (FUTA), 26 U.S.C. § 3306(u), provided

1 the service is excluded from "employment" as defined in FUTA solely by reason of section
2 3306(c)(7), FUTA, 26 U.S.C. § 3306(c)(7), and is not otherwise excluded from "employment"
3 under chapters 42 -- 44 of this title. For the purposes of this section, the exclusions from
4 employment in § 28-42-14 shall be applicable to service performed in the employ of an Indian tribe.

5 (c) Benefits based on service in employment defined in this section shall be payable in the
6 same amount, on the same terms and subject to the same conditions as benefits payable on the basis
7 of other service required to be covered under chapters 42 -- 44 of this title.

8 (d)(1) Indian tribes or tribal units (subdivisions, subsidiaries or business enterprises wholly
9 owned by such Indian tribes) subject to the provisions of chapters 42 -- 44 of this title shall pay
10 contributions under the same terms and conditions as all other subject employers, unless they elect
11 to pay into the employment security fund amounts equal to the amount of benefits attributable to
12 service in the employ of the Indian tribe.

13 (2) Indian tribes electing to make payments in lieu of contributions must make that election
14 in the same manner and under the same conditions as provided in §§ 28-43-24 ~~28-43-31~~ and 28-
15 43-28 – 28-43- 31 pertaining to state and local governments and nonprofit organizations subject to
16 the provisions of chapters 42 -- 44 of this title. Indian tribes will determine if reimbursement for
17 benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations
18 of individual tribal units.

19 (3) Indian tribes or tribal units will be billed for the full amount of benefits attributable to
20 service in the employ of the Indian tribe or tribal unit on the same schedule as other employing
21 units that have elected to make payments in lieu of contributions.

22 (4) At the discretion of the director, any Indian tribe or tribal unit that elects to become
23 liable for payments in lieu of contributions shall be required within thirty (30) days after the
24 effective date of its election, to:

25 (A) execute and file with the director a surety bond approved by the director; or

26 (B) deposit with the director money or securities on the same basis as other employers with
27 the same election option.

28 (e)(1)(i) Failure of the Indian tribe or tribal unit to make required payments, including
29 assessments of interest and penalty, within ninety (90) days of receipt of the bill will cause the
30 Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection
31 (d), for the following tax year unless payment in full is received before contribution rates for next
32 tax year are computed.

33 (ii) Indian tribe that loses the option to make payments in lieu of contributions due to late
34 payment or nonpayment, as described in paragraph (i) of this subdivision, shall have that option

1 reinstated if, after a period of one year, all contributions have been made timely, provided no
2 contributions, payments in lieu of contributions for benefits paid, penalties or interest remain
3 outstanding.

4 (2)(i) Failure of the Indian tribe or any of its tribal units to make required payments,
5 including assessments of interest and penalty, after all collection activities deemed necessary by
6 the director have been exhausted, will cause services performed for that tribe to not be treated as
7 "employment" for purposes of subsection (b) of this section.

8 (ii) The director may determine that any Indian tribe that loses coverage under paragraph
9 (i) of this subdivision may have services performed for that tribe again included as "employment"
10 for purposes of subsection (b) of this section if all contributions, payments in lieu of contributions,
11 penalties and interest have been paid.

12 (iii) The director will notify the United States Internal Revenue Service and the United
13 States Department of Labor of any termination or reinstatement of coverage made under paragraphs
14 (i) and (ii) of this subdivision.

15 (f) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall
16 include information that failure to make full payment within the prescribed time frame:

17 (1) Will cause the Indian tribe to be liable for taxes under FUTA;

18 (2) Will cause the Indian tribe to lose the option to make payments in lieu of contributions;

19 (3) Could cause the Indian tribe to be excepted from the definition of "employer," as
20 provided in subsection (a) of this section, and services in the employ of the Indian tribe, as provided
21 in subsection (b) of this section, to be excepted from "employment."

22 (g) Extended benefits paid under the provisions of § 28-44-62 that are attributable to
23 service in the employ of an Indian tribe and not reimbursed by the federal government shall be
24 financed in their entirety by the Indian tribe.

25 **28-42-38.1. Quarterly wage reports.**

26 (a)(1) The department of labor and training is designated and constituted the agency within
27 this state charged with the responsibility of collecting quarterly wage information, as required by
28 42 U.S.C. § 1320b-7. Each employer shall be required to submit a detailed wage report to the
29 director, for all calendar quarters within thirty (30) days after the end of each quarter in a form and
30 manner prescribed by the director, listing each employee's name; social security account number;
31 the total amount of wages paid to each employee; and any other information that the director deems
32 necessary. All reports shall be in addition to those now required by the department.

33 (2) The department will utilize the quarterly wage information that it collects from
34 employers to establish an individual's eligibility for unemployment insurance benefits and to

1 determine the amount and duration of benefits for all new claims filed.

2 (3) Notwithstanding any provisions of chapters 42 -- 44 of this title to the contrary, the
3 department may utilize employee quarterly wage information submitted by employers to measure
4 the progress of the state in meeting the performance measures developed in response to United
5 States Public Law ~~105-220, the Workforce Investment Act of 1998 (see 29 U.S.C. § 2801 et seq.)~~
6 113-128, the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3101 et seq.),
7 further provided however, that the department may verify certain employee quarterly wage
8 information for the local workforce investment board and provide it with the verified data under
9 procedures established by rules and regulations promulgated by the director. The director shall also
10 make the quarterly wage information available, upon request, to the agencies of other states in the
11 performance of their public duties under the ~~Workforce Investment Act of 1998~~ Workforce
12 Innovation and Opportunity Act of 2014 (29 U.S.C. 3101 et seq.) in that state. This information
13 shall be made available only to the extent required by the Secretary of Labor and necessary for the
14 valid administrative needs of the authorized agencies, and all agencies requesting this data shall
15 protect it from unauthorized disclosure. The department shall be reimbursed by the agencies
16 requesting the information for the costs incurred in providing the information.

17 (4) Notwithstanding any provisions of chapters 42 -- 44 of this title to the contrary, the
18 department may provide quarterly wage information to the United States Census Bureau for the
19 purpose of participating in a joint local employment dynamics program with the United States
20 Census Bureau and the Bureau of Labor Statistics.

21 (5) Notwithstanding any provisions of chapters 42 -- 44 of this title to the contrary, the
22 department may provide employee quarterly wage information to the department's designated
23 research partners for the purpose of its workforce data quality and workforce innovation fund
24 initiatives. The provision of these records will be done in accordance with an approved data-sharing
25 agreement between the department and its designated research partners that protects the security
26 and confidentiality of these records and through procedures established by protocols, rules and/or
27 regulations as determined necessary by the director and appropriately established or promulgated.

28 (b) Notwithstanding any inconsistent provisions of chapters 42 -- 44 of this title, an
29 employer who or that fails to file a detailed wage report in the manner and at the times required by
30 subsection (a) of this section for any calendar quarter shall pay a penalty of twenty-five dollars
31 (\$25.00) for each failure or refusal to file. An additional penalty of twenty-five dollars (\$25.00)
32 shall be assessed for each month the report is delinquent; provided, that this penalty shall not exceed
33 two hundred dollars (\$200.00) for any one report. This penalty shall be paid into the employment
34 security tardy account fund and if any employer fails to pay the penalty, when assessed, it shall be

1 collected by civil action as provided in § 28-43-18.

2 **28-42-38.2. Income and eligibility verification.**

3 (a) The department of labor and training will participate in the income and eligibility
4 verification procedures as required by ~~42 U.S.C. § 1302b-7~~ 42 U.S.C. § 1320(b)-7, which provides
5 for the exchange of information among agencies administering federally assisted programs for aid
6 to families with dependent children, Medicaid, food stamps, supplemental security income,
7 unemployment insurance, and any other state program under a plan approved under Title I, X, XIV,
8 or XVI of the Social Security Act, 42 U.S.C. § 301 et seq., 1201 et seq., 1351 et seq., or 1381 et
9 seq., respectively.

10 (b) Notwithstanding any other provisions of this chapter, the director will provide, upon
11 request: (1) quarterly wage information to all authorized agencies for income and eligibility
12 verification purposes and, further, to the appropriate state or local child support enforcement agency
13 operating pursuant to a plan described in 42 U.S.C. § 654 which has been approved by the Secretary
14 of Health and Human Services under Part D of Title IV of the Social Security Act, 42 U.S.C. § 651
15 et seq. (2) quarterly wage information for child support enforcement purposes to the Department
16 of Health and Human Services in accordance with United States P.L. 100-485, Family Support Act
17 of 1988; and (3) quarterly wage information to the Department of Housing and Urban Development
18 and to authorized representatives of public housing agencies in accordance with the Stewart B.
19 McKinney Homeless Assistance Act, 42 U.S.C. § 11301 et seq. This information shall be made
20 available only to the extent necessary for the valid administrative needs of the authorized agencies
21 and all agencies requesting this data shall protect it from unauthorized disclosures. The department
22 shall be reimbursed by the agencies requesting the information for the costs incurred in providing
23 the information.

24 **28-42-67. Disposition of fines.**

25 All fines specified or provided for in §§ ~~28-42-62—28-42-66~~ 28-42-62[Repealed], 28-42-
26 62.1, 28-42-63[Repealed], 28-42-64, and 28-42-65 – 28-42-66 shall be paid to the employment
27 security tardy account fund.

28 **28-42-69. Complaints to invoke penalties.**

29 The director shall be the party complainant to any complaint and warrant brought to invoke
30 the penalties provided for in §§ ~~28-42-62—28-42-66~~ 28-42-62[Repealed], 28-42-62.1, 28-42-
31 63[Repealed] and 28-42-63.1 – 28-42-67, and the director shall be exempt from giving surety for
32 costs in any action.

33 **28-42-78. Establishment of employment security tardy account fund -- Sources.**

34 (a)(1) There is created as a restricted receipt account within the general fund the

1 employment security tardy account fund, to be administered by the director without liability on the
2 part of the state beyond the amounts paid into and earned by the fund. This fund shall consist of:

3 (i) All penalties received from employers and paid pursuant to §§ ~~28-42-62—28-42-66~~28-
4 42-62[Repealed] 28-42-62.1, 28-42-63[Repealed] 28-42-64, and 28-42-65 – 28-42-67,

5 (ii) All other moneys paid into and received by the fund;

6 (iii) Property and securities acquired by and through the use of moneys belonging to the
7 fund; and

8 (iv) Interest earned upon the moneys belonging to the fund.

9 (2) All moneys in the fund shall be mingled and undivided.

10 (b) All moneys received by the director for account of the employment security tardy
11 account fund shall, upon receipt, be deposited by the director in a clearance account in a bank in
12 this state and shall be exempt from the provisions of § 35-4-27.

13 SECTION 21. Sections 28-43-2 and 28-43-3 of the General laws in Chapter 28-43 entitled
14 “Employment Security – Contributions” are hereby amended to read as follows:

15 **28-43-2. Balancing account -- Credits and charges.**

16 Subsequent to the establishment of the balancing account as set forth in § 28-43-1(1), the
17 credits and charges to that account shall be determined by the director as follows:

18 (1) Credits to the balancing account:

19 (i) All interest earnings received by the fund;

20 (ii) All transfers to the credit of the account of this state in the unemployment trust fund
21 under ~~42 U.S.C. § 903(a)~~ 42 U.S.C. § 1103;

22 (iii) Any plus balance remaining to the credit of an employer's account after he or she has
23 ceased to be subject to chapters 42 -- 44 of this title;

24 (iv) The entire amount credited to the balancing account under § 28-43-9 relating to the
25 balancing rate;

26 (v) An amount equal to the amount of any restitution by an employee of benefits, whether
27 that restitution is in cash or in the form of offset against benefits otherwise due, when that restitution
28 is made;

29 (vi) Any deposits made by employers in connection with an appeal under § 28-44-39,
30 which are not returnable;

31 (vii) The amount reimbursed or advanced to this state as the federal share of extended
32 benefits paid to individuals under the provisions of § 28-44-62; and

33 (viii) The amount reimbursed to this state in accordance with the provisions of ~~§ 121 of~~
34 United States P.L. 94-566 Pub. L. 94-566, Oct. 20, 1976, Title I, § 121, 90 STAT 2673.

1 (2) Charges to the balancing account:

2 (i) Any minus balance of an employer's account after he or she has ceased to be subject to
3 this title, together with an amount equal to benefits subsequently paid based on wages reported by
4 that employer;

5 (ii) Any disbursements from the fund that are not chargeable to employer accounts;

6 (iii) Any benefit payments paid to a claimant and charged to an employer's account after a
7 hearing in which the employer appeared and contested the award which is subsequently finally
8 disallowed on appeal, which charges to the employer's account shall be cancelled;

9 (iv) Any benefit payments based on determinations by the administrative agencies of other
10 states;

11 (v) Dependent's allowances not otherwise chargeable to an employer's account paid under
12 § 28-44-6 for benefit years beginning subsequent to September 30, 1985;

13 (vi) Benefits not chargeable to any individual employer's account;

14 (vii) Any benefit payments paid to an individual who has left his or her employment for
15 reasons which have been determined not to have been connected with the employment; provided,
16 that the benefits paid to an individual who leaves work pursuant to a retirement plan, system, or
17 program in accordance with the provisions of § 28-44-17 of this title shall be charged in accordance
18 with the provisions of § 28-43-3(2)(ii);

19 (viii) Any benefits paid for benefit years beginning subsequent to September 30, 1985 to
20 an individual in accordance with the provisions of § 28-44-62, and not otherwise chargeable to an
21 employer's account;

22 (ix) The foregoing charges to the balancing account shall be limited to benefits paid based
23 on service with an employer required to pay contributions under the provisions of chapters 42 -- 44
24 of this title.

25 (x) Any benefits paid for benefit years beginning subsequent to July 7, 1996 to an
26 individual unemployed as a result of physical damage to the real property at the employer's usual
27 place of business caused by severe weather conditions, including, but not limited to, hurricanes,
28 snowstorms, ice storms or flooding, or fire except where caused by the employer.

