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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY
INSURANCE

Introduced By: Senators Goldin, Miller, Satchell, Valverde, and Lawson

Date Introduced: March 21, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-39-2 and 28-39-26 of the General Laws in Chapter 28-39
2 entitled "Temporary Disability Insurance - General Provisions" are hereby amended to read as
3 follows:

4 **28-39-2. Definitions.**

5 The following words and phrases, as used in chapters 39 -- [through](#) 41 of this title, have
6 the following meanings unless the context clearly requires otherwise:

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

10 (2) "Base period" with respect to an individual's benefit year when the benefit year begins
11 on or after October 7, 1990, means the first four (4) of the most recently completed five (5)
12 calendar quarters immediately preceding the first day of an individual's benefit year; provided,
13 that for any individual's benefit year when the benefit year begins on or after October 4, 1992,
14 and for any individual deemed monetarily ineligible for benefits under the "base period" as
15 defined in this subdivision, the department shall make a re-determination of entitlement based
16 upon an alternate base period which consists of the last four (4) completed calendar quarters
17 immediately preceding the first day of the claimant's benefit year. Notwithstanding anything
18 contained to the contrary in this subdivision, the base period shall not include any calendar

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

15 (3) "Benefit" means the money payable, as provided in chapters 39 – [through](#) 41 of this
16 title, to an individual as compensation for his or her unemployment caused by sickness [or reasons](#)
17 [allowed under this title](#);

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

20 (5) "Benefit rate" means the money payable to an individual as compensation, as
21 provided in chapters 39 – [through](#) 41 of this title, for his or her wage losses with respect to any
22 week during which his or her unemployment is caused by sickness [or reasons allowed under this](#)
23 [title](#);

24 (6) "Benefit year" with respect to any individual who does not already have a benefit year
25 in effect, and who files a valid claim for benefits as of November 16, 1958 or any later date,
26 means fifty-two (52) consecutive calendar weeks, the first of which shall be the week containing
27 the day as of which he or she first files that valid claim in accordance with regulations adopted as
28 subsequently prescribed; provided, that for any benefit year beginning on or after October 7,
29 1990, the benefit year shall be fifty-three (53) consecutive calendar weeks if the subsequent filing
30 of a new valid claim immediately following the end of a previous benefit year would result in the
31 overlapping of any quarter of the base period of the prior new claim. In no event shall a new
32 benefit year begin prior to the Sunday next following the end of the old benefit year;

33 (i) For benefit years that begin on or after July 1, 2012, an individual's benefit year will
34 begin on the Sunday of the calendar week in which an individual first became unemployed due to

1 sickness and for which the individual has filed a valid claim for benefits;

2 (7) "Board" means the board of review as created under chapter 19 of title 42;

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

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

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

9 (11) "Employee" means any person who is or has been employed by an employer subject
10 to chapters 39 – [through](#) 41 of this title and in employment subject to those chapters [or who is a](#)
11 [self-employed individual who has elected to become subject to the provisions of chapter 39](#)
12 [through 41 of this title](#);

13 (12) "Employer" means any employing unit that is an employer under chapters 42 –
14 [through](#) 44 of this title;

15 (13) "Employing unit" has the same definition as contained in chapter 42 of this title and
16 includes any governmental entity [or self-employed individual](#) that elects to become subject to the
17 provisions of chapters 39 – [through](#) 41 of this title, in accordance with the provisions of §§ 28-
18 39-3.1 and 28-39-3.2;

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

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

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

23 (17) "Partial unemployment due to sickness". For weeks beginning on or after January 1,
24 2006 an individual shall be deemed partially unemployed due to sickness in any week of less than
25 full-time work if he or she fails to earn in wages for services for that week an amount equal to the
26 weekly benefit rate for total unemployment due to sickness to which he or she would be entitled
27 if totally unemployed due to sickness and eligible.

28 (i) For the purposes of this subdivision and subdivision (22) of this section, "Wages"
29 includes only that part of remuneration for any work, which is in excess of one-fifth (1/5) of the
30 weekly benefit rate for total unemployment, rounded to the next lower multiple of one dollar
31 (\$1.00), to which the individual would be entitled if totally unemployed and eligible in any one
32 week, and "services" includes only that part of any work for which remuneration in excess of
33 one-fifth (1/5) of the weekly benefit rate for total unemployment, rounded to the next lower
34 multiple of one dollar (\$1.00), to which the individual would be entitled if totally unemployed

1 and eligible in any one week is payable; provided, that nothing contained in this paragraph shall
2 permit any individual to whom remuneration is payable for any work performed in any week in
3 an amount equal to, or greater than, his or her weekly benefit rate to receive benefits under this
4 subdivision for that week.

