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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 - HEALTHY AND SAFE FAMILIES  
AND WORKPLACES ACT

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 04, 2020

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-57-3 and 28-57-5 of the General Laws in Chapter 28-57 entitled  
2 "Healthy and Safe Families and Workplaces Act" are hereby amended to read as follows:

3 **28-57-3. Definitions.**

4 As used in the chapter, the following words and terms have the following meanings:

- 5 (1) "Care recipient" means a person for whom the employee is responsible for providing  
6 or arranging health- or safety-related care, including, but not limited to, helping the person obtain  
7 diagnostic, preventive, routine, or therapeutic health treatment or ensuring the person is safe  
8 following domestic violence, sexual assault, or stalking.
- 9 (2) "CCAP family child care provider" means a childcare worker as defined in § 40-6.6-  
10 2(2).
- 11 (3) "Child" means a person as defined in § 28-41-34(1).
- 12 (4) "Department" means the department of labor and training.
- 13 (5) "Domestic partner" means a party to a civil union as defined in chapter 3.1 of title 15  
14 or a person who meets the requirements in §§ 36-12-1(3)(i) through (3)(v) has the same meaning  
15 as that term is defined in § 8-8.2-20.
- 16 (6) "Domestic violence" means certain crimes when committed by one family or household  
17 member against another as defined in § 12-29-2.
- 18 (7) "Employee" means any person suffered or permitted to work by an employer, except

1 for those not considered employees as defined in § 28-12-2. Independent contractors,  
2 subcontractors, work study participants as described pursuant to 42 U.S.C. § 2753.23,  
3 apprenticeships and interns as defined under FLSA section 3(g) shall not be considered to be  
4 employees for the purpose of this act.

5 (8) "Employer" means any individual or entity that includes any individual, partnership,  
6 association, corporation, business trust, or any person or group of persons acting directly or  
7 indirectly in the interest of an employer, in relation to an employee as defined in § 28-12-2, but  
8 does not include the federal government, and provided that in determining the number of employees  
9 performing work for an employer as defined in 29 C.F.R. § 791.2 of the Federal Fair Labor  
10 Standards Act, 29 U.S.C. § 201 et seq., the total number of employees in that group shall be  
11 counted.

12 (9) "Family member" means a child, parent, spouse, mother-in-law, father-in-law,  
13 grandparents, grandchildren, or domestic partner, sibling, care recipient, or member of the  
14 employee's household.

15 (10) "Health care professional" means any person licensed under federal or Rhode Island  
16 law to provide medical or emergency services, including, but not limited to: doctors, nurses, and  
17 emergency room personnel.

18 (11) "Paid sick leave time" or "paid sick and safe leave time" means time that is  
19 compensated at the same hourly rate and with the same benefits, including health care benefits, as  
20 the employee normally earns during hours worked and is provided by an employer to an employee  
21 for the purposes described in § 28-57-6, but in no case shall the hourly wage paid leave be less than  
22 that provided under § 28-12-3-; provided, however, "paid sick leave time" or "paid sick and safe  
23 leave time" also means time that is compensated at the wage hourly rate only for all employees in  
24 the construction industry, as classified as code 23 under the North American Industry Classification  
25 System (NAICS), working and under a multi-employer collective bargaining agreement authorized  
26 pursuant to 29 U.S.C. § 158 (e) and (f) that contains collective bargaining agreement language  
27 providing for sick wage benefits. These benefits shall be governed by these collective bargaining  
28 agreements when they contain provisions for sick time and safe leave benefits.

29 (12) "Parent" means a person as defined in § 28-41-34(5) or a person as defined in § 28-  
30 41-34(9).

31 (13) "Seasonal employee" means a person as defined in 26 C.F.R. § 54.4980H-1(a)(38).

32 (14) "Sexual assault" means a crime as defined in §§ 11-37-2, 11-37-4 or 11-37-6.

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

1 (16) "Spouse" means a person as defined in § 28-41-34(7).

2 (17) "Stalking" means a crime as described in §§ 11-59-2 and 11-52-4.2.

3 (18) "Temporary employee" means any person working for, or obtaining employment  
4 pursuant to an agreement with any employment agency, placement service, or training school or  
5 center.

6 (19) "Unpaid sick time" is time that is used for the purposes described in § 28-57-6 of this  
7 chapter.

8 (20) "Year" means a regular and consecutive twelve-month-period as determined by the  
9 employer; except that for the purposes of § 28-57-7, "year" means a calendar year.

10 **28-57-5. Accrual of paid sick and safe leave time.**

11 (a) All employees employed by an employer of eighteen (18) or more employees in Rhode  
12 Island [and all employees in the construction industry, as classified as code 23 under the North](#)  
13 [American Industry Classification System \(NAICS\), working under a multi-employer collective](#)  
14 [bargaining agreement authorized pursuant to 29 U.S.C. § 158 \(e\) and \(f\) that contains language for](#)  
15 [such benefits](#) shall accrue a minimum of one hour of paid sick and safe leave time for every thirty  
16 five (35) hours worked up to a maximum of twenty-four (24) hours during the calendar year of  
17 2018, thirty-two (32) hours during calendar year 2019 and up to a maximum of forty (40) hours per  
18 year thereafter, unless the employer chooses to provide a higher annual limit in both accrual and  
19 use. In determining the number of employees who are employed by an employer for compensation,  
20 all employees defined in § 28-57-3(7) shall be counted.

