

**SENATE . . . . . No. 71**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Karen E. Spilka**

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*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 supporting strong families by providing paid family and medical leave, increasing tax deductions, and establishing a work-family council. .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	Second Middlesex and Norfolk
Patricia D. Jehlen	Second Middlesex
Benjamin Swan	11th Hampden
David P. Linsky	5th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00114 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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AN ACT SUPPORTING STRONG FAMILIES BY PROVIDING PAID FAMILY AND MEDICAL  
LEAVE, INCREASING TAX DEDUCTIONS, AND ESTABLISHING A WORK-FAMILY COUNCIL.

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

1   *Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith  
2   to support strong families by providing paid family and medical leave, increasing tax deductions  
3   and establishing a work-family council, therefore it is hereby declared to be an emergency law,  
4   necessary for the immediate preservation of the public convenience.

5   SECTION 1. Chapter 23A of the General Laws is hereby amended by adding the following  
6   section:—

7   Section 62. (a) There shall be in the executive office of economic development a work-family  
8   council, in this section called the council. The council shall develop broadly shared  
9   understandings of critical work-family issues in the commonwealth, and shall promote through  
10   privately funded research, experimentation, and education both responsive public policies and  
11   innovative private sector practices.

12 (b) A member of the council shall be a person who has demonstrated leadership in seeking  
13 innovative, positive solutions to work-family problems. A member shall serve for a term of 2  
14 years and may be reappointed for 1 or more terms.

15 (c) (1) The governor, the speaker of the house of representatives and the president of the senate  
16 each shall appoint members, 1 from each of the following categories:

17 (i) an employer or manager of a business representing a key sector of the commonwealth's  
18 economy;

19 (ii) an official of a union representing public sector or private sector workers;

20 (iii) a member of the caucus of women legislators;

21 (iv) a member of a women's professional association or other women's organization;

22 (v) a member of low-income advocacy group or community-based service organization,  
23 including secular and faith-based institutions;

24 (vi) a member of an association representing employers; and

25 (vii) a representative of an organization which focus on Massachusetts tax policy

26 (2) The minority leaders of the senate and house of representatives shall each appoint 1 member.

27 (3) The head of each of the following agencies, departments and offices shall serve as ex-officio  
28 members of the council: department of business and technology; departments of labor and  
29 workforce development; office of children, youth and family services; department of elder

30 affairs; office of health services; office of Medicaid: executive office of transportation;  
31 department of housing and community development; office of disabilities and community  
32 services; department of education; the human resources division; the information technology  
33 division, and the department of early education and care. The council shall appoint a chairperson  
34 from among the members.

35 (d) (1) The council shall meet at least 4 times per year. The council shall appoint an executive  
36 director who shall appoint such staff as needed. Staff may seek funds from public and private  
37 sources to support the work of the council. The council shall select a panel of academic advisers  
38 to provide information and guidance on council activities. An academic adviser shall not receive  
39 compensation from the council but may be reimbursed for customary expenses incident to the  
40 advisor's service.

41 (2) The duties of the council shall include but not be limited to: holding hearings to identify  
42 major work-family issues in the commonwealth; identifying representatives of all groups with  
43 important stakes in resolving specific work-family issues and devising processes for bringing the  
44 groups together to promote mutual understanding as the basis for coordinated problem-solving;  
45 using dialogue and negotiation among stakeholders with differing interests in work-family  
46 conflicts to advance the potential for problem solving that supports both workplace productivity  
47 and family care; designing and supporting pilot projects as requested in workplaces; proposing  
48 public policy solutions to work-family issues; promoting successful policies and practices in both  
49 public and private sectors and creating a repository of best practices; collecting and maintaining  
50 data and information concerning work-family issues including but not limited to employer  
51 policies and practices; and providing public education on work-family issues as matters of

52 public, as well as individual concern, and on the need for public policies and private workplace  
53 practices that support the wellbeing of both employers and families.

54 (3) The council shall report in writing to the secretaries of economic development and health and  
55 human services every 2 years during the council's existence. The report shall specify: the groups  
56 actively involved in council meetings and projects; outcomes of research sponsored by the  
57 council; the adoption and results of public policy initiatives; the outcomes of experiments and  
58 pilot projects in workplaces; the experience with techniques of multi-stakeholder dialogue and  
59 negotiation; summaries of data and information collected on work-family issues; and the  
60 purposes and scope of public education projects undertaken.