29 SECTION 22. Sections 28-44-58.1, 28-44-62 and 28-44-69 of the General Laws in Chapter
30 28-44 entitled "Employment Security – Benefits" are hereby amended to read as follows:

31 **28-44-58.1. Child support intercept of benefits.**

32 (a) An individual filing a new claim for benefits shall, at the time of filing the claim,
33 disclose whether or not he or she owes child support obligations as defined under subsection (g) of
34 this section. If any individual discloses that he or she owes child support obligations, and is

1 determined to be eligible for benefits, the director shall notify the department of human services,
2 bureau of family support that the individual has been determined to be eligible for benefits.

3 (b) Notwithstanding any provision of this title to the contrary, the director shall deduct and
4 withhold from any compensation payable to an individual that owes child support obligations as
5 defined under subsection (g) of this section:

6 (1) The amount specified by the individual to the director to be deducted and withheld
7 under this subsection, if neither subdivision (2) nor (3) of this subsection is applicable; or

8 (2) The amount determined pursuant to an agreement submitted to the director under ~~42~~
9 ~~U.S.C. § 454(20)(B)(i)~~ 42 U.S.C. § 654 (19)(B)(i) by the department of human services, bureau of
10 family support, unless subdivision (3) of this subsection is applicable; or

11 (3) Any amount otherwise required to be deducted and withheld from the benefits pursuant
12 to legal process, as that term is defined in ~~42 U.S.C. § 462(e)~~ 42 U.S.C. § 659 (i)(5), properly
13 served upon the director.

14 (c) Any amount deducted and withheld under subsection (b) of this section shall be paid
15 by the director to the department of human services, bureau of family support.

16 (d) Any amount deducted and withheld under subsection (b) of this section shall for all
17 purposes be treated as if it were paid to the individual as benefits under chapters 42 -- 44 of this
18 title and paid by that individual to the department of human services, bureau of family support in
19 satisfaction of the individual's child support obligations.

20 (e) For purposes of subsections (a) through (d) of this section, "benefits" means any
21 compensation payable under this chapter, including amounts payable by the director pursuant to an
22 agreement under any federal law providing for compensation, assistance, or allowances with
23 respect to unemployment.

24 (f) This section applies only if appropriate arrangements have been made for
25 reimbursement by the department of human services, bureau of family support for the
26 administrative costs incurred by the director under this section which are attributable to child
27 support obligations being enforced by the department of human services, bureau of family support.

28 (g) "Child support obligations" is defined for purposes of this section as including only
29 obligations which are being enforced pursuant to a plan described in ~~42 U.S.C. § 454~~ 42 U.S.C. §
30 654 which has been approved by the Secretary of Health and Human Services under Part D of Title
31 IV of the Social Security Act, 42 U.S.C. § 651 et seq.

32 (h) Upon receipt of funds paid by the director under subsection (c) of this section, the
33 department of human services, bureau of family support shall deposit and hold those funds in an
34 escrow account until credit to the individual's child support obligation is made.

1 **28-44-62. Extended benefits.**

2 (a) Definitions. As used in this section, unless the context clearly requires otherwise:

3 (1) "Eligibility period" of an individual means the period consisting of the weeks in his or
4 her benefit year which begin in an extended period that is in effect in this state and, if his or her
5 benefit year ends within that extended benefit period, any weeks thereafter which begin in that
6 period.

7 (2) "Extended benefit period" means a period which:

8 (i) Begins with the third week after the first week for which there is a state "on" indicator;
9 and

10 (ii) Ends with either of the following weeks, whichever occurs later: (A) the third (3rd)
11 week after the first week for which there is a state "off" indicator; or (B) the thirteenth (13th)
12 consecutive week of that period; provided, that no extended benefit period may begin by reason of
13 a state "on" indicator before the fourteenth week following the end of a prior extended benefit
14 period which was in effect with respect to this state; and provided, further, that no extended benefit
15 period may become effective in this state prior to the sixty-first (61st) day following the date of
16 enactment of the Federal-State Extended Unemployment Compensation Act of 1970 (see 26 U.S.C.
17 § 3304), and that, on and after January 1, 1972, either state or national indicators shall be applicable.

18 (iii) There is a "state 'on' indicator" for this state for a week, beginning after September 25,
19 1982 and prior to December 18, 2010, or beginning on or after January 1, 2012, if:

20 (A) The director determines, in accordance with regulations of the U.S. Secretary of Labor,
21 that for the period consisting of that week and the immediately preceding twelve (12) weeks, the
22 rate of insured unemployment not seasonally adjusted under this chapter:

23 (I) Equaled or exceeded one hundred twenty percent (120%) of the average of those rates
24 for the corresponding thirteen (13) week period ending in each of the preceding two (2) calendar
25 years, and

26 (II) Equaled or exceeded five percent (5%), or

27 (B) The director determines, in accordance with regulations of the U.S. Secretary of Labor,
28 that for the period consisting of that week and the immediately preceding twelve (12) weeks, the
29 rate of insured unemployment not seasonally adjusted under this chapter equaled or exceeded six
30 percent (6%), regardless of the insured unemployment rate in previous years, or

31 (C) With respect to benefits for weeks of unemployment beginning after March 6, 1993,
32 and prior to December 18, 2010, or beginning on or after January 1, 2012, the average rate of total
33 unemployment seasonally adjusted, as determined by the United States Secretary of Labor, for the
34 period consisting of the most recent three (3) months for which data for all states are published

1 before the close of that week:

2 (I) Equals or exceeds 6.5 percent (6.5%), and

3 (II) Equals or exceeds one hundred ten percent (110%) of such average for either or both
4 of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

5 (D) Notwithstanding any provision of this subdivision, any week for which there would
6 otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to
7 be a week for which there is a state "off" indicator.

8 (iv) There is a "state 'on' indicator" for this state for a week, beginning on or after December
9 18, 2010, and ending on or before December 31, 2011, if:

10 (A) The director determines, in accordance with regulations of the U.S. Secretary of Labor,
11 that for the period consisting of that week and the immediately preceding twelve (12) weeks, the
12 rate of insured unemployment not seasonally adjusted under this chapter:

13 (I) Equaled or exceeded one hundred twenty percent (120%) of the average of those rates
14 for the corresponding thirteen (13) week period ending in each of the preceding three (3) calendar
15 years; and

16 (II) Equaled or exceeded five percent (5%); or

17 (B) The director determines, in accordance with regulations of the U.S. Secretary of Labor,
18 that for the period consisting of that week and the immediately preceding twelve (12) weeks, the
19 rate of insured unemployment not seasonally adjusted under this chapter equaled or exceeded six
20 percent (6%), regardless of the insured unemployment rate in previous years; or

21 (C) With respect to benefits for weeks of unemployment beginning on or after December
22 18, 2010, and ending on or before December 31, 2011, the average rate of total unemployment
23 seasonally adjusted, as determined by the United States Secretary of Labor, for the period
24 consisting of the most recent three (3) months for which data for all states are published before the
25 close of that week:

26 (I) Equals or exceeds six and one-half percent (6.5%); and

27 (II) Equals or exceeds one hundred ten percent (110%) of such average for any or all of the
28 corresponding three (3) month periods ending in the three (3) preceding calendar years.

29 (D) Notwithstanding any provision of this subdivision, any week for which there would
30 otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to
31 be a week for which there is a state "off" indicator.

32 (v)(A) There is a state "off" indicator for this state for a week beginning after March 6,
33 1993 and prior to December 18, 2010, or beginning on or after January 1, 2012, if in the period
34 consisting of the week and the immediately preceding twelve (12) weeks, none of the options

1 specified in subparagraphs (iii)(A), (B), and (C) of this subdivision result in an "on" indicator; or

2 (B) There is a state "off" indicator for this state for a week beginning on or after December
3 18, 2010, and ending on or before December 31, 2011, if in the period consisting of the week and
4 the immediately preceding twelve (12) weeks, none of the options specified in subparagraphs
5 (iv)(A), (B), and (C) of this subdivision result in an "on" indicator.

6 (3) "Extended benefits" means benefits, including benefits payable to federal civilian
7 employees and to ex-servicepersons pursuant to 5 U.S.C. § 8501 et seq., payable to an individual
8 under the provisions of this section for weeks of unemployment in his or her eligibility period.

9 (4)(i) "Rate of insured unemployment," for purposes of paragraph (2)(iii) of this
10 subsection, means the percentage derived by dividing:

11 (A) The average weekly number of individuals filing claims for regular benefits for weeks
12 of unemployment with respect to the most recent thirteen (13) consecutive week period, as
13 determined by the director on the basis of reports submitted to the Secretary of Labor, by

14 (B) The average monthly covered employment for the first four (4) of the most recent six
15 (6) completed calendar quarters ending before the end of the thirteen (13) week period.

16 (ii) Computations required by the provisions of this subdivision shall be made by the
17 director, in accordance with the regulations prescribed by the Secretary of Labor.

18 (5) "Regular benefits" means benefits, including dependents' allowances, payable to an
19 individual under chapters 42 -- 44 of this title, or under any other state law, including benefits
20 payable to federal civilian employees and to ex-servicepersons pursuant to 5 U.S.C. § 8501 et seq.,
21 other than extended benefits.

22 (6) "State" includes any state of the United States of America, the District of Columbia, the
23 Commonwealth of Puerto Rico and the Virgin Islands.

24 (7) "State law" means the unemployment insurance law of any state, approved by the
25 Secretary of Labor under 26 U.S.C. § 3304.

26 (8) "Suitable work" means, with respect to any individual, any work that is within that
27 individual's capabilities; provided, however:

28 (i) That the gross average weekly remuneration payable for the work must exceed the sum
29 of the individual's weekly benefit amount as determined under subsection (g) of this section plus
30 the amount, if any, of supplemental unemployment benefits ~~26 U.S.C. § 50(C)(17)(D)~~, **as defined**
31 **in 26 U.S.C. § 501 (c)(17) (D)**, payable to that individual for that week, and

32 (ii) That wages for such work are not less than the higher of:

33 (A) The minimum wage provided by 29 U.S.C. § 206(a)(1) without regard to any
34 exemption, or

1 (B) The applicable state or local minimum wage.

2 (b) Effect of state law provisions relating to regular benefits on claims for, and the payment
3 of extended benefits. Except when the result would be inconsistent with the other provisions of this
4 section and as otherwise provided in the employment security rules, the provisions of chapters 42
5 -- 44 of this title which apply to claims for, or the payment of, regular benefits shall apply to claims
6 for, and the payment of, extended benefits provided under this section.

7 (c) Eligibility requirements for extended benefits. An individual shall be eligible to receive
8 extended benefits with respect to any week of unemployment in his or her eligibility period only if
9 the director finds that:

10 (1) He or she has, prior to that week, exhausted all of his or her rights to regular benefits
11 provided under chapters 42 -- 44 of this title because either:

12 (i) He or she has received all of those benefits that were available to him or her in his or
13 her current benefit year, or

14 (ii) His or her benefit year has expired prior to that week, and he or she has insufficient
15 wages and/or insufficient weeks of employment on which to establish a new benefit year which
16 would include that week; and

17 (2) With respect to that week of unemployment:

18 (i) He or she has exhausted all his or her rights to regular benefits available to him or her
19 under any state law, including benefits payable to federal civilian employees and ex-servicepersons
20 under § 5 U.S.C. § 8501 et seq.;

21 (ii) He or she has no rights to allowances or unemployment benefits under any other federal
22 law, such as the Railroad Unemployment Insurance Act [45 U.S.C. § 351 et seq.];

23 (iii) He or she has not received unemployment benefits under the law of Canada; and

24 (iv) He or she is not disqualified or ineligible for benefits under any provisions of chapters
25 42 -- 44 of this title, to the extent that those provisions, pursuant to paragraph (ii) of this subdivision
26 or the regulations adopted pursuant to that paragraph, are applicable to the claims for, and the
27 payment of, extended benefits provided under this section; provided, that for purposes of
28 subdivision (1) of this subsection, an individual shall be deemed to have exhausted his or her regular
29 benefit rights with respect to any week of unemployment when he or she may become entitled to
30 regular benefits with respect to that week, or future weeks, but those benefits are not payable at the
31 time he or she claims extended benefits because final action has not yet been taken on a pending
32 appeal with respect to regular benefits based on wages and/or employment which were not
33 considered in the prior determination of his or her benefits.

34 (3) Notwithstanding the provisions of this subsection, an individual filing an initial claim

1 for extended benefits effective March 7, 1993, or after shall not be eligible for extended
2 compensation for any week of unemployment, unless in the base period with respect to which the
3 individual exhausted all rights to regular benefits provided under chapters 42 -- 44 of this title, the
4 individual:

5 (i) Had earnings in insured employment under chapters 42 -- 44 of this title which equaled
6 or exceeded forty (40) times the individual's weekly benefit amount, including dependent's
7 allowance, or

8 (ii) Had been paid wages for insured employment under chapters 42 -- 44 of this title which
9 equaled or exceeded one and one-half (1 1/2) times the individual's insured wages in the calendar
10 quarter of the base period in which the individual's insured wages were the highest, or

11 (iii) Had twenty (20) weeks of full-time work in insured employment under chapters 42 --
12 44 of this title.

