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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, Lawson, Satchell, and Valverde

Date Introduced: April 04, 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 (b) For calendar year 2020, the taxable wage base shall be equal to seventy-eight  
6 thousand dollars (\$78,000). For calendar year 2021, the taxable wage base shall be equal to eight-  
7 eight thousand dollars (\$88,000). For calendar year 2022 and subsequent years, the taxable wage  
8 base shall be equal to the greater of ninety-eight thousand dollars (\$98,000) or the annual  
9 earnings needed by an individual to qualify for the maximum weekly benefit amount and the  
10 maximum duration under chapters 39 through 41 of this title. That taxable wage base shall be  
11 computed as follows: Every September 30, the maximum weekly benefit amount in effect as of  
12 that date shall be multiplied by thirty (30) and the resultant product shall then be divided by  
13 thirty-six hundredths (0.36). If the resultant product obtained is not an even multiple of one  
14 hundred dollars (\$100), it shall be rounded upward to the next higher even multiple of one  
15 hundred dollars (\$100). That taxable wage base shall be effective for the calendar year beginning  
16 on the next January 1.

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

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

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

33 (2) If the fund balance as of the preceding September 30 is less than the total  
34 disbursements from the fund for the six (6) month period ending on that September 30, that

1 difference shall be added to the total disbursements for the twelve (12) month period ending  
2 September 30 for the purpose of computing the fund cost rate, and if the resulting fund cost rate is  
3 not an exact multiple of one-tenth of one percent (0.1%) it shall be rounded to the nearest  
4 multiple of one-tenth of one percent (0.1%).

5 **28-40-9. Interest on delinquent payments.**

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

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

14 **28-41-2. Wages included for benefit purposes.**

15 Notwithstanding any provisions of chapters 39 – [through](#) 41 of this title to the contrary;

16 ~~"wages"~~

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

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

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

34 **28-41-5. Weekly benefit rate -- Dependents' allowances.**



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

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

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



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

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

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

25 **28-41-34. Temporary caregiver insurance.**

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

31 Definitions as used in this chapter:

32 [\(1\) "Adopted child" means a child adopted by, or placed for adoption with, the employee.](#)

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

1 being in one another's physical presence.

2 (3) "Care recipient" means a person for whom the employee is responsible for providing  
3 or arranging health or safety-related care, including, but not limited to, helping the person obtain  
4 diagnostic, preventive, routine, or therapeutic health treatment.

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

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

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

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

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

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

14 ~~(2)~~(10) "Newborn child" means a child under one year of age.

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

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

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

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

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

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

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

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

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

1 3.

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

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

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

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

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

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

14 **28-41-35. Benefits.**

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

18 (1) Bonding with a newborn child or a child newly placed for adoption or foster care with  
19 the employee or domestic partner in accordance with the provisions of subdivision 28-41-  
20 36(c)(1); or

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

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

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

1 (d) Temporary caregiver benefits may be available to any individual exercising his or her  
2 right to leave while covered by the temporary caregiver insurance program, commencing on or  
3 after January 1, 2014, which shall not exceed the individual's maximum benefits in accordance  
4 with chapters 39- through 41. The benefits for the temporary caregiver program shall be payable  
5 with respect to the first day of leave taken ~~after the waiting period~~ and each subsequent day of  
6 leave during that period of family temporary disability leave. Benefits shall be in accordance with  
7 the following:

8 (1) Beginning January 1, 2014 temporary caregiver benefits shall be limited to a  
9 maximum of four (4) weeks in a benefit year Beginning January 1, 2020 temporary caregiver  
10 benefits shall be limited to a maximum of six (6) weeks in a benefit year. Beginning January 1,  
11 2021 temporary caregiver benefits shall be limited to a maximum of eight (8) weeks in a benefit  
12 year;

13 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary  
14 disability benefits which together exceed ~~thirty (30) times his or her weekly benefit rate in any~~  
15 ~~benefit year~~ the total amount of benefits payable in accordance with the provisions outlined in §  
16 38-41-7.

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

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

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

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

34 (h) No individual shall be entitled to ~~waiting period credit or~~ temporary caregiver benefits

1 under this section for any week beginning prior to January 1, 2014. An employer may require an  
2 employee who is entitled to leave under the federal Family and Medical Leave Act, PL 103-3  
3 and/or the Rhode Island Parental and Family Medical Leave Act, 28-41 et seq., who exercises his  
4 or her right to benefits under the temporary caregiver insurance program under this chapter, to  
5 take any temporary caregiver benefits received, concurrently, with any leave taken pursuant to the  
6 federal Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical  
7 Leave Act.

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY  
INSURANCE

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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, institute fines and penalties for not reinstating  
6 an employee to work if they use the program, allows self-employed Rhode Islanders to participate  
7 in a TDI program.

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

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LC002308  
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