61 SECTION 2. Section 3 of chapter 62 of the General Laws is hereby amended by striking out, in  
62 line 75, as appearing in the 2004 Official Edition, the figure "\$4,800" and inserting in place  
63 thereof the following figure:- \$7,400.

64 SECTION 3. Said section 3 of said chapter 62 is hereby further amended by striking out, in line  
65 76, as so appearing, the figure "\$9,600" and inserting in place thereof the following figure:-  
66 \$12,300..

67 SECTION 4. Subparagraph (8) of paragraph (a) of part B of said section 3 of said chapter 62 of  
68 the General Laws, as so appearing is hereby amended by adding the following sentence:- If the  
69 taxpayer is a single person with adjusted gross income of not more than \$45,000 or joint filers  
70 with adjusted gross income of not more than \$75,000, the deduction available under this section  
71 shall be \$4,300 if there is 1 dependent with respect to the taxpayer, or \$8,600 if there are 2 or  
72 more such dependents with respect to the taxpayer.

73 SECTION 5. Chapter 29 of the General Laws is hereby amended by inserting after section  
74 2NNN the following Section;-

75 Section 2000. There shall be established and set up on the books of the commonwealth a  
76 Strong Families Trust Fund. There shall be credited to said fund (a) all revenues collected  
77 pursuant to paragraph (e) of Section 52E of Chapter 149 and any income derived from the  
78 investment of amounts credited to said fund. The contributions to the fund shall be reserved for  
79 the payment of wage replacement stipends for family and medical leave and for the  
80 administration of those payments and shall not be used for any other purpose. The treasurer of  
81 the commonwealth shall be the fund's trustee and shall pay the wage replacement stipends  
82 required by subsection (c) of said Section 52E of Chapter 149 and any administrative costs  
83 incurred by the department of workforce development for the operations of the paid family and  
84 medical leave program without further appropriation. The department shall annually submit a  
85 detailed account of expenditures for administration of the program established by Section 52E of  
86 Chapter 149 to the treasurer for reimbursement of such expenditures.

87 SECTION 6. Section 52D of chapter 149 of the General Laws, as appearing in the 2004 Official  
88 Edition, is hereby amended by inserting after the word "section", in line 1, 27 and 43, the  
89 following words:- and section 52E.

90 SECTION 7. Said section 52D of said chapter 149, as so appearing, is hereby further amended  
91 by inserting after the word "section", in lines 26 and 44, the following words:- or section 52E.

92 SECTION 8. Said chapter 149 is hereby further amended by inserting after said section 52D, as  
93 so appearing, the following section:-

94 Section 52E. (a) As used in this section, in addition to the terms defined in section 52D, the  
95 following terms shall have the following meanings:

96 (1) "Department", the department of workforce development.

97 (2) "Director", the director of the department of workforce development.

98 (3) "Fund", the Strong Families Trust Fund established by Chapter 29, Section 2000.

99 (4) "Employee eligible for job protected leave" means an employee working in the  
100 commonwealth who has been employed:

101 (i) for at least 12 months by the employer with respect to whom leave is requested; and

102 (ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

103 The term "employee eligible for job protected leave" does not include any employee of an  
104 employer who is employed at a worksite at which such employer employs less than 6 employees  
105 if the total number of employees employed by that employer within 75 miles of that worksite is  
106 less than 6.

107 (5) "Employee eligible for wage replacement stipend" means an employee who is a resident of  
108 the commonwealth and who has been paid wages in an amount not less than \$3000 from which  
109 fund deductions were withheld within any 12 month period and who at the time the leave begins  
110 has been employed in the commonwealth :

111 (i) for at least 12 weeks by the employer with respect to whom leave is requested; and

112 (ii) for at least 216 hours of service with such employer during the previous 12 week period.

113 (iii) for purposes of this paragraph (a)(5) "Employer", means any individual, corporation,  
114 partnership or other entity, including any agent thereof, who engages the services, in the  
115 commonwealth, of an employee or employees for wages, remuneration, or other  
116 compensation. (b) Except as this section otherwise provides, employees eligible for job  
117 protected leave shall be entitled to job protected family and medical leave, and all rights and  
118 protections provided under sections 101 to 105, inclusive, of the Family and Medical Leave Act  
119 of 1993, 29 U.S.C. sections 2611 to 2615, inclusive. Amendments to the federal act shall not  
120 diminish an employee's rights under this section.