13 (d)(1) Suitable work and work search requirements for extended benefits. Notwithstanding
14 the provisions of subsection (b) of this section, an individual shall be ineligible for payment of
15 extended benefits for any week of unemployment beginning on or after April 1, 1981, if the director
16 finds that during that period:

17 (i) He or she failed to accept an offer of suitable work as defined under subsection (a) of
18 this section or failed to apply for any suitable work to which he or she was referred by the director;
19 or

20 (ii) He or she failed to actively engage in seeking work as prescribed under subdivision (3)
21 of this subsection;

22 (2) Any individual who has been found ineligible for extended benefits by reason of the
23 provisions in subdivision (1) of this subsection shall also be denied benefits beginning the first day
24 of the week following the week in which that failure occurred and until he or she has been
25 employed, except in self-employment, in each of four (4) subsequent weeks, whether or not
26 consecutive, and has earned remuneration equal to not less than four (4) times the extended weekly
27 benefit amount. No individual shall be denied extended benefits for failure to accept an offer of or
28 to apply for any job which meets the definition of suitability as described in subsection (a) of this
29 section if:

30 (i) The position was not offered to that individual in writing or was not listed with the
31 employment service;

32 (ii) The failure would not result in a denial of benefits under the definition of suitable work
33 for regular benefit claimants in § 28-44-20 to the extent that the criteria of suitability in that section
34 are not inconsistent with the provisions of subsection (a) of this section; or

1 (iii) The individual furnishes satisfactory evidence to the director that his or her prospects
2 for obtaining work in his or her customary occupation within a reasonably short period are good.
3 If that evidence is deemed satisfactory for this purpose, the determination of whether any work is
4 suitable with respect to that individual shall be made in accordance with the definition of suitable
5 work for regular benefit claimants in § 28-44-20 without regard to the definition specified by
6 subsection (a) of this section.

7 (3) For the purpose of paragraph (1)(ii) of this subsection, an individual shall be treated as
8 actively engaged in seeking work during any week if:

9 (i) The individual has engaged in a systematic and sustained effort to obtain work during
10 that week;

11 (ii) The individual furnishes tangible evidence that he or she has engaged in that effort
12 during that week; and

13 (iii) The director shall give written notice of the minimum requirements necessary to satisfy
14 the requirements of this subsection prior to the individual's exhaustion of regular benefits provided
15 under chapters 42 -- 44 of this title.

16 (4) Notwithstanding the provisions of subdivision (a)(8) of this section to the contrary, no
17 work shall be deemed to be suitable work for an individual which does not accord with the labor
18 standard provisions required by 26 U.S.C. § 3304(a)(5) and set forth under § 28-44-20(a) and (b).

19 (e) Cessation of extended benefits when paid under interstate claim in a state where
20 extended benefit period is not in effect.

21 (1) Except as provided in subdivision (2) of this subsection, an individual shall not be
22 eligible for extended benefits for any week beginning on or after June 1, 1981, if:

23 (i) Extended benefits are payable for that week pursuant to an interstate claim filed in any
24 state under the interstate benefit payment plan; and

25 (ii) No extended benefit period is in effect for that week in that state.

26 (2) Subdivision (1) of this subsection shall not apply with respect to the first two (2) weeks
27 for which extended benefits are payable, determined without regard to this subsection, pursuant to
28 an interstate claim filed under the interstate benefit payment plan to the individual from the
29 extended benefit account established for the individual with respect to the benefit year.

30 (f) Suitable work. The employment service shall refer any claimant entitled to extended
31 benefits under chapters 42 -- 44 of this title to any suitable work which meets the criteria prescribed
32 in subsection (a) of this section.

33 (g) Weekly extended benefit amount. The weekly extended benefit amount payable to an
34 individual for a week of total unemployment in his or her eligibility period shall be an amount equal

1 to the weekly benefit amount, including dependent's allowances, payable to him or her for a week
2 of total unemployment during his or her benefit year.

3 (h) Maximum extended benefit amount.

4 (1) The maximum extended benefit amount payable to any eligible individual with respect
5 to the applicable benefit year shall be the least of the following amounts, determined on the basis
6 of the specified regular benefit amounts which were payable, or paid, whichever is applicable, to
7 the individual in the benefit year:

8 (i) Fifty percent (50%) of the maximum potential regular benefits, including dependents'
9 allowances, which were payable to the individual under chapters 42 -- 44 of this title in the benefit
10 year, or

11 (ii) Thirteen (13) times the individual's weekly benefit amount, including dependents'
12 allowances, which was payable to the individual under chapters 42 -- 44 of this title for a week of
13 total unemployment in the benefit year.

14 (2) Effective with respect to weeks beginning in a high unemployment period, the
15 maximum extended benefit amount payable to any eligible individual with respect to the applicable
16 benefit year shall be the least of the following amounts, determined on the basis of the specified
17 regular benefit amounts which were payable, or paid, whichever is applicable, to the individual in
18 the benefit year:

19 (i)(A) Eighty percent (80%) of the maximum potential regular benefits, including
20 dependents' allowances, which were payable to the individual under chapters 42 -- 44 of this title
21 in the benefit year, or

22 (B) Twenty (20) times the individual's weekly benefit amount, including dependents'
23 allowances, which was payable to the individual under chapters 42 -- 44 of this title in the benefit
24 year.

25 (ii) For the purposes of this subdivision, the term "high unemployment period" means any
26 period during which an extended benefit period would be in effect if item (a)(1)(iii)(C)(I) or item
27 (a)(1)(iv)(C)(I) of this section were applied by substituting "eight percent" ("8%") for "6.5 percent"
28 ("6.5%").

29 (3) Notwithstanding any other provisions of this chapter, if the benefit year of any
30 individual ends within an extended benefit period, the remaining balance of extended benefits that
31 the individual would, but for this subsection, be entitled to receive in that extended benefit period,
32 with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced,
33 but not below zero (0), by the product of the number of weeks for which the individual received
34 any amounts as trade readjustment allowances within that benefit year, multiplied by the

1 individual's weekly benefit amount for extended benefits.

2 (i) Beginning and termination of extended benefit period. Whenever an extended benefit
3 period is to become effective in this state as a result of a state "on" indicator, or an extended benefit
4 period is to be terminated in this state as a result of a state "off " indicator, the director shall make
5 an appropriate public announcement.

6 (j) If the Federal-State Extended Unemployment Compensation Act of 1970 (see 26 U.S.C.
7 § 3304) is amended so as to authorize this state to pay benefits for an extended benefit period in a
8 manner other than that currently provided by this section, then, and in that case, all the terms and
9 conditions contained in the amended provisions of that federal law shall become a part of this
10 section to the extent necessary to authorize the payment of benefits to eligible individuals as
11 permitted under that amended provision.

12 **28-44-69. Work-sharing benefits.**

13 (a) Definitions. As used in this section, unless the context clearly requires otherwise:

14 (1) "Affected unit" means a specified plant, department, shift, or other definable unit
15 consisting of two (2) or more employees to which an approved work-sharing plan applies.

16 (2) "Eligible employee" means an individual who usually works for the employer
17 submitting a work-sharing plan.

18 (3) "Eligible employer" means any employer who has had contributions credited to his or
19 her account and benefits have been chargeable to this account, or who has elected to reimburse the
20 fund in lieu of paying contributions, and who is not delinquent in the payment of contributions or
21 reimbursements as required by chapters 42 -- 44, inclusive of this title.

22 (4) "Fringe benefits" include, but are not limited to, health insurance, retirement benefits,
23 paid vacation and holidays, sick leave, and similar advantages that are incidents of employment.

24 (5) "Intermittent employment" means employment that is not continuous but may consist
25 of periodic intervals of weekly work and intervals of no weekly work.

26 (6) "Seasonal employment" means employment with an employer who displays a twenty
27 percent (20%) difference between its highest level of employment and its lowest level of
28 employment each year for the three (3) previous calendar years as reported to the department of
29 labor and training, or as shown in the information that is available and satisfactory to the director.

30 (7) "Temporary employment" means employment where an employee is expected to
31 remain in a position for only a limited period of time and/or is hired by a temporary agency to fill
32 a gap in an employer's workforce.

33 (8) "Usual weekly hours of work" means the normal hours of work each week for an
34 employee in an affected unit when that unit is operating on a full-time basis, not to exceed forty

1 (40) hours and not including overtime.

2 (9) "Work-sharing benefits" means benefits payable to employees in an affected unit under
3 an approved work-sharing plan.

4 (10) "Work-sharing employer" means an employer with an approved work-sharing plan in
5 effect.

6 (11) "Work-sharing plan" means a plan submitted by an employer under which there is a
7 reduction in the number of hours worked by the employees in the affected unit in lieu of layoffs of
8 some of the employees.

9 (b)(1) Criteria for approval of a work-sharing plan. An employer wishing to participate in
10 the work-sharing program shall submit a signed, written work-sharing plan to the director for
11 approval. The director shall approve a work-sharing plan only if the following requirements are
12 met:

13 (i) The plan identifies the affected unit, or units, and specifies the effective date of the plan;

14 (ii) The employees in the affected unit, or units, are identified by name; social security
15 number; the usual weekly hours of work; proposed wage and hour reduction; and any other
16 information that the director shall require;

17 (iii) The plan certifies that the reduction in the usual weekly hours of work is in lieu of
18 layoffs that would have affected at least 10 percent (10%) of the employees in the affected unit, or
19 units, to which the plan applies and that would have resulted in an equivalent reduction in work
20 hours;

21 (iv) The usual weekly hours of work for employees in the affected unit, or units, are reduced
22 by not less than 10 percent (10%) and not more than 50 percent (50%);

23 (v) If the employer provides health benefits and/or retirement benefits under a defined-
24 benefit plan as defined in 26 U.S.C. § 414(j) of the Internal Revenue Code or contributions under
25 a defined-contribution plan as defined in 26 U.S.C. § 414(i) of the Internal Revenue Code to any
26 employee whose workweek is reduced under the program, the employer certifies that such benefits
27 will continue to be provided to employees participating in the work-sharing program under the
28 same terms and conditions as though the workweek of such employee had not been reduced or to
29 the same extent as other employees not participating in the work-sharing program;

30 (vi) In the case of employees represented by a collective bargaining agent or union, the
31 plan is approved in writing by the collective bargaining agents or unions that cover the affected
32 employees. In the absence of any collective bargaining agent or union, the plan must contain a
33 certification by the employer that the proposed plan, or a summary of the plan, has been made
34 available to each employee in the affected unit;

1 (vii) The plan will not serve as a subsidy of seasonal employment during the off season,
2 nor as a subsidy for temporary or intermittent employment;

3 (viii) The employer agrees to furnish reports relating to the proper conduct of the plan and
4 agrees to allow the director, or his or her authorized representatives, access to all records necessary
5 to verify the plan prior to approval and, after approval, to monitor and evaluate application of the
6 plan;

7 (ix) The employer describes the manner in which the requirements of this section will be
8 implemented (including a plan for giving notice, where feasible, to an employee whose workweek
9 is to be reduced) together with an estimate of the number of layoffs that would have occurred absent
10 the ability to participate in the work-sharing program and such other information as the director of
11 the department of labor and training determines is appropriate;

12 (x) The employer attests that the terms of the employer's written plan and implementation
13 are consistent with the employer's obligations under applicable federal and state laws; and

14 (xi) In addition to the matters previously specified in this section, the director shall take
15 into account any other factors that may be pertinent to proper implementation of the plan.

16 (c) Approval or rejection of the plan. The director shall approve or reject a plan in writing.
17 The reasons for rejection shall be final and not subject to appeal. The employer shall be allowed to
18 submit another plan for consideration and that determination will be made based upon the new data
19 submitted by the interested employer.

20 (d) Effective date and duration of the plan. A work-sharing plan shall be effective on the
21 date that is mutually agreed upon by the employer and the director, which shall be specified in the
22 notice of approval sent to the employer. It shall expire at the end of the twelfth, full-calendar month
23 after its effective date, or on the date specified in the plan if that date is earlier; provided that the
24 plan is not previously revoked by the director. If a plan is revoked by the director, it shall terminate
25 on the date specified in the director's written order of revocation.

26 (e) Revocation of approval. The director may revoke approval of a work-sharing plan for
27 good cause. The revocation order shall be in writing and shall specify the date the revocation is
28 effective and the reasons for it. The revocation order shall be final and not subject to appeal.

29 (1) Good cause shall include, but not be limited to: (i) Failure to comply with assurances
30 given in the plan; (ii) Unreasonable revision of productivity standards for the affected unit; (iii)
31 Conduct or occurrences tending to defeat the intent and effective operation of the plan; and (iv)
32 Violation of any criteria on which approval of the plan was based.

33 (2) The action may be taken at any time by the director on his or her own motion; on the
34 motion of any of the affected unit's employees; or on the motion of the collective bargaining agent

1 or agents. The director shall review the operation of each qualified employer plan at least once
2 during the period the plan is in effect to assure its compliance with the work-sharing requirements.

3 (f) Modification of the plan. An operational approved, work-sharing plan may be modified
4 by the employer with the consent of the collective bargaining agent or agents, if any, if the
5 modification is not substantial and is in conformity with the plan approved by the director, provided
6 the modifications are reported promptly to the director by the employer. If the hours of work are
7 increased or decreased substantially beyond the level in the original plan, or any other conditions
8 are changed substantially, the director shall approve or disapprove the modifications without
9 changing the expiration date of the original plan. If the substantial modifications do not meet the
10 requirements for approval, the director shall disallow that portion of the plan in writing. The
11 decision of the director shall be final and not subject to appeal.

12 (g) Eligibility for work-sharing benefits. An individual is eligible to receive work-sharing
13 benefits, subsequent to serving a waiting period as prescribed by the director, with respect to any
14 week only if, in addition to meeting other conditions of eligibility for regular benefits under this
15 title that are not inconsistent with this section, the director finds that:

16 (1) During the week, the individual is employed as a member of an affected unit under an
17 approved work-sharing plan that was approved prior to that week, and the plan is in effect with
18 respect to the week for which work-sharing benefits are claimed.

19 (2) The individual is able to work and is available for the normal work week with the work-
20 sharing employer.

21 (3) Notwithstanding any other provisions of this chapter to the contrary, an individual is
22 deemed unemployed in any week for which remuneration is payable to him or her as an employee
23 in an affected unit for less than his or her normal weekly hours of work as specified under the
24 approved work-sharing plan in effect for the week.

25 (4) Notwithstanding any other provisions of this title to the contrary, an individual shall
26 not be denied work-sharing benefits for any week by reason of the application of provisions relating
27 to the availability for work and active search for work with an employer other than the work-sharing
28 employer.

