

2021 -- S 0688 SUBSTITUTE A

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LC002311/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY
INSURANCE -- BENEFITS

Introduced By: Senators Lawson, Lombardo, Seveney, Quezada, Miller, Sosnowski,
Cano, Pearson, Euer, and Burke

Date Introduced: March 18, 2021

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-41-35 of the General Laws in Chapter 28-41 entitled "Temporary
2 Disability Insurance - Benefits" is hereby amended to read as follows:

3 **28-41-35. Benefits.**

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

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

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

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

1 changes for unforeseeable circumstances.

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

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

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

14 [\(2\) Beginning January 1, 2022 temporary caregiver benefits shall be limited to a maximum](#)
15 [of five \(5\) weeks in a benefit year;](#)

16 [\(3\) Beginning January 1, 2023 temporary caregiver benefits shall be limited to a maximum](#)
17 [of six \(6\) weeks in a benefit year.](#)

18 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary
19 disability benefits which together exceed thirty (30) times his or her weekly benefit rate in any
20 benefit year.

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

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

33 (h) No individual shall be entitled to waiting period credit or temporary caregiver benefits
34 under this section for any week beginning prior to January 1, 2014. An employer may require an

1 employee who is entitled to leave under the federal Family and Medical Leave Act, Pub. L. No.
2 103-3 and/or the Rhode Island Parental and Family Medical Leave Act, 28-41 et seq., who exercises
3 his or her right to benefits under the temporary caregiver insurance program under this chapter, to
4 take any temporary caregiver benefits received, concurrently, with any leave taken pursuant to the
5 federal Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical Leave
6 Act.

7 (i) Temporary caregiver benefits shall be in accordance with federal Family and Medical
8 Leave Act (FMLA) Pub. L. No. 103-3 and Rhode Island Family Parental and Family Leave Act in
9 accordance with § 28-48-1 et seq. An employer may require an employee who is entitled to leave
10 under the federal Family and Medical Leave Act, Pub. L. No. 103-3 and/or the Rhode Island
11 Parental and Family Medical Leave Act, 28-41 et seq., who exercises his or her right to benefits
12 under the temporary caregiver insurance program under this chapter, to take any temporary
13 caregiver benefits received, concurrently, with any leave taken pursuant to the federal Family and
14 Medical Leave Act and/or the Rhode Island Parental and Family Medical Leave Act.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY
INSURANCE -- BENEFITS

1 This act would increase temporary caregiver benefits to five (5) weeks in a benefit year
2 starting January 1, 2022 and would increase temporary caregiver benefits to six (6) weeks in a
3 benefit year beginning January 1, 2023.

4 This act would take effect upon passage.

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