



**Rhode Island Society for Human Resource Management State Chapter**

Statement of

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On behalf of the Rhode Island Society for Human Resource Management State Chapter

Submitted to the Senate Committee on Labor

**S 2467 -- AN ACT RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND PARENTAL AND FAMILY MEDICAL LEAVE ACT**

March 13, 2024

To the Honorable Members of the Senate Committee on Labor:

My name is Francesco A. DeLuca, Esq. I am a member of the law firm of Epstein Becker & Green, P.C., where I practice labor and employment law. Since 2023, I have had the honor of serving in the role of Director of Legislative Affairs for the Rhode Island Society for Human Resource Management State Chapter (“RI SHRM”).

RI SHRM is an affiliate of the Society for Human Resource Management, the world’s largest HR professional society representing more than 300,000 members in more than 165 countries. RI SHRM is a volunteer organization representing the interests of more than 500 human resource professionals throughout the State of Rhode Island. Our members are a cross-section of the Rhode Island economy, coming from such diverse sectors such as education, government, healthcare, hospitality and customer service, manufacturing, non-profit, professional services, small business, and technology. Through our exceptional programming and our legislative advocacy efforts over the years, we have become the trusted voice of the Rhode Island HR and business communities.

On behalf of our members, I am grateful for the opportunity to provide the Senate Committee on Labor with this written testimony regarding **S 2467 -- An Act Relating to Labor and Labor Relations -- Rhode Island Parental and Family Medical Leave Act**.

RI SHRM encourages employers to offer reasonable leaves of absence to employees who may temporarily need to be away from work. But S 2467—which proposes to nearly **double** the amount of leave employees may take under the Rhode Island Parental and Family Medical Leave Act (“RIPFMLA”)—would impose unreasonable burdens on businesses. As a result, RI SHRM opposes the passage of S 2467 for the following reasons:

**First, employers already face significant difficulties managing leaves of absence under the RIPFMLA.** Currently, employees can take up to 13 weeks of leave in a two-year period under the RIPFMLA. This is a significant amount of time for an employee to be away from work. And while

an employee is out on a leave of absence, someone has to do that employee's work. This can lead to co-workers working longer and harder, employers paying unreasonable amounts to attempt to maintain adequate staffing levels (such as incurring increased overtime costs or hiring expensive temporary personnel), and customers and clients receiving diminished levels of service. Nearly doubling the amount of leave available under the RIPFMLA would only exacerbate these problems. **The General Assembly should not subject employers to the higher costs, employees to the heavier workloads, and customers and clients to the longer periods of diminished service that S 2467 would undoubtedly create.**

**Second, the potential interaction between S 2467 and a proposed amendment to the Temporary Caregiver Insurance ("TCI") law, H 7171, could give eligible employees up to 36 weeks of leave in a calendar year.** Under the current TCI law (which provides up to 6 weeks of leave), employers may require employees who take TCI leave for a covered reason under the RIPFMLA to take their TCI leave concurrently with RIPFMLA leave. *See* R.I. Gen. Laws § 28-41-35(h), (i). But the TCI law does not clearly and expressly provide that employers may require employees who take RIPFMLA leave for a covered reason under the TCI law to take their RIPFMLA leave concurrently with their TCI leave.<sup>1</sup> In other words, while the law is clear that an employer need not permit an employee to take 6 weeks of TCI leave and then 13 weeks of RIPFMLA leave, it arguably may allow an employee to take 13 weeks of RIPFMLA leave and then take an additional 6 weeks of TCI leave, for a total of 19 weeks away from work. With H 7171 proposing to increase an employee's TCI allotment to 12 weeks, and S 2467 proposing to increase an employee's RIPFMLA allotment to 24 weeks, it is possible that an employee could take **36 weeks** of job-protected leave in a calendar year. Stated differently, an employee could be out of work for **70%** of the year. **The potential for such lengthy, disruptive leaves of absence is another reason not to pass S 2467.**<sup>2</sup>

**Finally, employers (and human resources professionals in particular) find it difficult to juggle the various tracks of leaves.** Depending on the reason for an employee's leave of absence and their employer's size, an employee may have leave entitlements under several state and federal laws, including TCI, RIPFMLA, and the federal Family and Medical Leave Act ("FMLA") (which provides for 12 weeks of leave in a 12-month period). Understandably, this can be confusing. To streamline leave management, some Rhode Island employers allow employees to take 13 weeks of leave in a 12-month period, which combines their obligations under the RIPFMLA and FMLA, thereby providing employees with a more generous benefit than either statute requires. If S 2467 becomes law, those employers would most likely have to administer FMLA and RIPFMLA separately since business conditions most likely could not support granting every employee 24 weeks of leave per year. **Administering various leave entitlements separately will burden**

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<sup>1</sup> Arguably, the provision of the TCI law requiring that "[t]emporary caregiver benefits shall be in accordance with the [FMLA] and the [RIPFMLA]" provides employers with this right, but the law could be clearer on this point. *See* R.I. Gen. Laws § 28-41-35(i).

<sup>2</sup> Even if H 7171 does not become law, stacking an employee's current TCI allotment on top of 24 weeks of RIPFMLA leave for a total of 30 weeks—or approximately 58% of the year—would significantly exacerbate the problems employers face when employees are out of work for extended periods of time.

**human resources departments, leading to good-faith mistakes—which, in turn, could generate litigation or harm employee morale—less focus on other human resources priorities (such as employee development and growth), and burnout for human resources professionals.**

Managing leave entitlements creates difficulties for employers of all sizes. Expanding the amount of time an employee can be out of work under the RIPFMLA will only make these difficulties worse. **Accordingly, RI SHRM urges the Senate not to pass S 2467.**

Thank you for your time and consideration, and please feel free to contact me to continue this important conversation.

Respectfully submitted by:

/s/ Francesco A. DeLuca

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