29 (5) Notwithstanding any other provisions of this title to the contrary, eligible employees
30 may participate, as appropriate, in training (including employer-sponsored training or worker
31 training funded under ~~the Workforce Investment Act of 1998~~ [United States Public Law 113-128,](#)
32 [the Workforce Innovation and Opportunity Act of 2014 \(29 U.S.C. 3101 et seq.\)](#) to enhance
33 job skills if such program has been approved by the state agency.

34 (h)(1) Work-sharing benefits. The work-sharing weekly benefit amount shall be the

1 product of the regular, weekly benefit rate, including any dependents' allowances, multiplied by the
2 percentage reduction in the individual's usual weekly hours of work as specified in the approved
3 plan. If the work-sharing, weekly benefit amount is not an exact multiple of one dollar (\$1.00), then
4 the weekly benefit amount shall be rounded down to the next, lower multiple of one dollar (\$1.00).

5 (2) An individual may be eligible for work-sharing benefits or regular unemployment
6 compensation, as appropriate, except that no individual shall be eligible for combined benefits in
7 any benefit year in an amount more than the maximum entitlement established for unemployment
8 compensation, nor shall an individual be paid work-sharing benefits for more than fifty-two (52)
9 weeks, whether or not consecutive, in any benefit year pursuant to an approved work-sharing plan.

10 (3) The work-sharing benefits paid shall be deducted from the maximum-entitlement
11 amount established for that individual's benefit year.

12 (4) If an employer approves time off and the worker has performed some work during the
13 week, the individual is eligible for work-sharing benefits based on the combined work and paid
14 leave hours for that week. If the employer does not grant time off, the question of availability must
15 be investigated.

16 (5) If an employee was sick and consequently did not work all the hours offered by the
17 work-sharing employer in a given week, the employee will be denied work-sharing benefits for that
18 week.

19 (6) Claims for work-sharing benefits shall be filed in the same manner as claims for
20 unemployment compensation or as prescribed in regulations by the director.

21 (7) Provisions applicable to unemployment compensation claimants shall apply to work-
22 sharing claimants to the extent that they are not inconsistent with the established work-sharing
23 provisions. An individual who files an initial claim for work-sharing benefits shall be provided, if
24 eligible for benefits, a monetary determination of entitlement to work-sharing benefits and shall
25 serve a waiting week.

26 (8) If an individual works in the same week for an employer other than the work-sharing
27 employer, the individual's work-sharing benefits shall be computed in the same manner as if the
28 individual worked solely with the work-sharing employer. If the individual is not able to work, or
29 is not available for the normal work week with the work-sharing employer, then no work-sharing
30 benefits shall be payable to that individual for that week.

31 (9) An individual who performs no services during a week for the work-sharing employer
32 and is otherwise eligible shall be paid the full, weekly unemployment compensation amount. That
33 week shall not be counted as a week with respect to which work-sharing benefits were received.

34 (10) An individual who does not work for the work-sharing employer during a week, but

1 works for another employer and is otherwise eligible, shall be paid benefits for that week under the
2 partial unemployment compensation provisions of this chapter. That week shall not be counted as
3 a week with respect to which work-sharing benefits were received.

4 (11) Nothing in the section shall preclude an otherwise eligible individual from receiving
5 total or partial unemployment benefits when the individual's work-sharing benefits have been
6 exhausted.

7 (i) Benefit charges. Work-sharing benefits shall be charged to employer accounts in the
8 same manner as regular benefits in accordance with the provisions of §§ 28-43-3 and 28-43-29.
9 Notwithstanding the above, any work-sharing benefits paid on or after July 1, 2013, that are eligible
10 for federal reimbursement, shall not be chargeable to employer accounts and employers liable for
11 payments in lieu of contributions shall not be responsible for reimbursing the employment security
12 fund for any benefits paid to their employees on or after July 1, 2013, that are reimbursed by the
13 federal government.

14 (j) Extended benefits. An individual who has received all of the unemployment
15 compensation or combined unemployment compensation and work-sharing benefits available in a
16 benefit year shall be considered an exhaustee for purposes of extended benefits, as provided under
17 the provisions of § 28-44-62, and, if otherwise eligible under those provisions, shall be eligible to
18 receive extended benefits.

19 (k) Severability. If any provision of this section, or its application to any person or
20 circumstance, is held invalid under federal law, the remainder of the section and the application of
21 that provision to other persons or circumstances shall not be affected by that invalidity.

22 SECTION 23. Sections 28-45-14 and 28-45-15 of the General laws in Chapter 28-45
23 entitled "Apprenticeship Programs in Trade and Industry" are hereby amended to read as follows:

24 **28-45-14. State EEO plan.**

25 The apprenticeship program shall operate in conformance with state law, including the
26 ~~EEO~~ [equal employment opportunity](#) standards and regulations.

27 **28-45-15. Deregistration of program.**

28 (a) Deregistration of a program may be effected upon the voluntary action of the sponsor
29 by a request for cancellation of the registration, or upon reasonable cause, by the department of
30 labor and training instituting formal deregistration proceedings in accordance with provisions of ~~29~~
31 ~~C.F.R. 7~~ [29 C.F.R. 29.8](#).

32 (b) The department of labor and training may cancel the registration of an apprenticeship
33 program by written acknowledgment of such request stating the following:

34 (1) The registration is canceled at sponsor's request, and effective date thereof;

1 (2) That, within fifteen (15) days of the date of the acknowledgment, the sponsor shall
2 notify all apprentices of such cancellation and the effective date; that such cancellation
3 automatically deprives the apprentice of his/her individual registration; and that the deregistration
4 of the program removes the apprentice from coverage for federal purposes which require the
5 secretary of the U.S. department of labor's approval of an apprenticeship program.

6 (c) The department of labor and training shall conduct formal deregistration proceedings
7 as follows:

8 (1) Deregistration proceedings may be undertaken when the apprenticeship program is not
9 conducted, operated, and administered in accordance with the registered provisions or the
10 requirements of this chapter, except that deregistration proceedings for violation of equal
11 opportunity requirements shall be processed in accordance with the provisions under 29 C.F.R. part
12 30, as amended;

13 (2) Where it appears the program is not being operated in accordance with the registered
14 standards or with the requirements of this chapter, the department of labor and training shall so
15 notify the program sponsor in writing;

16 (3) Notice to the sponsor must contain the following elements:

17 (i) Be sent by registered or certified mail, with return receipt requested;

18 (ii) State the shortcoming(s) and the remedy required; and

19 (iii) State that a determination of reasonable cause for deregistration will be made unless
20 corrective action is effected within thirty (30) days.

21 (d) Upon request by the sponsor for good cause, the thirty (30) day term may be extended
22 for another thirty (30) days. During the period for correction, the sponsor shall be assisted in every
23 reasonable way to achieve conformity;

24 (e) If the required correction is not effected within the allotted time, the department of labor
25 and training shall send a notice to the sponsor, by registered or certified mail, return receipt
26 requested, stating the following:

27 (1) The notice is sent pursuant to this subsection;

28 (2) Certain deficiencies (stating them) were called to the sponsor's attention and remedial
29 measures requested, with dates of such occasions and letters; and that the sponsor has failed or
30 refused to effect correction;

31 (3) Based upon the stated deficiencies and failure of remedy, a determination of reasonable
32 cause has been made and the program may be deregistered unless, within fifteen (15) days of the
33 receipt of this notice, the sponsor requests a hearing;

34 (4) If a request for a hearing is not made, the entire matter may be decided by the

1 department of labor and training.

2 (f) If the sponsor requests a hearing, the department of labor and training shall transmit to
3 the U.S. department of labor, administrator, ~~OA~~ [office of apprenticeship](#), a report containing all
4 pertinent facts and circumstances concerning the nonconformity, including the findings and
5 recommendation for deregistration, and copies of all relevant documents and records. Statements
6 concerning interviews, meetings and conferences shall include the time, date, place, and persons
7 present. The administrator shall make a final order on the basis of the record before him. The
8 administrator will refer the matter to the office of administrative law judges. An administrative law
9 judge will convene a hearing in accordance with 29 C.F.R. § 29.10, and issue a decision as required
10 in 29 C.F.R. § 29.10(c).

11 (g) At his/her discretion, the secretary may allow the sponsor a reasonable time to achieve
12 voluntary corrective action. If the secretary's decision is that the apprenticeship program is not
13 operating in accordance with the registered provisions or requirements of this part, the
14 apprenticeship program shall be deregistered. In each case in which reregistration is ordered, the
15 secretary shall make public notice of the order and shall notify the sponsor.

16 (h) Every order of deregistration shall contain a provision that the sponsor shall, within
17 fifteen (15) days of the effective date of the order, notify all registered apprentices of the
18 deregistration apprentice or his/her individual registration; and that the deregistration removes the
19 apprentice from coverage for federal purposes which require the secretary of labor's approval of an
20 apprenticeship program.

21 (i) Any apprenticeship program deregistered pursuant to this part may be reinstated upon
22 presentation of adequate evidence that the apprenticeship program is operating in accordance with
23 this part. Such evidence shall be presented to the administrator, ~~OA~~ [office of apprenticeship](#), if
24 the sponsor had not requested a hearing, or to the secretary, if an order of deregistration was entered
25 pursuant to a hearing.

26 (j) Within ten (10) days of his/her receipt of a request for a hearing, the administrator of
27 apprenticeship must contact the department of labor's office of administrative law judges to request
28 a designation of an administrative law judge to preside over the hearing. The administrative law
29 judge shall give reasonable notice of such hearing by registered mail, return receipt requested, to
30 the appropriate sponsor. Such notice shall include:

- 31 (1) A reasonable time and place of hearing;
- 32 (2) A statement of the provisions of this part pursuant to which the hearing is to be held;
- 33 and
- 34 (3) A concise statement of the matters pursuant to which the action forming the basis of

1 the hearing is proposed to be taken.

2 (k) The administrative law judge shall regulate the course of the hearing. Hearings shall be
3 informally conducted. Every party shall have the right to counsel, and a fair opportunity to present
4 his/her case, including such cross-examination as may be appropriate in the circumstances.
5 Administrative law judges shall make their proposed findings and recommended decisions to the
6 secretary upon the basis of the record before him.

7 SECTION 24. Sections 28-50-4 and 28-50-9 of the General Laws in Chapter 28-50 entitled
8 "The Rhode Island Whistleblowers' Protection Act" are hereby amended to read as follows:

9 **28-50-4. Relief and damages.**

10 (a) A person who alleges a violation of this ~~act~~ [chapter](#) may bring a civil action for
11 appropriate injunctive relief, or treble damages, or both within three (3) years after the occurrence
12 of the alleged violation of this chapter.

13 (b) An action commenced pursuant to subsection (a) may be brought in the superior court
14 for the county where the alleged violation occurred, the county where the complainant resides, or
15 the county where the person against whom the civil complaint is filed resides or has their principal
16 place of business.

17 (c) As used in subsection (a) of this section, "damages" means damages for injury or loss
18 caused by each violation of this chapter.

19 (d) [Deleted by P.L. 2012, ch. 306, § 5 and P.L. 2012, ch. 344, § 5.]

20 **28-50-9. Severability.**

21 If any provision of this chapter or its application to any person or circumstances is held
22 invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or
23 applications of this ~~act~~ [chapter](#) which can be given effect without the invalid or unconstitutional
24 provision or application, and to this end the provisions of this chapter are declared to be severable.

25 **ARTICLE II--STATUTORY CONSTRUCTION**

26 SECTION 1. Section 5-19.1-2 of the General Laws in chapter 5-19.1 entitled "Pharmacies"
27 is hereby amended to read as follows:

28 **5-19.1-2. Definitions.**

29 (a) "Biological product" means a "biological product" as defined in the "Public Health
30 Service Act," 42 U.S.C. § 262.

31 (b) "Board" means the Rhode Island board of pharmacy.

32 (c) "Change of ownership" means:

33 (1) In the case of a pharmacy, manufacturer, or wholesaler that is a partnership, any change
34 that results in a new partner acquiring a controlling interest in the partnership;

1 (2) In the case of a pharmacy, manufacturer, or wholesaler that is a sole proprietorship, the
2 transfer of the title and property to another person;

3 (3) In the case of a pharmacy, manufacturer, or wholesaler that is a corporation:

4 (i) A sale, lease exchange, or other disposition of all, or substantially all, of the property
5 and assets of the corporation; or

6 (ii) A merger of the corporation into another corporation; or

7 (iii) The consolidation of two (2) or more corporations resulting in the creation of a new
8 corporation; or

9 (iv) In the case of a pharmacy, manufacturer, or wholesaler that is a business corporation,
10 any transfer of corporate stock that results in a new person acquiring a controlling interest in the
11 corporation; or

12 (v) In the case of a pharmacy, manufacturer, or wholesaler that is a non-business
13 corporation, any change in membership that results in a new person acquiring a controlling vote in
14 the corporation.

15 (d) "Compounding" means the act of combining two (2) or more ingredients as a result of
16 a practitioner's prescription or medication order occurring in the course of professional practice
17 based upon the individual needs of a patient and a relationship between the practitioner, patient,
18 and pharmacist. Compounding does not mean the routine preparation, mixing, or assembling of
19 drug products that are essentially copies of a commercially available product. Compounding shall
20 only occur in the pharmacy where the drug or device is dispensed to the patient or caregiver and
21 includes the preparation of drugs or devices in anticipation of prescription orders based upon
22 routine, regularly observed prescribing patterns.

23 (e) "Controlled substance" means a drug or substance, or an immediate precursor of such
24 drug or substance, so designated under, or pursuant to, the provisions of chapter 28 of title 21.

25 (f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one
26 person to another of a drug or device, whether or not there is an agency relationship.

27 (g) "Device" means instruments, apparatus, and contrivances, including their components,
28 parts, and accessories, intended:

29 (1) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans
30 or other animals; or

31 (2) To affect the structure or any function of the body of humans or other animals.

32 (h) "Director" means the director of the Rhode Island state department of health.