5 (18) "Reserve fund" means the temporary disability insurance reserve fund established by
6 § 28-39-7;

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

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

13 (21)(i) "Taxes" means the money payments required by chapters 39 – [through](#) 41 of this
14 title, to be made to the temporary disability insurance fund or to the temporary disability
15 insurance reserve fund.

16 (ii) Wherever and whenever in chapters 39 – [through](#) 41 of this title, the words
17 "contribution" and/or "contributions" appear, those words shall be construed to mean the "taxes,"
18 as defined in this subdivision, which are the money payments required by those chapters to be
19 made to the temporary disability insurance fund or to the temporary disability insurance reserve
20 fund;

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

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

32 **28-39-26. Pecuniary penalty for failure to make contributions or reports.**

33 An employer [or self-employed individual who elects to be covered by this chapter](#) who
34 fails to file any report required under chapters 39 – [through](#) 41 of this title, or who fails or refuses

1 to pay any contributions required under those chapters in the manner and at the times required by
2 the laws and regulations or as the director may, in accordance with those laws and regulations,
3 prescribe, shall pay a penalty of ten dollars (\$10.00) for each failure or refusal to file, and where
4 any contribution is due, shall pay an additional penalty of ten percent (10%) of the amount due.
5 These penalties shall be paid into the temporary disability insurance reserve fund, and shall be in
6 addition to contributions and interest required to be paid as provided in chapters 39 – through 41;
7 provided, that if any employer or self-employed individual who elects to be covered by this
8 chapter fails to pay the penalty, when assessed, it shall be collected by civil action as provided in
9 § 28-40-12.

10 SECTION 2. Chapter 28-39 of the General Laws entitled "Temporary Disability
11 Insurance - General Provisions" is hereby amended by adding thereto the following section:

12 **28-39-3.5. Non-covered Rhode Island residents eligible by election.**

13 (a) Notwithstanding any inconsistent provisions of chapters 39 through 41 of this title,
14 any self-employed Rhode Island resident may become subject to those chapters by filing an
15 enrollment form with the department in accordance with the rules and regulations established by
16 the department for enrollment. Notwithstanding any other provisions of chapters 39 through 41 of
17 this title to the contrary, self-employed Rhode Island residents that do not have otherwise
18 qualifying wages from prior employment within the base period will not be eligible for benefits
19 under those chapters until the completion of twelve (12) months of contributions have been made
20 for participation in the program as described in § 28-40-1. Except as otherwise provided in this
21 title, all other provisions of these chapters shall continue to be applicable in connection with the
22 employment.

23 (b) Any self-employed Rhode Island resident who fails to meet the quarterly reporting
24 requirements or make the required quarterly contributions in a timely manner shall be ineligible
25 to receive benefits under chapters 39 through 41 of this title until such time as that person has
26 satisfied any outstanding payments in this regard.

27 SECTION 3. Sections 28-40-1 and 28-40-9 of the General Laws in Chapter 28-40
28 entitled "Temporary Disability Insurance - Contributions" are hereby amended to read as follows:

29 **28-40-1. Amount of employee contributions -- Wages on which based.**

30 (a) ~~The~~ For each calendar year prior to 2020, the taxable wage base under this chapter ~~for~~
31 ~~each calendar year~~ shall be equal to the greater of thirty-eight thousand dollars (\$38,000) or the
32 annual earnings needed by an individual to qualify for the maximum weekly benefit amount and
33 the maximum duration under chapters 39 – through 41 of this title. That taxable wage base shall
34 be computed as follows: Every September 30, the maximum weekly benefit amount in effect as

1 of that date shall be multiplied by thirty (30) and the resultant product shall be divided by thirty-
2 six hundredths (.36). If the result thus obtained is not an even multiple of one hundred dollars
3 (\$100), it shall be rounded upward to the next higher even multiple of one hundred dollars (\$100).
4 That taxable wage base shall be effective for the calendar year beginning on the next January 1.

