

2020 -- S 2831

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LC003645  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

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

Introduced By: Senator Erin Lynch Prata

Date Introduced: March 12, 2020

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  
2 "Temporary 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  
6 regular 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 subdivision 28-41-  
9 36(c)(1); or

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

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

1 result in delay or reduction in the claimant's benefits, except in the event the time of the leave is  
2 unforeseeable or the time of the leave changes for unforeseeable circumstances.

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

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

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

15 (2) Beginning January 1, 2021 temporary caregiver benefits shall be limited to a  
16 maximum of six (6) weeks in a benefit year;

17 (3) Beginning January 1, 2022 temporary caregiver benefits shall be limited to a  
18 maximum of eight (8) weeks in a benefit year;

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

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

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 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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

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1           This act would increase temporary caregiver benefits to six (6) weeks in a benefit year  
2 starting January 1, 2021 and would further increase temporary caregiver benefits to eight (8)  
3 weeks in a benefit year starting January 1, 2022.

4           This act would take effect upon passage.

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