33 (i) "Dispense" means the interpretation of a prescription or order for a drug, biological
34 [product](#), or device and, pursuant to that prescription or order, the proper selection, measuring,

1 compounding, labeling, or packaging necessary to prepare that prescription or order for delivery or
2 administration.

3 (j) "Distribute" means the delivery of a drug or device other than by administering or
4 dispensing.

5 (k) "Drug" means:

6 (1) Articles recognized in the official United States Pharmacopoeia or the Official
7 Homeopathic Pharmacopoeia of the U.S.;

8 (2) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention
9 of disease in humans or other animals;

10 (3) Substances (other than food) intended to affect the structure, or any function, of the
11 body of humans or other animals; or

12 (4) Substances intended for use as a component of any substances specified in subsection
13 (k)(1), (k)(2), or (k)(3), but not including devices or their component parts or accessories.

14 (l) "Equivalent and interchangeable" means a drug, excluding a biological product, having
15 the same generic name, dosage form, and labeled potency, meeting standards of the United States
16 Pharmacopoeia or National Formulary, or their successors, if applicable, and not found in violation
17 of the requirements of the United States Food and Drug Administration, or its successor agency, or
18 the Rhode Island department of health.

19 (m) "Interchangeable biological product" means a biological product that the United States
20 Food and Drug Administration has:

21 (1) Licensed and determined meets the standards for interchangeability pursuant to 42
22 U.S.C. § 262(k)(4) or lists of licensed, biological products with reference product exclusivity and
23 biosimilarity or interchangeability evaluations; or

24 (2) Determined is therapeutically equivalent as set forth in the latest edition of, or
25 supplement to, the United States Food and Drug Administration's Approved Drug Products with
26 Therapeutic Equivalence Evaluations.

27 (n) "Intern" means:

28 (1) A graduate of an American Council on Pharmaceutical Education (ACPE)-accredited
29 program of pharmacy;

30 (2) A student who is enrolled in at least the first year of a professional ACPE-accredited
31 program of pharmacy; or

32 (3) A graduate of a foreign college of pharmacy who has obtained full certification from
33 the FPGEC (Foreign Pharmacy Graduate Equivalency Commission) administered by the National
34 Association of Boards of Pharmacy.

1 (o) "Legend drugs" means any drugs that are required by any applicable federal or state
2 law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

3 (p) "Limited-function test" means those tests listed in the federal register under the Clinical
4 Laboratory Improvement Amendments of 1988 (CLIA) as waived tests. For the purposes of this
5 chapter, limited-function test shall include only the following: blood glucose, hemoglobin A1c,
6 cholesterol tests, and/or other tests that are classified as waived under CLIA and are approved by
7 the United States Food and Drug Administration for sale to the public without a prescription in the
8 form of an over-the-counter test kit.

9 (q) "Manufacture" means the production, preparation, propagation, compounding, or
10 processing of a drug or other substance or device or the packaging or repackaging.

11 (r) "Non-legend" or "nonprescription drugs" means any drugs that may be lawfully sold
12 without a prescription.

13 (s) "Person" means an individual, corporation, government, subdivision, or agency,
14 business trust, estate, trust, partnership, or association, or any other legal entity.

15 (t) "Pharmaceutical care" is the provision of drugs and other pharmaceutical services
16 intended to achieve outcomes related to cure or prevention of a disease, elimination or reduction of
17 a patient's symptoms, or arresting or slowing of a disease process. "Pharmaceutical care" includes
18 the judgment of a pharmacist in dispensing an equivalent and interchangeable drug or device in
19 response to a prescription after appropriate communication with the prescriber and the patient.

20 (u) "Pharmacist in charge" means a pharmacist licensed in this state as designated by the
21 owner as the person responsible for the operation of a pharmacy in conformance with all laws and
22 regulations pertinent to the practice of pharmacy and who is personally in full and actual charge of
23 such pharmacy and personnel.

24 (v) "Pharmacy" means that portion or part of a premise where prescriptions are
25 compounded and dispensed, including that portion utilized for the storage of prescription or legend
26 drugs.

27 (w) "Pharmacy technician" means an individual who meets minimum qualifications
28 established by the board, that are less than those established by this chapter as necessary for
29 licensing as a pharmacist, and who works under the direction and supervision of a licensed
30 pharmacist.

31 (x) "Practice of pharmacy" means the interpretation, evaluation, and implementation of
32 medical orders; the dispensing of prescription drug orders; participation in drug and device
33 selection; the compounding of prescription drugs; drug regimen reviews and drug or drug-related
34 research; the administration of adult immunizations and, medications approved by the department

1 of health in consultation with the board of pharmacy for administration by a pharmacist except as
2 provided by § 5-25-7, pursuant to a valid prescription or physician-approved protocol and in
3 accordance with regulations, to include training requirements as promulgated by the department of
4 health; the administration of all forms of influenza immunizations to individuals between the ages
5 of nine (9) years and eighteen (18) years, inclusive, pursuant to a valid prescription or prescriber-
6 approved protocol, in accordance with the provisions of § 5-19.1-31 and in accordance with
7 regulations, to include necessary training requirements specific to the administration of influenza
8 immunizations to individuals between the ages of nine (9) years and eighteen (18) years, inclusive,
9 as promulgated by the department of health; provision of patient counseling and the provision of
10 those acts or services necessary to provide pharmaceutical care; the responsibility for the
11 supervision for compounding and labeling of drugs and devices (except labeling by a manufacturer,
12 repackager, or distributor of nonprescription drugs and commercially packaged legend drugs and
13 devices), proper and safe storage of drugs and devices, and maintenance of proper records for them;
14 and the performance of clinical laboratory tests, provided such testing is limited to limited-function
15 tests as defined herein. Nothing in this definition shall be construed to limit or otherwise affect the
16 scope of practice of any other profession.

17 (y) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly
18 authorized by law in the state in which they practice to prescribe drugs.

19 (z) "Preceptor" means a pharmacist registered to engage in the practice of pharmacy in this
20 state who has the responsibility for training interns.

21 (aa) "Prescription" means an order for drugs or devices issued by the practitioner duly
22 authorized by law in the state in which he or she practices to prescribe drugs or devices in the course
23 of his or her professional practice for a legitimate medical purpose.

24 (bb) "Wholesaler" means a person who buys drugs or devices for resale and distribution to
25 corporations, individuals, or entities other than consumers.

26 SECTION 2. Section 5-37.7-3 of the general laws in chapter 5-37.7 entitled "Rhode Island
27 Health Information Exchange Act of 2008" is hereby amended to read as follows:

28 **5-37.7-3. Definitions.**

29 As used in this chapter:

30 (1) "Authorized representative" means:

31 (i) A person empowered by the patient to assert or to waive confidentiality, or to disclose
32 or authorize the disclosure of confidential information, as established by this chapter. That person
33 is not, except by explicit authorization, empowered to waive confidentiality or to disclose or
34 consent to the disclosure of confidential information; or

- 1 (ii) A person appointed by the patient to make healthcare decisions on his or her behalf
2 through a valid durable power of attorney for health care as set forth in § 23-4.10-2; or
- 3 (iii) A guardian or conservator, with authority to make healthcare decisions, if the patient
4 is decisionally impaired; or
- 5 (iv) Another legally appropriate medical decision maker temporarily if the patient is
6 decisionally impaired and no healthcare agent, guardian, or conservator is available; or
- 7 (v) If the patient is deceased, his or her personal representative or, in the absence of that
8 representative, his or her heirs-at-law; or
- 9 (vi) A parent with the authority to make healthcare decisions for the parent's child; or
- 10 (vii) A person authorized by the patient or his or her authorized representative to access
11 their confidential healthcare information from the HIE, including family members or other proxies
12 as designated by the patient, to assist the patient ~~participant~~ with the coordination of their care.
- 13 (2) "Business associate" means a business associate as defined by HIPAA.
- 14 (3) "Confidential healthcare information" means all information relating to a patient's
15 healthcare history, diagnosis, condition, treatment, or evaluation.
- 16 (4) "Coordination of care" means the process of coordinating, planning, monitoring, and/or
17 sharing information relating to, and assessing a care plan for, treatment of a patient.
- 18 (5) "Data-submitting partner" means an individual, organization, or entity who or that has
19 entered into a business associate agreement with the RHIO and submits a patient's confidential
20 healthcare information through the HIE.
- 21 (6) "Department of health" means the Rhode Island department of health.
- 22 (7) "Disclosure report" means a report generated by the HIE relating to the record of access
23 to, review of, and/or disclosure of a patient's confidential healthcare information received, accessed,
24 or held by the HIE.
- 25 (8) "Electronic mobilization" means the capability to move confidential health information
26 electronically between disparate healthcare information systems while maintaining the accuracy of
27 the information being exchanged.
- 28 (9) "Emergency" means the sudden onset of a medical, mental, or substance use, or other
29 condition manifesting itself by acute symptoms of severity (e.g., severe pain) where the absence of
30 medical attention could reasonably be expected, by a prudent layperson, to result in placing the
31 patient's health in serious jeopardy, serious impairment to bodily or mental functions, or serious
32 dysfunction of any bodily organ or part.
- 33 (10) "Healthcare provider" means any person or entity licensed by this state to provide or
34 lawfully providing healthcare services, including, but not limited to, a physician, hospital,

1 intermediate-care facility or other healthcare facility, dentist, nurse, optometrist, podiatrist,
2 physical therapist, psychiatric social worker, pharmacist, or psychologist, and any officer,
3 employee, or agent of that provider acting in the course and scope of his or her employment or
4 agency related to or supportive of healthcare services.

5 (11) "Healthcare services" means acts of diagnosis, treatment, medical evaluation, referral,
6 or counseling, or any other acts that may be permissible under the healthcare licensing statutes of
7 this state.

8 (12) "Health Information Exchange" or "HIE" means the technical system operated, or to
9 be operated, by the RHIO under state authority allowing for the statewide electronic mobilization
10 of confidential healthcare information, pursuant to this chapter.

11 (13) "Health plan" means an individual plan or a group plan that provides, or pays the cost
12 of, healthcare services for a patient.

13 (14) "HIE Advisory Commission" means the advisory body established by the department
14 of health in order to provide community input and policy recommendations regarding the use of
15 the confidential healthcare information of the HIE.

16 (15) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as
17 amended.

18 (16) "Opt out" means the ability of a patient to choose to not have their confidential
19 healthcare information disclosed from HIE in accordance with § 5-37.7-7.

20 (17) "Patient" means a person who receives healthcare services from a provider participant.

21 (18) "Provider participant" means a pharmacy, laboratory, healthcare provider, or health
22 plan who or that is providing healthcare services or pays for the cost of healthcare services for a
23 patient and/or is submitting and/or accessing healthcare information through the HIE and has
24 executed an electronic and/or written agreement regarding disclosure, access, receipt, retention, or
25 release of confidential healthcare information from the HIE.

26 (19) "Regional health information organization" or "RHIO" means the organization
27 designated as the RHIO by the state to provide administrative and operational support to the HIE.

28 SECTION 3. Section 8-6-2 of the general laws in Chapter 8-6 entitled "General Powers of
29 Supreme and Superior Courts" is hereby amended to read as follows:

30 **8-6-2. Rules of practice and procedure.**

31 (a) The supreme court, the superior court, the family court, the district court and the
32 workers' compensation court, by a majority of their members, shall have the power to make rules
33 for regulating practice, procedure, and business therein. The chief magistrate of the traffic tribunal
34 shall have the power to make rules for regulating practice, procedure and business in the traffic

1 tribunal. The rules of the superior, family, district court, workers' compensation court and the traffic
2 tribunal shall be subject to the approval of the supreme court. Such rules, when effective, shall
3 supersede any statutory regulation in conflict therewith.

4 (b) In prescribing such rules, the court shall have regard to the simplification of the system
5 of pleading, practice, and procedure in the courts in which the rules shall apply in order to promote
6 the speedy determination of litigation on the merits; provided, however, that each respective court
7 shall not in the rules of procedure require a party to a civil action to produce either by discovery,
8 motion, to produce or interrogatory an income tax return, W-2 statement, or copies thereof. The
9 rules presently in effect in the courts of the judicial system shall remain and continue in force and
10 effect until revised, amended, repealed, or superseded by rules adopted in accordance with this
11 section.

12 SECTION 4. Section 12-19-9 of the General Laws in chapter 12-19 entitled "Sentence and
13 Execution" is hereby amended to read as follows:

14 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation or**
15 **continuation of suspension.**

16 (a) Whenever any person who has been placed on probation pursuant to § ~~12-9-8~~ [12-19-8](#)
17 violates the terms and conditions of his or her probation as fixed by the court, the police or the
18 probation authority shall inform the attorney general of the violation, and the attorney general shall
19 cause the defendant to appear before the court. The department of corrections division of
20 rehabilitative services shall promptly render a report relative to the conduct of the defendant, and
21 the information contained in any report under § 12-13-24.1. The division of rehabilitative services
22 may recommend that the time served up to that point is a sufficient response to a violation that is
23 not a new alleged crime. The court may order the defendant held without bail for a period not
24 exceeding ten (10) days, excluding Saturdays, Sundays, and holidays.

25 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by the
26 defendant to determine whether the defendant has violated the terms and conditions of his or her
27 probation, at which hearing the defendant shall have the opportunity to be present and to respond.
28 Upon a determination by a fair preponderance of the evidence that the defendant has violated the
29 terms and conditions of his or her probation, the court, in open court and in the presence of the
30 defendant, may:

- 31 (1) Remove the suspension and order the defendant committed on the sentence previously
32 imposed, or on a lesser sentence;
- 33 (2) Impose a sentence if one has not been previously imposed;
- 34 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

- 1 (4) Continue the suspension of a sentence previously imposed; or
2 (5) Convert a sentence of probation without incarceration to a suspended sentence.
3 (c) The court shall sentence for a violation under subsection (b) of this section in
4 accordance with judicial sentencing benchmarks.