5 (a) Notwithstanding any inconsistent provisions of chapters 39 through 41 of this title,
6 any self-employed Rhode Island resident may become subject to those chapters by filing an
7 enrollment form with the department in accordance with the rules and regulations established by
8 the department for enrollment. Notwithstanding any other provisions of chapters 39 through 41 of
9 this title to the contrary, self-employed Rhode Island residents that do not have otherwise
10 qualifying wages from prior employment within the base period will not be eligible for benefits
11 under those chapters until the completion of twelve (12) months of contributions have been made
12 for participation in the program as described in § 28-40-1. Except as otherwise provided in this
13 title, all other provisions of these chapters shall continue to be applicable in connection with the
14 employment.

15 (b) Any self-employed Rhode Island resident who fails to meet the quarterly reporting
16 requirements or make the required quarterly contributions in a timely manner shall be ineligible
17 to receive benefits under chapters 39 through 41 of this title until such time as that person has
18 satisfied any outstanding payments in this regard.

19 (b) Each employee shall contribute with respect to employment after the date upon which
20 the employer becomes subject to chapters 39 – through 41 of this title, an amount equal to the
21 fund cost rate times the wages paid by the employer to the employee up to the taxable wage base
22 as defined and computed in subsection (a) of this section. The employee contribution rate for the
23 following calendar year shall be determined by computing the fund cost rate on or before
24 November 15 of each year as follows:

25 (1) The total amount of disbursements made from the fund for the twelve (12) month
26 period ending on the immediately preceding September 30 shall be divided by the total taxable
27 wages paid by employers during the twelve (12) month period ending on the immediately
28 preceding June 30. The ratio thus obtained shall be multiplied by one hundred (100) and the
29 resultant product if not an exact multiple of one-tenth of one percent (0.1%) shall be rounded
30 down to the next lowest multiple of one-tenth of one percent (0.1%);

31 (2) If the fund balance as of the preceding September 30 is less than the total
32 disbursements from the fund for the six (6) month period ending on that September 30, that
33 difference shall be added to the total disbursements for the twelve (12) month period ending
34 September 30 for the purpose of computing the fund cost rate, and if the resulting fund cost rate is

1 not an exact multiple of one-tenth of one percent (0.1%) it shall be rounded to the nearest
2 multiple of one-tenth of one percent (0.1%).

3 **28-40-9. Interest on delinquent payments.**

4 Employers [or self-employed Rhode Island residents](#) who fail to make payment of
5 contributions, as required by chapters 39 – [through](#) 41 of this title, or by the prescribed rules and
6 regulations, shall be additionally liable to the temporary disability insurance reserve fund for
7 interest on those delinquent payments at the rate of one and one-half percent (1 1/2%) per month
8 from the date the payment became due until paid.

9 SECTION 4. Sections 28-41-2, 28-41-5, 28-41-34 and 28-41-35 of the General Laws in
10 Chapter 28-41 entitled "Temporary Disability Insurance - Benefits" are hereby amended to read
11 as follows:

12 **28-41-2. Wages included for benefit purposes.**

13 Notwithstanding any provisions of chapters 39 – [through](#) 41 of this title to the contrary;
14 ~~"wages"~~

15 (1) ["Wages"](#) as used in the phrase "wages for employment from employers" means, with
16 reference to the benefits provisions of chapters 39 – [through](#) 41 of this title, ~~only~~ those wages
17 which are paid subsequent to the date upon which the employing unit, by whom those wages
18 were paid, has satisfied the conditions of § 28-39-2 (12) with respect to becoming an employer
19 subject to those chapters. No individual shall be denied benefits under chapters 39 – [through](#) 41
20 of this title because his or her employer continued to pay to that individual his or her regular
21 wages, or parts of them, while he or she was sick and unable to perform his or her regular or
22 customary work or services.

23 (2) [With respect to self-employed Rhode Island residents with "wages" earned through](#)
24 [their self-employment, those wages shall be considered wages for determining benefits under](#)
25 [chapters 39 through 41 of this title if the individual has applied for coverage under the temporary](#)
26 [disability insurance program in accordance with the provisions of § 28-39-3.5.](#)

27 (3) The amount of any payments, whether or not under a plan or system, made to or on
28 behalf of an employee by his or her employer after the expiration of six (6) calendar months
29 following the last calendar month in which the employee performed actual bona fide personal
30 services for that employer, shall not be deemed to be wages for the purpose of being used as a
31 basis for paying benefits under chapter 41 of this title.