21 (b) Employees who are exempt from the overtime requirements under 29 U.S.C. §  
22 213(a)(1) of the Federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq., will be assumed to work  
23 forty (40) hours in each work week for purposes of paid sick and safe leave time accrual unless  
24 their normal work week is less than forty (40) hours, in which case paid sick and safe leave time  
25 accrues based upon that normal work week.

26 (c) Paid sick and safe leave time as provided in this chapter shall begin to accrue at the  
27 commencement of employment or pursuant to the law's effective date [July 1, 2018], whichever is  
28 later. An employer may provide all paid sick and safe leave time that an employee is expected to  
29 accrue in a year at the beginning of the year.

30 (d) An employer may require a waiting period for newly hired employees of up to ninety  
31 (90) days. During this waiting period, an employee shall accrue earned sick time pursuant to this  
32 section or the employer's policy, if exempt under § 28-57-4(b), but shall not be permitted to use the  
33 earned sick time until after he or she has completed the waiting period.

34 (e) Paid sick and safe leave time shall be carried over to the following calendar year;

1 however, an employee's use of paid sick and safe leave time provided under this chapter in each  
2 calendar year shall not exceed twenty-four (24) hours during calendar year 2018, and thirty-two  
3 (32) hours during calendar year 2019, and forty (40) hours per year thereafter. Alternatively, in lieu  
4 of carryover of unused earned paid sick and safe leave time from one year to the next, an employer  
5 may pay an employee for unused earned paid sick and safe leave time at the end of a year and  
6 provide the employee with an amount of paid sick and safe leave that meets or exceeds the  
7 requirements of this chapter that is available for the employee's immediate use at the beginning of  
8 the subsequent year.

9 (f) Nothing in this chapter shall be construed as requiring financial or other reimbursement  
10 to an employee from an employer upon the employee's termination, resignation, retirement, or other  
11 separation from employment for accrued paid sick and safe leave time that has not been used.

12 (g) If an employee is transferred to a separate division, entity, or location within the state,  
13 but remains employed by the same employer as defined in 29 C.F.R. § 791.2 of the Federal Fair  
14 Labor Standards Act, 29 U.S.C. § 201 et seq., the employee is entitled to all paid sick and safe leave  
15 time accrued at the prior division, entity, or location and is entitled to use all paid sick and safe  
16 leave time as provided in this act. When there is a separation from employment and the employee  
17 is rehired within one hundred thirty-five (135) days of separation by the same employer, previously  
18 accrued paid sick and safe leave time that had not been used shall be reinstated. Further, the  
19 employee shall be entitled to use accrued paid sick and safe leave time and accrue additional sick  
20 and safe leave time at the re-commencement of employment.

21 (h) When a different employer succeeds or takes the place of an existing employer, all  
22 employees of the original employer who remain employed by the successor employer within the  
23 state are entitled to all earned paid sick and safe leave time they accrued when employed by the  
24 original employer, and are entitled to use earned paid sick and safe leave time previously accrued.

25 (i) At its discretion, an employer may loan sick and safe leave time to an employee in  
26 advance of accrual by such employee.

27 (j) Temporary employees shall be entitled to use accrued paid sick and safe leave time  
28 beginning on the one hundred eightieth (180) calendar day following commencement of their  
29 employment, unless otherwise permitted by the employer. On and after the one hundred eightieth  
30 (180) calendar day of employment, employees may use paid sick and safe leave time as it is  
31 accrued. During this waiting period, an employee shall accrue earned sick time pursuant to this  
32 chapter, but shall not be permitted to use the earned sick time until after he or she has completed  
33 the waiting period.

34 (k) Seasonal employees shall be entitled to use accrued paid sick and safe leave time

1 beginning on the one hundred fiftieth (150) calendar day following commencement of their  
2 employment, unless otherwise permitted by the employer. On and after the one hundred fiftieth  
3 (150) calendar day of employment, employees may use paid sick and safe leave time as it is  
4 accrued. During this waiting period, an employee shall accrue earned sick time pursuant to this  
5 chapter, but shall not be permitted to use the earned sick time until after he or she has completed  
6 the waiting period.

7 (1) Employers in the construction industry, as classified as code 23 under the North  
8 American Industry Classification System (NAICS), that are signatory to a multi-employer  
9 collective bargaining agreement authorized pursuant to 29 U.S.C. § 158 (e) and (f) may name a  
10 federal Employee Retirement Income Security Act (ERISA) benefit trust fund to administer the  
11 paid sick leave and safe leave wage time employee benefits required by this chapter. The collective  
12 bargaining agreement language that allows the trust to administer the paid sick leave and safe leave  
13 non-wage benefits by the ERISA trust fund allowing the multi-employers to participate through  
14 their local collective bargaining agreement in providing benefits to their employees shall make  
15 these employers compliant with this chapter.

16 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 - HEALTHY AND SAFE FAMILIES  
AND WORKPLACES ACT

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1           This act would allow construction employees working under a multi-employer bargaining  
2 agreement to be governed by the language in that agreement relating to sick time and safe leave  
3 benefits and administered by the employee retirement income security act (ERISA) trust fund.

4           This act would take effect upon passage.

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