5 SECTION 5. Section 13-8.1-3 of the general laws in chapter 13-8.1 entitled “Medical and
6 Geriatric Parole” is hereby amended to read as follows:

7 **13-8.1-3. Definitions.**

8 **As used in this chapter the following definitions shall apply:**

9 (1) "Aging prisoner" means an individual who is sixty-five (65) years of age or older and
10 suffers from functional impairment, infirmity, or illness.

11 (2) "Cognitively incapacitated" means suffering from a cognitive condition, such as
12 dementia, that greatly impairs activities that are necessary for independence such as feeding,
13 toileting, dressing, and bathing and renders their incarceration non-punitive and non-rehabilitative.

14 (3) "Permanently physically incapacitated" means suffering from a physical condition
15 caused by injury, disease, illness, or persistent vegetative state, that, to a reasonable degree of
16 medical certainty, permanently and irreversibly physically incapacitates the individual to the extent
17 that the individual needs help with most of the activities that are necessary for independence, such
18 as feeding, toileting, dressing, and bathing and transferring, or no significant physical activity is
19 possible, or suffering from an incurable, progressive condition that substantially diminishes the
20 individual's capacity to function in a correctional setting.

21 (4) "Severely ill" means suffering from a significant and permanent or chronic physical
22 and/or mental condition that: (1) Requires extensive medical and/or psychiatric treatment with little
23 to no possibility of recovery; and (2) Significantly impairs rehabilitation from further incarceration.

24 (5) "Terminally ill" means suffering from a condition caused by injury (except self-inflicted
25 injury), disease, or illness which, to a reasonable degree of medical certainty, is a life-limiting
26 diagnosis that will lead to profound functional, cognitive and/or physical decline, and likely will
27 result in death within eighteen (18) months.

28 SECTION 6. Section 14-1-6 of the general laws in chapter 14-1 entitled “Delinquent and
29 Dependent Children” is hereby amended to read as follows:

30 **14-1-6. Retention of jurisdiction.**

31 (a) When the court shall have obtained jurisdiction over any child prior to the child having
32 attained the age of eighteen (18) years by the filing of a petition alleging that the child is wayward
33 or delinquent pursuant to § 14-1-5, the child shall, except as specifically provided in this chapter,
34 continue under the jurisdiction of the court until he or she becomes nineteen (19) years of age,

1 unless discharged prior to turning nineteen (19).

2 (b) When the court shall have obtained jurisdiction over any child prior to the child's
3 eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the
4 child is dependent, neglected, or abused pursuant to §§ 14-1-5 and 40-11-7 or 42-72-14, the child
5 shall, except as specifically provided in this chapter, continue under the jurisdiction of the court
6 until he or she becomes eighteen (18) years of age; provided, that at least six (6) months prior to a
7 child turning eighteen (18) years of age, the court shall require the department of children, youth
8 and families to provide a description of the transition services including the child's housing, health
9 insurance, education and/or employment plan; available mentors and continuing support services,
10 including workforce supports and employment services afforded the child in placement; or a
11 detailed explanation as to the reason those services were not offered. As part of the transition
12 planning, the child shall be informed by the department of the opportunity to voluntarily agree to
13 extended care and placement by the department and legal supervision by the court until age twenty-
14 one (21). The details of a child's transition plan shall be developed in consultation with the child,
15 wherever possible, and approved by the court prior to the dismissal of an abuse, neglect,
16 dependency, or miscellaneous petition before the child's twenty-first birthday.

17 (c) A child, who is in foster care on their eighteenth birthday due to the filing of a
18 miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused
19 pursuant to § 14-1-5, § 40-11-7, or § 42-72-14, may voluntarily elect to continue responsibility for
20 care and placement from DCYF and to remain under the legal supervision of the court as a young
21 adult until age twenty-one (21), provided:

22 (1) The young adult was in the legal custody of the department at age eighteen (18); and

23 (2) The young adult is participating in at least one of the following:

24 (i) Completing the requirements to receive a high school diploma or GED;

25 (ii) Completing a secondary education or a program leading to an equivalent credential;
26 enrolled in an institution that provides postsecondary or vocational education;

27 (iii) Participating in a job-training program or an activity designed to promote or remove
28 barriers to employment;

29 (iv) ~~Be~~ Is employed for at least eighty (80) hours per month; or

30 (v) Is ~~Incapable~~ incapable of doing any of the foregoing due to a medical condition that is
31 regularly updated and documented in the case plan.

32 (d) A former foster child who was adopted or placed in guardianship with an adoption
33 assistance agreement or a guardianship assistance agreement that was executed on or after his or
34 her sixteenth birthday and prior to his or her eighteenth birthday may voluntarily agree to extended

1 care and placement by the department and legal supervision by the court until age twenty-one (21)
2 if the young adult satisfies the requirements in subsection (c)(2). Provided, however, the department
3 retains the right to review the request and first attempt to address the issues through the adoption
4 assistance agreement by providing post adoptive or post guardianship support services to the young
5 adult and his or her adoptive or guardianship family.

6 (e) Upon the request of the young adult, who voluntarily agreed to the extension of care
7 and placement by the department and legal supervision by the court, pursuant to subsections (c)
8 and (d) of this section, the court's legal supervision and the department's responsibility for care and
9 placement may be terminated. Provided, however, the young adult may request reinstatement of
10 responsibility and resumption of the court's legal supervision at any time prior to his or her twenty-
11 first birthday if the young adult meets the requirements set forth in subsection (c)(2). If the
12 department wishes to terminate the court's legal supervision and its responsibility for care and
13 placement, it may file a motion for good cause. The court may exercise its discretion to terminate
14 legal supervision over the young adult at any time.

15 (f) With the consent of the person previously under the court's supervision, the court may
16 reopen, extend, or retain its jurisdiction beyond that person's twenty-first birthday until his or her
17 twenty-second birthday or until September 30, 2021, whichever date occurs first, under the
18 following circumstances:

19 (1) The person aged out of DCYF care or left foster care during the COVID-19 public
20 health emergency, defined as beginning on January 27, 2020, and is entitled to extended benefits
21 pursuant to the terms of the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260; and

22 ~~(ii)~~ (2) The court has or had obtained jurisdiction over the person prior to his or her
23 eighteenth birthday by the filing of a miscellaneous petition or a petition alleging that the child is
24 dependent, abused, or neglected pursuant to § 14-1-5, § 40-11-7, or § 42-72-14 or after the person's
25 eighteenth birthday pursuant to a voluntary extension of care petition; and

26 ~~(iii)~~ (3) Court supervision is necessary for the department of children, youth and families to
27 access IV-E funding to support such benefits, in whole or in part; and

28 ~~(iii)~~ (4) Court supervision is required to continue transition planning and to ensure the
29 safety, permanency, and well-being of older youth who remain in or who age out of foster care and
30 re-enter foster care.

31 (g) The court may retain jurisdiction of any child who is seriously emotionally disturbed
32 or developmentally delayed pursuant to § 42-72-5(b)(24)(v) until that child turns age twenty-one
33 (21) when the court shall have obtained jurisdiction over any child prior to the child's eighteenth
34 birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent,

1 neglected, and/or abused pursuant to §§ 14-1-5, and 40-11-7, or 42-72-14.

2 (h) The department of children, youth and families shall work collaboratively with the
3 department of behavioral healthcare, developmental disabilities and hospitals, and other agencies,
4 in accordance with § 14-1-59, to provide the family court with a transition plan for those individuals
5 who come under the court's jurisdiction pursuant to a petition alleging that the child is dependent,
6 neglected, and/or abused and who are seriously emotionally disturbed or developmentally delayed
7 pursuant to § 42-72-5(b)(24)(v). This plan shall be a joint plan presented to the court by the
8 department of children, youth and families and the department of behavioral healthcare,
9 developmental disabilities and hospitals. The plan shall include the behavioral healthcare,
10 developmental disabilities and hospitals' community or residential service level, health insurance
11 option, education plan, available mentors, continuing support services, workforce supports and
12 employment services, and the plan shall be provided to the court at least twelve (12) months prior
13 to discharge. At least three (3) months prior to discharge, the plan shall identify the specific
14 placement for the child, if a residential placement is needed. The court shall monitor the transition
15 plan. In the instance where the department of behavioral healthcare, developmental disabilities and
16 hospitals has not made timely referrals to appropriate placements and services, the department of
17 children, youth and families may initiate referrals.

18 (i) The parent and/or guardian and/or guardian ad litem of a child who is seriously
19 emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is
20 before the court pursuant to §§ 14-1-5(1)(iii) through 14-1-5(1)(v), § 40-11-7, or § 42-72-14, shall
21 be entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no
22 appropriate transition plan has been submitted to the court by the department of children, youth and
23 families and the department of behavioral healthcare, developmental disabilities and hospitals. The
24 family court shall require that the department of behavioral healthcare, developmental disabilities
25 and hospitals shall immediately identify a liaison to work with the department of children, youth
26 and families until the child reaches the age of twenty-one (21) and an immediate transition plan be
27 submitted if the following facts are found:

28 (1) No suitable transition plan has been presented to the court addressing the levels of
29 service appropriate to meet the needs of the child as identified by the department of behavioral
30 healthcare, developmental disabilities and hospitals; or

31 (2) No suitable housing options, health insurance, educational plan, available mentors,
32 continuing support services, workforce supports, and employment services have been identified for
33 the child.

34 (j) In any case where the court shall not have acquired jurisdiction over any person prior to

1 the person's eighteenth (18th) birthday by the filing of a petition alleging that the person had
2 committed an offense, but a petition alleging that the person had committed an offense that would
3 be punishable as a felony if committed by an adult has been filed before that person attains the age
4 of nineteen (19) years of age, that person shall, except as specifically provided in this chapter, be
5 subject to the jurisdiction of the court until he or she becomes nineteen (19) years of age, unless
6 discharged prior to turning nineteen (19).

7 (k) In any case where the court shall not have acquired jurisdiction over any person prior
8 to the person attaining the age of nineteen (19) years by the filing of a petition alleging that the
9 person had committed an offense prior to the person attaining the age of eighteen (18) years that
10 would be punishable as a felony if committed by an adult, that person shall be referred to the court
11 that had jurisdiction over the offense if it had been committed by an adult. The court shall have
12 jurisdiction to try that person for the offense committed prior to the person attaining the age of
13 eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum
14 penalty provided for the conviction of that offense.

15 (l) In any case where the court has certified and adjudicated a child in accordance with the
16 provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the power and
17 authority to sentence the child to a period in excess of the age of nineteen (19) years. However, in
18 no case shall the sentence be in excess of the maximum penalty provided by statute for the
19 conviction of the offense.

20 (m) Nothing in this section shall be construed to affect the jurisdiction of other courts over
21 offenses committed by any person after he or she reaches the age of eighteen (18) years.

22 SECTION 7. Section 15-7-7 of the general laws in chapter 15-7 entitled "Adoption of
23 Children" is hereby amended to read as follows:

24 **15-7-7. Termination of parental rights.**

25 (a) The court shall, upon a petition duly filed by a governmental child placement agency
26 or licensed child placement agency, or by the birthmother or guardian of a child born under
27 circumstances referenced in subsection (a)(2)(viii) of this section, after notice to the parent and a
28 hearing on the petition, terminate any and all legal rights of the parent to the child, including the
29 right to notice of any subsequent adoption proceedings involving the child, if the court finds as a
30 fact by clear and convincing evidence that:

31 (1) The parent has willfully neglected to provide proper care and maintenance for the child
32 for a period of at least one year where financially able to do so. In determining whether the parent
33 has willfully neglected to provide proper care and maintenance for the child, the court may
34 disregard contributions to support that are of an infrequent and insubstantial nature; or

1 (2) The parent is unfit by reason of conduct or conditions seriously detrimental to the child;
2 such as, but not limited to, the following:

3 (i) Institutionalization of the parent, including imprisonment, for a duration as to render it
4 improbable for the parent to care for the child for an extended period of time;

5 (ii) Conduct toward any child of a cruel or abusive nature;

6 (iii) The child has been placed in the legal custody or care of the department of children,
7 youth and families and the parent has a chronic substance abuse problem and the parent's prognosis
8 indicates that the child will not be able to return to the custody of the parent within a reasonable
9 period of time, considering the child's age and the need for a permanent home. The fact that a parent
10 has been unable to provide care for a child for a period of twelve (12) months due to substance
11 abuse shall constitute prima facie evidence of a chronic substance abuse problem;

12 (iv) The child has been placed with the department of children, youth and families and the
13 court has previously involuntarily terminated parental rights to another child of the parent and the
14 parent continues to lack the ability or willingness to respond to services that would rehabilitate the
15 parent and provided further that the court finds it is improbable that an additional period of services
16 would result in reunification within a reasonable period of time considering the child's age and the
17 need for a permanent home;

18 (v) The parent has subjected the child to aggravated circumstances, which circumstances
19 shall be abandonment, torture, chronic abuse, and sexual abuse;

20 (vi) The parent has committed murder or voluntary manslaughter on another of his or her
21 children or has committed a felony assault resulting in serious bodily injury on that child or another
22 of his or her children or has aided or abetted, attempted, conspired, or solicited to commit such a
23 murder or voluntary manslaughter;

24 (vii) The parent has exhibited behavior or conduct that is seriously detrimental to the child,
25 for a duration as to render it improbable for the parent to care for the child for an extended period
26 of time; or

27 (viii) The parent has been convicted of sexual assault upon the birthmother and parenthood
28 is a result of that sexual assault, which shall be established by proving that the child was conceived
29 as a result of a conviction for any offense set forth in § 11-37-2, § 11-37-6, or § 11-37-8.1.
30 Conception as a result of sexual assault may be proved by DNA tests and upon conviction of the
31 putative father, and after a fact-finding hearing establishing paternity, the father's parental rights
32 shall be terminated by order of the court. Termination of the parental rights of the father shall
33 include the loss of all parental rights without limitation, including the adoption of the child. The
34 father shall also have no right to any visitation with the minor child and shall have no right to any

1 inheritance from a child conceived as a result of sexual assault as specified;

2 (3) The child has been placed in the legal custody or care of the department of children,
3 youth and families for at least twelve (12) months, and the parents were offered or received services
4 to correct the situation that led to the child being placed; provided, that there is not a substantial
5 probability that the child will be able to return safely to the parents' care within a reasonable period
6 of time considering the child's age and the need for a permanent home; or

7 (4) The parent has abandoned or deserted the child. A lack of communication or contact
8 with the child for at least a six-month (6) period shall constitute prima facie evidence of
9 abandonment or desertion. In the event that parents of an infant have had no contact or
10 communication with the infant for a period of six (6) months the department shall file a petition
11 pursuant to this section and the family court shall conduct expedited hearings on the petition.