32 **28-41-5. Weekly benefit rate -- Dependents' allowances.**

33 (a)(1) Benefit rate. The benefit rate payable under this chapter to any eligible individual
34 with respect to any week of his or her unemployment due to ~~sickness~~ [reasons allowed under this](#)

1 chapter, when that week occurs within a benefit year, shall be; computed as follows: for benefit
2 years beginning on or after October 7, 1990, four and sixty-two hundredths percent (4.62%) of
3 the wages paid to the individual in that calendar quarter of the base period in which the
4 individual's wages were highest; for benefit years beginning on or after January 1, 2020, five
5 percent (5%) of the wages paid to the individual in that calendar quarter of the base period in
6 which the individual's wages were highest; for benefit years beginning on or after January 1,
7 2021, five and thirty-eight hundredths percent (5.38%) of the wages paid to the individual in that
8 calendar quarter of the base period in which the individual's wages were highest; for benefit years
9 beginning on or after January 1, 2022, five and seventy-seven hundredths percent (5.77%) of the
10 wages paid to the individual in that calendar quarter of the base period in which the individual's
11 wages were highest; provided, however, that the benefit rate shall not exceed eighty-five percent
12 (85%) of the average weekly wage paid to individuals covered by chapters 42 -- 44 of this title for
13 the preceding calendar year ending December 31. If the maximum weekly benefit rate is not an
14 exact multiple of one dollar (\$1.00) then the rate shall be raised to the next higher multiple of one
15 dollar (\$1.00). Those weekly benefit rates shall be effective throughout the benefit years
16 beginning on or after July 1 of the year prior to July of the succeeding calendar year.

17 (2) The benefit rate of any individual, if not an exact multiple of one dollar (\$1.00), shall
18 be raised to the next higher multiple of one dollar (\$1.00).

19 (b) Dependents' allowances. An individual to whom benefits for unemployment due to
20 ~~sickness~~ reasons allowed under this chapter are payable ~~under this chapter~~ with respect to any
21 week, shall, in addition to those benefits, be paid with respect to each week a dependent's
22 allowance of ten dollars (\$10.00) or seven percent (7%), of the individual's benefit rate, payable
23 under subsection (a) of this section, whichever is greater for each of that individual's children,
24 including adopted and stepchildren or that individual's court appointed wards who, at the
25 beginning of the individual's benefit year, is under eighteen (18) years of age and who is at that
26 time in fact dependent on that individual. A dependent's allowance shall also be paid to that
27 individual for any child, including an adopted child or a stepchild or that individual's court
28 appointed ward, eighteen (18) years of age or over, incapable of earning any wages because of
29 mental or physical incapacity, and who is dependent on that individual in fact at the beginning of
30 the individual's benefit year, including individuals who have been appointed the legal guardian of
31 that child by the appropriate court. However, in no instance shall the number of dependents for
32 which an individual may receive dependents' allowances exceed five (5) in total and in no
33 instance shall the individual's weekly benefit amount including both the benefit rate and
34 dependent's allowance exceed that individual's average weekly wage in the base period. The

1 weekly total of dependents' allowances payable to any individual, if not an exact multiple of one
2 dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00). The number of
3 an individual's dependents, and the fact of their dependency, shall be determined as of the
4 beginning of that individual's benefit year; provided, that only one individual shall be entitled to a
5 dependent's allowance for the same dependent with respect to any week. Each individual who
6 claims a dependent's allowance shall establish his or her claim to it to the satisfaction of the
7 director under procedures established by the director.

8 (c) Any individual's benefit rate and/or dependents' allowance in effect for a benefit year
9 shall continue in effect until the end of that benefit year.

10 (d) Partial unemployment due to ~~sickness~~ [reasons allowed under this chapter](#). For weeks
11 beginning on or after January 1, 2006, an individual partially unemployed due to ~~sickness~~ [reasons](#)
12 [allowed under this chapter](#) and otherwise eligible in any week shall be paid sufficient benefits
13 with respect to that week, so that his or her wages, rounded to the next higher multiple of one
14 dollar (\$1.00), and his or her benefits combined will equal in amount the weekly benefit rate to
15 which he or she would be entitled if totally unemployed due to ~~sickness~~ [reasons allowed under](#)
16 [this chapter](#) in that week; provided that an individual must have been totally unemployed due to
17 ~~sickness~~ [reasons allowed under this chapter](#) for at least seven (7) consecutive days prior to
18 claiming partial benefits under this provision; provided, that this provision shall not apply if the
19 individual is entitled to lag day benefits pursuant to § 28-41-9; provided, further, that nothing
20 contained herein shall permit any individual to whom remuneration is payable for any work
21 performed in any week in an amount equal to or greater than his or her weekly benefit rate to
22 receive benefits or waiting period credit for that week.

