

**SENATE . . . . . No. 44**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Brian A. Joyce**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to parental leave.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Brian A. Joyce	Norfolk, Bristol and Plymouth
Susan C. Fargo	Third Middlesex
Mark C. Montigny	Second Bristol and Plymouth

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO PARENTAL LEAVE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1.   Section 1 of chapter 149 of the General Laws is hereby amended by striking out,  
2 in lines 31 and 32, the words “one hundred and five A to one hundred and five C” and inserting in place  
3 thereof the following words:- 105A to 105D.

4           SECTION 2.   Said chapter 149 is hereby further amended by striking out section 105D, as  
5 appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

6 Section 105D. For the purposes of this section, an “employer” shall be defined as in subsection 5 of  
7 Section 1 of chapter 151B.

8           An employee who has completed the initial probationary period set by the terms of employment  
9 or, if there is no probationary period, has been employed by the same employer for at least 3 consecutive  
10 months as a full-time employee, who is absent from that employment for a period not exceeding 8 weeks  
11 for the purpose of giving birth or for adopting a child under the age of 18 or for adopting a child under the  
12 age of 23 if the child is mentally or physically disabled, or becoming the primary caregiver of a child born  
13 or adopted in the previous 12-months, the 8 week period to be called parental leave, and who shall give at  
14 least 2 weeks notice to the employer of the anticipated date of departure and intention to return, shall be  
15 restored to the employee’s previous, or a similar, position with the same status, pay, length of service

16 credit and seniority, wherever applicable, as of the date of the leave. The parental leave may be with or  
17 without pay at the discretion of the employer.

18           The employer shall not be required to restore an employee on parental leave to the previous or a  
19 similar position if other employees of equal length of service credit and status in the same or similar  
20 position have been laid off due to economic conditions or other changes in operating conditions affecting  
21 employment during the period of the parental leave; provided, however, that the employee on parental  
22 leave shall retain any preferential consideration for another position to which the employee may be  
23 entitled as of the date of the leave.

24           The parental leave shall not affect the employee's right to receive vacation time, sick leave,  
25 bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the  
26 employee was eligible at the date of the leave, and any other advantages or rights of employment incident  
27 to the employment position; provided, however, that the parental leave shall not be included, when  
28 applicable, in the computation of the benefits, rights, and advantages; and provided, further, that the  
29 employer need not provide for the cost of any benefits, plans, or programs during the period of parental  
30 leave unless the employer so provides for all employees on leave of absence. Nothing in this section shall  
31 be construed to affect any bargaining agreement or company policy which provides for greater or  
32 additional benefits than those required under this section.

33           The employer shall post notice of the provisions of this section in a conspicuous place where  
34 employees may view the notice.

35           SECTION 3.    Within 90 days after the effective date of this act, the secretary of the executive  
36 office of labor and workforce development shall promulgate regulations necessary to implement the  
37 requirements of this act.