12 (b)(1) In the event that the petition is filed pursuant to subsection (a)(1), (a)(2)(i), (a)(2)(iii),
13 or (a)(2)(vii) of this section, the court shall find as a fact that, prior to the granting of the petition,
14 such parental conduct or conditions must have occurred or existed notwithstanding the reasonable
15 efforts that shall be made by the agency prior to the filing of the petition to encourage and strengthen
16 the parental relationship so that the child can safely return to the family. In the event that a petition
17 is filed pursuant to subsection (a)(2)(ii), (a)(2)(iv), (a)(2)(v), (a)(2)(vi), or (a)(4) of this section, the
18 department has no obligation to engage in reasonable efforts to preserve and reunify a family.

19 (2) Any duty or obligation on the part of a licensed or governmental child placing agency
20 to make reasonable efforts to strengthen the parental relationship shall cease upon the filing of a
21 petition under this section. This provision shall not be construed and is not intended to limit or
22 affect in any way the parents' right to see or visit with the child during the pendency of a petition
23 under this section.

24 (3) Upon the filing of a termination of parental rights petition, the agency has an affirmative
25 duty to identify, recruit, process, and approve a qualified family for adoption or other permanent
26 living arrangement for the child.

27 (c)(1) In considering the termination of rights as pursuant to subsection (a), the court shall
28 give primary consideration to the physical, psychological, mental, and intellectual needs of the
29 child insofar as that consideration is not inconsistent with other provisions of this chapter.

30 (2) The consideration shall include the following: If a child has been placed in foster family
31 care, voluntarily or involuntarily, the court shall determine whether the child has been integrated
32 into the foster family to the extent that the child's familial identity is with the foster family and
33 whether the foster family is able and willing to permanently integrate the child into the foster
34 family; provided, that in considering integrating into a foster family, the court should consider:

1 (i) The length of time the child has lived in a stable, satisfactory environment and the
2 desirability of maintaining that environment and continuity for the child; and

3 (ii) The reasonable preference of the child, if the court determines that the child has
4 sufficient capacity to express a reasonable preference.

5 (d) If the court finds that the parental rights of the parent should be terminated as specified
6 in subsection (a), it shall by decree duly entered, appoint some suitable person to give or withhold
7 consent in any subsequent adoption proceedings. In the case of petitions filed by licensed or
8 governmental child placement agencies, the court shall appoint the agency to be the sole party to
9 give or withhold consent to the adoption of the child and further vest the agency with all rights of
10 guardianship over the child.

11 (e) Nothing in this section shall be construed to prohibit the introduction of expert
12 testimony with respect to any illness, medical or psychological condition, trauma, incompetency,
13 addiction to drugs, or alcoholism of any parent who has exhibited behavior or conduct that is
14 seriously detrimental to a child, to assist the court in evaluating the reason for the conduct or its
15 probable duration.

16 (f) The record of the testimony of the parties adduced in any proceeding terminating
17 parental rights to a child shall be entitled to the confidentiality provided for in § 8-10-21 and more
18 specifically shall not be admissible in any civil, criminal, or other proceeding in any court against
19 a person named a defendant or respondent for any purpose, except in subsequent proceedings
20 involving the same child or proceedings involving the same respondent.

21 (g) In the event any child, the parental rights to whom have been finally terminated, has
22 not been placed by the agency in the home of a person or persons with the intention of adopting the
23 child within thirty (30) days from the date of the final termination decree, the family court shall
24 review the status of the child and the agency shall file a report that documents the steps the agency
25 is taking to find an adoptive family or other permanent living arrangement for the child, to place
26 the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned
27 permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum,
28 this documentation shall include child specific recruitment efforts, such as the use of state, regional,
29 and national adoption exchanges, including [the](#) electronic exchange system.

30 SECTION 8. Sections 16-98-4 and 16-98-6 of the general laws in chapter 16-98 entitled
31 “Education Access to Advanced Placement Courses for All Students Act“ are hereby amended to
32 read as follows:

33 **16-98-4. Powers and duties of department.**

34 (a) Guidelines. The department shall promulgate rules, regulations, and procedures

1 necessary for the implementation of this chapter including, but not limited to, the following:

2 (1) In consultation with the College Board, certify those teacher-training entities that are
3 qualified to provide training of teachers to teach advanced placement courses in the four (4) core
4 academic areas;

5 (2) In certifying teacher-training entities for this program, the department shall ensure that
6 the training times and locations will be geographically accessible for teachers from eligible school
7 entities to attend;

8 (3) The department, in consultation with the College Board, shall ensure that training
9 provided by those teacher-training entities must provide teachers of advanced placement courses
10 with the necessary content knowledge and instructional skills to prepare students for success in
11 advanced placement courses and examinations;

12 (4) Starting at the end of the first year of the program, and every year thereafter, the
13 department shall issue a report to the general assembly on the advanced placement teacher-training
14 program that shall include, but not be limited to:

15 (i) The number of teachers receiving training in advanced placement instructions in school
16 entities, school districts and high schools in each of the four (4) core academic areas.

17 (ii) The number of students taking advanced placement courses at school entities in each
18 of the four (4) core academic areas.

19 (iii) The number of students scoring a three (3) or more on an advanced placement
20 examination at school entities in each of the four (4) core academic areas.

21 (iv) The remaining unmet need for trained teachers in school entities that do not offer
22 advanced placement courses.

23 (v) The number of students taking advanced placement courses who do not take the
24 advanced placement examination.

25 (vi) The number of students below the poverty level who take advanced placement courses.

26 (vii) The number of students below the poverty level who take advanced placement courses
27 and do not take the advanced placement examination; and

28 (5) In consultation with local education authorities, ensure that the opportunity to
29 participate in the advanced placement program and gain college credit is available to the greatest
30 ~~amount~~ number of students as practicable.

31 (b) Nothing in this chapter shall prohibit the board of education, through the department,
32 from expanding the program to include other nationally accepted courses of study that provide
33 students an opportunity to gain college credits from classes taken in high school.

34 **16-98-6. Program funding.**

1 (a) Funding shall be for the purpose of providing advanced placement examinations to
2 students at or below the poverty level at no cost to the student.

3 (b) Notwithstanding any general law, rule, or regulation to the contrary, the department
4 shall include as part of its annual budget the amount necessary to pay the exam costs for all students
5 below the poverty level who take advanced placement courses.

6 SECTION 9. Section 21-14-12 of the general laws in chapter 21-14 entitled “Shellfish
7 Packing Houses” is hereby amended to read as follows:

8 **21-14-12. Inspection of business premises -- Dockside program established.**

9 (a) The director shall make regular inspections of the business premises of licensees and
10 no person shall interfere with or obstruct the entrance of the director to any packing house or
11 structural appurtenance to it, vessel, or vehicle for the purpose of making inspection as to sanitary
12 conditions during reasonable business hours, and no person shall obstruct the conduct of this
13 inspection; provided, that inspections as to sanitary conditions shall be made only by the director
14 or employees of the department. These employees of the department shall not be construed to
15 include agents whom the director may appoint in other departments for the purpose of enforcing
16 other provisions of this chapter; and provided, that nothing in this section shall be construed as
17 having granted to the director or any duly authorized official of the department the right of search
18 and seizure without a warrant.

19 (b) The director shall be authorized to establish a dockside program, including the
20 promulgation of any rules and regulations deemed necessary or advisable in connection therewith,
21 pursuant to the relevant provisions of the National Shellfish Sanitation Program (NSSP) Model
22 Ordinance. Promulgating rules and regulations pursuant to the NSSP Model Ordinance shall ~~assure~~
23 ensure that the marine shellfish processors, licensed by the department to land and process surf
24 clams and/or other marine shellfish species acquired in federal waters, are doing so in sanitary
25 fashion that comports with national standards. The rules and regulations shall also be consistent
26 with the landing permit requirements of the department of environmental management in § 20-2.1-
27 7. The dockside program shall not apply to aquaculture processors.

28 (c) The licensing fees from the dockside program shall be deposited into the general fund.
29 However, the amount of the revenues collected for the dockside program shall be appropriated to
30 the department of health for its administration of this program. The director shall have the authority
31 to establish the licensing fees and limit the number of licenses issued, at his or her sole discretion.

32 SECTION 10. Section 31-22-11.6.1 of the general laws in chapter 31-22 entitled
33 “Miscellaneous Rules” is hereby amended to read as follows:

34 **31-22-11.6.1. Childcare vehicles and school extracurricular vehicles - COVID-19.**

1 (a) Notwithstanding § ~~31-31-11.6~~ 31-22-11.6, or any general law, rule, or regulation to the
2 contrary, effective March 28, 2022, due to the public health crisis caused by COVID-19, the
3 requirement of using designated types of vehicles for specified routes as contained in § 31-22-
4 11.6(a)(2)(i) is hereby suspended; for student transportation providers ("Providers") retained by or
5 via the Rhode Island department of education ("RIDE") to provide student transportation services.

6 For such routes, retained providers may utilize:

- 7 (1) School buses, as defined in § 31-1-3(aa);
- 8 (2) Pupil transportation vehicles, as defined in § 31-22.1-1;
- 9 (3) School extracurricular vehicles, as defined in § 31-22-11.6(a)(2)(ii);
- 10 (4) Childcare vehicles, as defined in § 31-22-11.6(a)(2)(iii); and
- 11 (5) Family childcare home vehicles, as defined in § 31-22- 11.6(a)(2)(iv).

12 (b) Vehicles authorized pursuant to subsection (a) of this section to transport students shall
13 also be in compliance with the applicable laws, rules, and regulations related to student
14 transportation vehicles and shall:

15 (1) Carry a sign on the school bus visible from the front and back of the vehicle containing
16 the lettering required by § 31-20-11;

17 (2) Be equipped with Type I Class A turn signal lamps, which shall have a four way hazard
18 warning signal switch to cause simultaneous flashing of the turn signal lamps which may be
19 activated when the vehicle is approaching a stop to load or discharge school students and when
20 needed as a vehicular traffic hazard warning. Each vehicle shall also be equipped with front and
21 rear alternating flashing school bus red signal lamps, which shall remain flashing when school
22 pupils are entering or leaving the vehicle; and

23 (3) Be equipped with one pair of adequate chock blocks and three (3) flares in compliance
24 with United States Motor Vehicle D.O.T. Safety Standard No. 125.

25 (c) The prohibition against school extracurricular vehicles from having amber or red
26 flashing lights as contained in 280-RICR-30-15-8.5(B)(1) is hereby suspended.

27 (d) Retained providers may utilize student transportation vehicles currently registered in
28 Massachusetts or Connecticut to provide student transportation services in Rhode Island; provided
29 that:

30 (1) Each student transportation vehicle has current, valid Massachusetts or Connecticut
31 registration and inspection stickers;

32 (2) Each student transportation vehicle is covered by an insurance policy meeting the
33 requirements of § 31-22-10.1;

34 (3) The Rhode Island department of education has verified compliance of subsections

1 (d)(1) and (d)(2) of this section; and

2 (4) The retained provider complies with the registration requirement for each student
3 transportation vehicle pursuant to § 31-7-2 by the sunset date of this section.

4 (e) The license requirements contained in §§ 31-10-5, 31-22.1-3(10), and 31-22-
5 11.6(b)(10) are hereby suspended for drivers currently licensed in Massachusetts or Connecticut to
6 operate student transportation vehicles and employed by retained providers pursuant to subsection

7 (a) of this section and furthermore, the provider driver may operate student transportation
8 vehicles appropriate for their licensure; provided that:

9 (1) As applicable, the provider driver possesses a current, valid Massachusetts or
10 Connecticut commercial driver's license with a "P" and "S" endorsement and a current, valid
11 Massachusetts school bus certificate if licensed in Massachusetts.

12 (2) As applicable, the provider driver possesses a current, valid Massachusetts or
13 Connecticut driver's license that is the equivalent of a Rhode Island license with the appropriate
14 endorsement(s) allowing the transportation of school children.

15 (3) RIDE has verified compliance with subsections (e)(1) and (e)(2) of this section.

16 (4) As applicable, the provider driver obtains a school bus certificate governed by 280-
17 RICR-30-05-2 prior to the sunset of this section.

18 (5) As applicable, the provider driver obtains a pupil transportation certificate governed by
19 280-RICR-30-05-5 prior to the sunset of this section.

20 (6) The provider driver complies with license requirements under §§ 31-10-5, 31-22.1-
21 3(10), and 31-22-11.6(b)(10) prior to the date of sunset of this section.

22 (f) Unless extended by the general assembly, this section shall sunset upon the conclusion
23 of the 2021-2022 school year.

24 SECTION 11. Section 31-27-2.8 of the General laws in chapter 31-27 entitled "Motor
25 Vehicle Offenses" is hereby amended to read as follows:

26 **31-27-2.8. Ignition interlock system and/or blood and urine testing imposed as a part**
27 **of sentence -- Requirements.**

28 (a) Any person subject to suspension pursuant to §§ 31-27-2.1(b)(1) and 31-27-2.1(b)(2)
29 or convicted under the provisions of § 31-27-2(d)(1), § 31-27-2(d)(2), § 31-27-2(d)(3)(i), or § 31-
30 27-2(d)(3)(ii), or whose violation is sustained under the provisions of §§ 31-27-2.1(b)(1) and 31-
31 27-2.1(b)(2), may be prohibited by the sentencing judge or magistrate from operating a motor
32 vehicle that is not equipped with an ignition interlock system, and/or blood and urine testing by a
33 licensed physician with knowledge and clinical experience in the diagnosis and treatment of drug-
34 related disorders, a licensed or certified psychologist, social worker, or EAP professional with like

1 knowledge, or a substance abuse counselor certified by the National Association of Alcohol and
2 Drug Abuse Counselors (all of whom shall be licensed in Rhode Island), pursuant to this section.