23 **28-41-34. Temporary caregiver insurance.**

24 The purpose of this chapter is to establish, within the state temporary disability insurance
25 program, a temporary caregiver insurance program to provide wage replacement benefits in
26 accordance with the provisions of this chapter, to workers who take time off work to care for a
27 seriously ill child, spouse, domestic partner, [sibling](#), parent, parent-in-law, grandparent,
28 [grandchild, care recipient](#) or to bond with a new child.

29 Definitions as used in this chapter:

30 [\(1\) "Adopted child" means a child adopted by, or placed for adoption with, the employee.](#)

31 [\(2\) "Bonding" or "bond" means to develop a psychological and emotional attachment](#)
32 [between a child and his or her parent\(s\) or persons who stand in loco parentis. This shall involve](#)
33 [being in one another's physical presence.](#)

34 [\(3\) "Care recipient" means a person for whom the employee is responsible for providing](#)

1 or arranging health or safety-related care, including, but not limited to, helping the person obtain
2 diagnostic, preventive, routine, or therapeutic health treatment.

3 ~~(4)~~(4) "Child" means a biological, adopted, or foster son or daughter, a stepson or
4 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a son or daughter of an
5 employee who stands in loco parentis to that child.

6 (5) "Department" means the department of labor and training.

7 (6) "Domestic partner" means a party to a civil union as defined by chapter 3.1 of title 15.

8 (7) "Employee" means any person who is or has been employed by an employer subject
9 to chapters 39 through 41 of this title and in employment subject to those chapters.

10 (8) "Grandchild" means the child of the employee's child.

11 (9) "Grandparent" means a parent of the employee's parent.

12 ~~(2)~~(10) "Newborn child" means a child under one year of age.

13 ~~(3) "Adopted child" means a child adopted by, or placed for adoption with, the employee.~~

14 ~~(4) "Bonding or bond" means to develop a psychological and emotional attachment~~
15 ~~between a child and his or her parent(s) or persons who stand in loco parentis. This shall involve~~
16 ~~being in one another's physical presence.~~

17 ~~(5)~~(11) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal
18 guardian, or other person who stands in loco parentis to the employee or the employee's spouse or
19 domestic partner when he/she was a child.

20 (12) "Parent-in-law" means the parent of the employee's spouse or domestic partner.

21 (13) "Persons who stand in loco parentis" means those with day-to-day responsibilities to
22 care for and financially support a child or, in the case of an employee, who had such
23 responsibility for the employee when the employee was a child. A biological or legal relationship
24 shall not be required.

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

28 (15) "Sibling" means a brother or sister, whether related through half blood, whole blood
29 or adoption, a foster sibling or a step sibling.

30 ~~(6) "Domestic partner" means a party to a civil union as defined by chapter 15-3.1.~~

31 ~~(7)~~(16) "Spouse" means a party in a common law marriage, a party in a marriage
32 conducted and recognized by another state or country, or in a marriage as defined by chapter 15-
33 3.

34 ~~(8) "Grandparent" means a parent of the employee's parent.~~

1 ~~(9) "Parent in law" means the parent of the employee's spouse or domestic partner.~~

2 ~~(10) "Employee" means any person who is or has been employed by an employer subject~~
3 ~~to chapters 39 through 41 of this title and in employment subject to those chapters.~~

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

7 ~~(12) "Department" means the department of labor and training.~~

8 ~~(13) "Persons who stand in loco parentis" means those with day to day responsibilities to~~
9 ~~care for and financially support a child or, in the case of an employee, who had such~~
10 ~~responsibility for the employee when the employee was a child. A biological or legal relationship~~
11 ~~shall not be required.~~

12 **28-41-35. Benefits.**

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

16 (1) Bonding with a newborn child or a child newly placed for adoption or foster care with
17 the employee or domestic partner in accordance with the provisions of subdivision 28-41-
18 36(c)(1); or

19 (2) Caring for a child, [grandchild](#), a parent, parent-in-law, grandparent, [sibling care](#)
20 [recipient](#), spouse, or domestic partner, who has a serious health condition, subject to a waiting
21 period in accordance with the provisions of § 28-41-12. Employees may use accrued sick time
22 during eligibility waiting period in accordance with the policy of the individual's employer.