121 (c)(1) The department shall determine eligibility of employees for wage replacement stipend  
122 under paragraph (a) and shall certify to the treasurer the amount of stipend to be paid from the  
123 Fund, to each employee eligible for wage replacement stipend.

124 (2) The treasurer of the commonwealth shall pay to an employee eligible for wage replacement  
125 stipend, who is a resident of the commonwealth, who is entitled to leave under section 102(a)  
126 and (b) of the federal act, 29 U.S.C. section 2612(a) and (b), and who takes such a leave, a  
127 stipend in the amount 80% of the employee's wages or salary, but not more than \$750 per week  
128 in calendar year 2008 and 2009. In each year thereafter, the treasurer shall calculate an adjusted  
129 maximum benefit amount to account for inflation using the consumer price index for urban wage  
130 earners or a successor index.. The treasurer shall not pay the stipend for the first 5 business days  
131 of an employee's leave in any calendar year; but these first 5 days of leave need not be taken  
132 consecutively for the employee to be eligible for a stipend under this section for subsequent days

133 of leave, and an employee eligible for wage replacement stipend under this section shall receive  
134 an additional 5 days of paid leave, to total 12 weeks of paid leave.

135 (3) The treasurer shall also pay the stipend provided by subparagraph (2) to an employee eligible  
136 for wage replacement stipend, who is a resident of the commonwealth, and who takes a leave to  
137 which she would otherwise be entitled under section 102(a) and (b) of the federal act, 29 U.S.C.  
138 section 2612(a) and (b), but is not so entitled solely because of the employer's number of  
139 employees under section 101(2)(B)(ii) of the federal act, 29 U.S.C. section 2611(2)(B)(ii), or (2)  
140 because she has not been employed for the time required by section 101(2)(A) of the federal act,  
141 29 U.S.C. section 2612(2)(A)

142 (d) The department, in consultation with the human resources division, shall administer this  
143 section, shall prescribe application forms for employees, and shall adopt regulations consistent  
144 with this section . The department shall provide a draft of proposed regulations to the joint  
145 committees of children and families and persons with disabilities, on labor and workforce  
146 development, and on state administration and regulatory oversight, and to the work-family  
147 council not less than 90 days before adopting the regulations. The department's regulations shall  
148 specify premiums paid by employees necessary in the department's judgment to provide for the  
149 fund's solvency, including all administrative costs incurred by the department in operating the  
150 program. The premium paid by each employee shall be equal to a percentage of the employee's  
151 wages paid for employment with any employer. The regulations shall ensure that payments from  
152 the Fund shall be made to eligible employees when due at the earliest time administratively  
153 feasible The regulations shall include eligibility requirements, the claims process, weekly stipend  
154 amounts, maximum stipends payable, notice and medical certification requirements,

155 confidentiality provisions, the relationship between benefits under this section and other leave  
156 rights and benefits, and grievance rights. In adopting regulations, the department shall maintain  
157 consistency with the rules adopted to implement the federal act to the extent such rules are not in  
158 conflict with this section.

159 (e) On or before October 31<sup>st</sup> of each year, the Treasurer, in consultation with the director, shall  
160 file with the house and senate committees on ways and means and the clerks of the house of  
161 representatives and the senate and the joint committees on children and families and labor and  
162 workforce development a report which contains a proposal of an adequate and proper average  
163 balance to be maintained in the Fund during the ensuing calendar year and a statement of the  
164 actual balance then projected to be deposited in the Fund during such year. Such report shall  
165 describe in detail the criteria employed by the Treasurer and the director in formulating such a  
166 proposal for an adequate and proper average balance and in developing such a projection relative  
167 to the actual balance, including but not limited to an explanation of the economic assumptions  
168 and projections related thereto, an analysis of the effect upon such balances of actual or proposed  
169 amendments to federal and state law relative to job protected family leave and paid family leave,  
170 both in terms of the amount of monies so deposited and in terms of such monies as a percentage  
171 of total wages paid. If the treasurer's proposal of an adequate and proper average balance for the  
172 ensuing calendar year exceeds the treasurer's statement of the projected actual average balance  
173 for such year, then the report shall in addition include recommendations for such legislative  
174 actions as the treasurer deems appropriate to ensure that an adequate and proper average balance  
175 is maintained during such year, provided, that recommendations for legislative action, if any,  
176 shall be accompanied by drafts of legislation necessary to carry such recommendations into  
177 effect. On or before the fifteenth day of every month of the calendar year next following the