3 (1) Notwithstanding any other sentencing and disposition provisions contained in this
4 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating
5 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as
6 evidenced by the presence of controlled substances on or about the person or vehicle, or other
7 reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a preliminary
8 breath test, results from a breathalyzer that indicates no blood alcohol concentration or both, the
9 magistrate may exercise his or her discretion and eliminate the requirement of an ignition interlock
10 system; provided, that blood and/or urine testing is mandated as a condition to operating a motor
11 vehicle as provided in this section.

12 (2) Notwithstanding any other sentencing and disposition provisions contained in this
13 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating
14 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as
15 evidenced by the presence of controlled substances on or about the person or vehicle, or other
16 reliable indicia or articulable conditions thereof and intoxicating liquor based on a preliminary
17 breath test, results from a breathalyzer that indicates blood alcohol concentration or both, the
18 magistrate may require an ignition interlock system in addition to blood and/or urine testing as a
19 condition to operating a motor vehicle as provided in this section.

20 (b) Notwithstanding any other provisions contained in this chapter, any mandatory period
21 of license suspension shall, upon request, be reduced by the imposition of an ignition interlock
22 system and/or blood and urine testing ordered by the court or traffic tribunal as follows:

23 (1) For a violation of § 31-27-2(d)(1), a person shall be subject to a minimum thirty-day
24 (30) license suspension and an imposition of an ignition interlock system and/or blood and urine
25 testing for three (3) months to one year.

26 (2) For a violation of § 31-27-2.1(c)(1), a person shall be subject to a minimum thirty-day
27 (30) license suspension and an imposition of an ignition interlock system and/or blood and urine
28 testing for a period of six (6) months to two (2) years.

29 (3) For a violation of § 31-27-2(d)(2), a person shall be subject to a minimum forty-five-
30 day (45) license suspension and an imposition of an ignition interlock system and/or blood and
31 urine testing for a period of six (6) months to two (2) years.

32 (4) For a violation of § 31-27-2.1(c)(2), a person shall be subject to a minimum sixty-day
33 (60) license suspension and an imposition of an ignition interlock system and/or blood and urine
34 testing for a period of one to four (4) years.

1 (5) For a violation of § 31-27-2(d)(3), a person shall be subject to a minimum sixty-day
2 (60) license suspension and imposition of an ignition interlock system and/or blood and urine
3 testing for a period of one to four (4) years.

4 (6) For a violation of § 31-27-2.1(c)(3), a person shall be subject to a minimum ninety-day
5 (90) license suspension and imposition of an ignition interlock system and/or blood and urine
6 testing for a period of two (2) to ten (10) years.

7 (7) No license suspension shall be subject to more than a thirty-day (30) license suspension
8 based solely upon the imposition of an ignition interlock system.

9 (i) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or upon
10 an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or determination
11 that the motorist was under the influence of intoxicating liquor only, the magistrate shall, upon
12 request, immediately grant a conditional hardship license after a finding of need pursuant to this
13 section and upon proof of the installation of an ignition interlock device.

14 (ii) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or
15 upon an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or
16 determination that the motorist was under the influence of drugs, toluene, or a controlled substance,
17 but not intoxicating liquor, the judge or magistrate shall, upon request immediately grant a
18 conditional hardship license after a finding of need pursuant to this section and upon proof of blood
19 and urine testing pursuant to this section.

20 (iii) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or
21 upon an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or
22 determination that the motorist was under the influence of intoxicating liquor, toluene, a controlled
23 substance, or any combination thereof, the magistrate shall, upon request immediately grant a
24 conditional hardship license after a finding of need pursuant to this section and upon proof of the
25 installation of an ignition interlock device, subject also to the following testing:

26 (A) The testing of either blood or urine is being performed by or monitored by a licensed
27 physician with knowledge and clinical experience in the diagnosis and treatment of drug-related
28 disorders, a licensed or certified psychologist, social worker, or EAP professional with like
29 knowledge, or a substance abuse counselor certified by the National Association of Alcohol and
30 Drug Abuse Counselors (all of whom shall be licensed in Rhode Island).

31 (B) The motorist is required to pay for the substance abuse professional, any testing,
32 retesting, monitoring, and reporting costs of the blood and urine testing.

33 (C) Samples are to be collected, tested and confirmed by a federally certified laboratory by
34 means of gas chromatography/mass spectrometry or technology recognized as being at least as

1 scientifically accurate.

2 (D) Samples are to be taken weekly for the first sixty (60) days, thereafter in accordance
3 with the recommendation of the substance abuse professional. The samples taken thereafter may
4 be ordered randomly, but must be provided by the motorist within twenty-four (24) hours of the
5 request. The substance abuse professional shall report to the department of the attorney general
6 within twenty-four (24) hours any failure by the motorist to comply with a request for a sample.

7 (E) A positive test of urine or blood that evidences any controlled substances shall be
8 reported by the substance abuse professional to the motorist and to the department of the attorney
9 general within twenty-four (24) hours of receipt of the results. The motorist may, at his or her own
10 expense, have an opportunity to have the sample retested or reevaluated by an independent testing
11 facility which shall provide the result directly to the substance abuse professional. The attorney
12 general may request, at any time, a copy of any or all test results from the substance abuse
13 professional, ~~which~~ who shall forward the requested results within forty-eight (48) hours.

14 (F) Upon completion of the license suspension, conditional hardship, ignition interlock and
15 substance abuse testing periods, a finalized report shall be presented to the department of motor
16 vehicles prior to any license reinstatement.

17 (G) If a judge or magistrate determines that a motorist either failed, without good cause, to
18 comply with a sample request or tested positive for any controlled substance, he or she may exercise
19 his or her discretion and revoke the conditional hardship license, extend the time period for the
20 ignition interlock system and/or substance abuse testing for an additional period of up to twelve
21 (12) months and/or impose an additional loss of license for up to twenty-four (24) months.

22 (H) A motorist who has failed, without good cause, to comply with a sample request or
23 tested positive for any controlled substance for a second time within twelve (12) months of the first
24 failure and/or positive test determination shall be guilty of a misdemeanor punishable by up to one
25 year imprisonment, or a fine of up to one thousand dollars (\$1,000), or both.

26 (c) However, in any case where a motorist is convicted of an alcohol-related offense
27 pursuant to the provisions of this chapter, the judge or magistrate may exercise his or her discretion
28 in the granting of the hardship license by imposing up to a ninety (90) day loss of license prior to
29 any imposition of the hardship license. The hardship license shall be valid for twelve (12)
30 continuous hours per day for any valid reason approved in advance by the sentencing judge or
31 magistrate, which shall include employment, medical appointments, job training, schooling, or
32 religious purposes. The hardship license shall not be for less than twelve (12) continuous hours per
33 day. A hardship license shall only be granted in conjunction with the installation of an ignition
34 interlock device and/or blood and urine testing. Any conditional driving privileges must be set by

1 the sentencing judge or magistrate after a hearing in which the motorist must provide proof of
2 employment status and hours of employment, or any other legitimate reasons justifying a hardship
3 license. These shall include, but not be limited to, any unemployment training, schooling, medical
4 appointments, therapy treatments, or any other valid requests set forth by sworn affidavit. Once
5 said hardship period has concluded, the motorist must still be subject to the conditions of the
6 ignition interlock system and/or blood and urine testing as set forth under this section for the period
7 of time as directed by the court. Any individual who violates the requirements of this subsection
8 shall be subject to the penalties enumerated in § 31-11-18.1.

9 (d) Any person convicted of an offense of driving under the influence of liquor or drugs
10 resulting in death, § 31-27-2.2; driving under the influence of liquor or drugs resulting in serious
11 bodily injury, § 31-27-2.6; driving to endanger resulting in death, § 31-27-1; or driving to endanger
12 resulting in serious bodily injury, § 31-27-1.1; may, in addition to any other penalties provided by
13 law, be prohibited from operating a motor vehicle that is not equipped with an approved ignition
14 interlock system and/or blood and urine testing for one to five (5) years.

15 (e) Any person who operates a motor vehicle with a suspended license during the period
16 of suspension, and the reason for the suspension was due to a conviction of driving under the
17 influence of drugs or alcohol or a sustained violation or conviction of refusal to submit to a chemical
18 test, shall be subject to the further use of the ignition interlock system and/or blood and urine testing
19 for a period of six (6) months subsequent to the penalties enumerated in § 31-11-18.1.

20 (f) When the court orders the use of an ignition interlock system, the judge or magistrate
21 shall cause an appropriate notation to be made on the person's record that clearly sets forth the
22 requirement for, and the period of the use of, the ignition interlock system.

23 (g) In addition to the requirements of subsection (f) of this section, the court or traffic
24 tribunal shall:

25 (1) Require proof of the installation of the ignition interlock system and periodic reporting
26 by the person for the purpose of verification of the proper operation of the ignition interlock system;

27 (2) Require the person to have the ignition interlock system monitored for the proper use
28 and accuracy by a person, firm, corporation, or other association to be approved by the division of
29 motor vehicles at least once every six (6) months, or more frequently as the circumstances may
30 require; and

31 (3) Require the person to pay the reasonable cost of leasing or buying, monitoring, and
32 maintenance of the ignition interlock system.

33 (4) The requirements under subsection (g) of this section shall be the responsibility of the
34 probation department or justice assistance, if the individual is under their control, or the division of

1 motor vehicles if the individual is not monitored as a condition of the individual's plea or finding
2 of guilt.

3 (h) Any person granted a conditional hardship license upon proof of installation of an
4 ignition interlock device, may operate that motor vehicle during the entire twelve-hour (12) period
5 of operation granted by the sentencing judge or magistrate including during the scope of the
6 person's employment and/or any other valid reason approved by the sentencing judge or magistrate.

7 (i) If a person is required, in the course of the person's employment, to operate a motor
8 vehicle owned or provided by the person's employer, the person may operate that motor vehicle in
9 the course of the person's employment without installation of an ignition interlock system if the
10 court makes specific findings expressly permitting the person to operate, in the course of the
11 person's employment, a motor vehicle that is not equipped with an ignition interlock system.

12 (j)(1) Any person subject to an ignition interlock order and/or blood and urine testing who
13 violates such order shall be guilty of a misdemeanor punishable by up to one year imprisonment,
14 or a fine of up to one thousand dollars (\$1,000), or both.

15 (2) For a second violation within six (6) months from entry of the order, the person
16 violating the order shall be imprisoned for a term of not less than ten (10) days and not more than
17 one year.

18 (k) For the purposes of this subsection, a violation of the interlock order, includes, but is
19 not limited to:

20 (1) Altering, tampering, or in any way attempting to circumvent the operation of an ignition
21 interlock system that has been installed in the motor vehicle of a person under this section;

22 (2) Operating a motor vehicle that is not equipped with an ignition interlock system; or

23 (3) Soliciting or attempting to have another person start a motor vehicle equipped with an
24 ignition interlock system for the purpose of providing an operable motor vehicle to a person who
25 is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system.

26 (l) Any person who attempts to start, or starts, a motor vehicle equipped with an ignition
27 interlock system, tampers with, or in any way attempts to circumvent, the operation of an ignition
28 interlock system that has been installed in the motor vehicle for the purpose of providing an
29 operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not
30 equipped with an ignition interlock system, shall be guilty of a misdemeanor punishable by up to
31 one year imprisonment or a fine of up to one thousand dollars (\$1,000), or both.

32 SECTION 12. Section 42-105-11 of the General laws in chapter 42-105 entitled "Newport
33 and Bristol County Convention and Visitors' Bureau" is hereby amended to read as follows:

34 **42-105-11. Annual report.**

1 Within six (6) months after the close of its fiscal year the bureau shall approve and submit
2 an annual report to the governor, the speaker of the house of representatives, the president of the
3 senate, the secretary of state, and each of the following city and town councils: Jamestown,
4 Middletown, Newport, Portsmouth, Little Compton and Tiverton of its activities during that fiscal
5 year. The report shall provide: an operating statement summarizing meetings or hearings held,
6 meeting minutes if requested, subjects addressed, decisions rendered, rules or regulations
7 promulgated, studies conducted, policies and plans developed, approved, or modified, and
8 programs administered or initiated; a consolidated financial statement of all funds received and
9 expended including the source of the funds, a listing of any staff supported by these funds, and a
10 summary of any clerical administrative or technical support received; a summary of performance
11 during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis
12 of hearings, complaints, suspensions, or other legal matters related to the bureau; a summary of any
13 training courses held pursuant to this chapter; a briefing on anticipated activities in the upcoming
14 fiscal year; and findings and recommendations for improvements. The report shall be posted
15 electronically on the general assembly and the secretary of state's websites as prescribed in § ~~42-~~
16 ~~20.8-2~~ 42-20-8.2. The director of the department of administration shall be responsible for the
17 enforcement of this provision.

18 The bureau shall cause an audit of its books and accounts to be made at least once each
19 fiscal year by certified public accountants selected by it and its cost shall be paid by the bureau
20 from funds available to it pursuant to this chapter.

21 SECTION 13. Sections 1 through 24 of Article I of this act shall take effect on December
22 31, 2022 and sections 1 through 12 of Article II of this act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

1 This act makes a number of technical amendments to the general laws, prepared at the
2 recommendation of the Law Revision Office. Article I contains the reenactment of title 28 of the
3 general laws. Article II includes the statutory construction provisions.

4 Sections 1 through 24 of Article I of this act would take effect on December 31, 2022.

5 Sections 1 through 12 of Article II of this act would take effect upon passage.

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