23 (b) Temporary caregiver benefits shall be available only to the employee exercising his or
24 her right to leave while covered by the temporary caregiver insurance program. An employee
25 shall file a written intent with their employer, in accordance with rules and regulations
26 promulgated by the department, with a minimum of thirty (30) days notice prior to
27 commencement of the family leave. Failure by the employee to provide the written intent may
28 result in delay or reduction in the claimant's benefits, except in the event the time of the leave is
29 unforeseeable or the time of the leave changes for unforeseeable circumstances.

30 (c) Employees cannot file for both temporary caregiver benefits and temporary disability
31 benefits for the same purpose, concurrently, in accordance with all provisions of this act and
32 chapters 39- [through](#) 41.

33 (d) Temporary caregiver benefits may be available to any individual exercising his or her
34 right to leave while covered by the temporary caregiver insurance program, commencing on or

1 after January 1, 2014, which shall not exceed the individual's maximum benefits in accordance
2 with chapters 39- through 41. The benefits for the temporary caregiver program shall be payable
3 with respect to the first day of leave taken ~~after the waiting period~~ and each subsequent day of
4 leave during that period of family temporary disability leave. Benefits shall be in accordance with
5 the following:

6 (1) Beginning January 1, 2014 temporary caregiver benefits shall be limited to a
7 maximum of four (4) weeks in a benefit year Beginning January 1, 2020 temporary caregiver
8 benefits shall be limited to a maximum of six (6) weeks in a benefit year. Beginning January 1,
9 2021 temporary caregiver benefits shall be limited to a maximum of eight (8) weeks in a benefit
10 year;

11 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary
12 disability benefits which together exceed ~~thirty (30) times his or her weekly benefit rate in any~~
13 ~~benefit year~~ the total amount of benefits payable in accordance with the provisions outlined in §
14 38-41-7.

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

21 (1) Any employee aggrieved by a violation of this subsection shall be entitled to file a
22 complaint with the department of labor and training.

23 (2) The director shall have the same powers and duties as set forth in chapters 12 and 14
24 of title 28 to investigate, inspect, subpoena and enforce through administrative hearings,
25 complaints that allege a violation of this subsection.

26 (g) During any caregiver leave taken pursuant to this chapter, the employer shall maintain
27 any existing health benefits of the employee in force for the duration of the leave as if the
28 employee had continued in employment continuously from the date he or she commenced the
29 leave until the date the caregiver benefits terminate; provided, however, that the employee shall
30 continue to pay any employee shares of the cost of health benefits as required prior to the
31 commencement of the caregiver benefits.

32 (h) No individual shall be entitled to ~~waiting period credit or~~ temporary caregiver benefits
33 under this section for any week beginning prior to January 1, 2014. An employer may require an
34 employee who is entitled to leave under the federal Family and Medical Leave Act, PL 103-3

1 and/or the Rhode Island Parental and Family Medical Leave Act, 28-41 et seq., who exercises his
2 or her right to benefits under the temporary caregiver insurance program under this chapter, to
3 take any temporary caregiver benefits received, concurrently, with any leave taken pursuant to the
4 federal Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical
5 Leave Act.

6 (i) Temporary caregiver benefits shall be in accordance with federal Family and Medical
7 Leave Act (FMLA) P.L. 103-3 and Rhode Island Family Parental and Family Leave Act in
8 accordance with § 28-48-1, et seq. An employer may require an employee who is entitled to leave
9 under the federal Family and Medical Leave Act, PL 103-3 and/or the Rhode Island Parental and
10 Family Medical Leave Act, 28-41 et seq., who exercises his or her right to benefits under the
11 temporary caregiver insurance program under this chapter, to take any temporary caregiver
12 benefits received, concurrently, with any leave taken pursuant to the federal Family and Medical
13 Leave Act and/or the Rhode Island Parental and Family Medical Leave Act.

14 SECTION 5. This act shall take effect on January 1, 2020.

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LC001208
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY
INSURANCE

1 This act would increase the taxable wage base on which employees make contributions to
2 the TDI and TCI fund, expand the individuals eligible for the temporary caregiver program to
3 include independent contractors, change the wage replacement formula to increase individual
4 benefit rates, include sibling and grandchild in the coverage for temporary caregiver benefits,
5 increase the maximum temporary caregiver weeks, and institute fines and penalties for not
6 reinstating an employee to work if they use the program.

7 This act would take effect on January 1, 2020.

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