

2021 -- H 6011

LC001374

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- HEALTHY AND SAFE FAMILIES
AND WORKPLACES ACT

Introduced By: Representative Jose F. Batista

Date Introduced: February 26, 2021

Referred To: House 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 childcare 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) "Healthcare 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 healthcare 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. Except that "paid sick leave time" or "paid sick and safe leave time"
23 means time that is compensated at the wage hourly rate only for all employees in the construction
24 industry, as classified as code 23 under the North American Industry Classification System,
25 working and under a multi-employer collective bargaining agreement authorized pursuant to 29
26 U.S.C. § 158 (f) and (e) that contain collective bargaining agreement language providing for sick
27 wage benefits. These benefits shall be governed by these collective bargaining agreements that
28 contain provisions for sick time and safe leave benefits accumulated on an hourly or weekly basis
29 as determined by their collective bargaining agreement; provided that these agreements meet the
30 minimum standards of this act.

31 (12) "Parent" means a person as defined in § 28-41-34(5) or a person as defined in § 28-
32 41-34(9).

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

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

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

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

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

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

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

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

11 **28-57-5. Accrual of paid sick and safe leave time.**

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

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

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

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

1 earned sick time until after he or she has completed the waiting period.

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

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

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

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

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

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

1 the waiting period.

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

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

18 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

- 1 This act would amend the definition of paid sick leave time and paid sick and safe leave
- 2 time and allow 40 hours of accrual for construction industry employees, to be administered by
- 3 establishing a benefit trust fund.
- 4 This act would take effect upon passage.

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