178 submission of the report required by the first sentence hereof, the treasurer, in consultation with  
179 the director, is hereby further authorized and directed to file with the chairs of said committees  
180 an updated report detailing the most recently available statement of the actual balance of Fund  
181 together with a revised statement of the actual balance then projected to be deposited in the Fund  
182 during such year.

183 (f) The department of revenue shall collect premiums from employees in connection with income  
184 taxes collected under chapter 62, and all civil and criminal remedies that apply to such income  
185 taxes shall apply to premiums under this section. The department of revenue shall deposit in the  
186 Fund all premiums received under this section, and shall provide other assistance requested by  
187 the department of workforce development and the Treasurer of the commonwealth in  
188 administering this section.

189 (g) A person who knowingly makes, or causes to be made, any false statement or  
190 misrepresentation of a material fact in connection with an application for paid leave benefits  
191 under this section shall be punished by imprisonment for not more than 6 months or by a fine of  
192 not more than \$4,000, or by both such fine and such imprisonment. In addition, the criminal and  
193 civil remedies that apply to claims for unemployment compensation under chapter 151A shall  
194 apply to applications for stipends under this section.

195 (h) Any payment of unemployment compensation or workers compensation in connection with a  
196 leave under this section shall cause a reduction, in the same amount as the payment, in the  
197 stipend otherwise payable for that week under subsection (c), and an employee eligible to receive  
198 a stipend shall promptly report such a payment to the department.

199 (i) Nothing in this section shall interfere with any greater rights or benefits under a collective  
200 bargaining agreement or other employment agreement between the employer and the employee,  
201 or under any federal, state or municipal law.

202 (j) As part of the posting required by subsection (g) of section 62A of chapter 151A, an  
203 employer shall post information prescribed by the department about applying for stipends under  
204 this section. An employer shall also provide each of its employees, at the beginning of  
205 employment and whenever an employee requests leave under this section, the application form  
206 prescribed by the department under subsection (e). An employer shall include the rights  
207 provided under this section in any written guidance to employees concerning employee benefits  
208 or leave rights, such as in an employee handbook.

209 (k) Leave taken under this section must be taken concurrently with any leave taken under the  
210 federal act.

211 (l) Nothing in this section shall be construed to discourage employers from adopting or retaining  
212 leave policies more generous than policies that comply with this section.

213 (m) The executive office of health and human services, in coordination with the department,  
214 shall develop and implement a multi-lingual outreach program to inform parents with newborn  
215 or adopted children and persons with serious medical conditions about the availability of paid  
216 leave under this section. This program shall include the distribution of notices and other written  
217 materials in English and other languages to all hospitals, community health centers, and other  
218 health care providers. The outreach information shall explain, in an easy to understand format,  
219 eligibility requirements, the claims process, weekly stipend amounts, maximum stipends

220 payable, notice and medical certification requirements, reinstatement and nondiscrimination  
221 rights and confidentiality provisions.

222 (n) Nothing in this section shall be construed to require a health care provider to disclose  
223 information in violation of section 1177 of the Social Security Act, 42 U.S.C. section 1320d-

224 2. If an employer possesses health information about an employee or an employee's son or  
225 daughter, parent, spouse or elderly relative, such information shall be maintained on a separate  
226 form and in a separate file from other personnel information, be treated as a confidential medical  
227 record, and shall not be disclosed except to the affected employee or with the permission of the  
228 affected employee.

229 (o) The attorney general shall prescribe the employer's obligation to make, keep, and preserve  
230 records pertaining to this section and the requirements for keeping records under section 15 of  
231 chapter 151 shall apply to the records required under this section.

232 (p) This act shall be liberally construed as remedial legislation to further its purpose of providing  
233 job-protected leave and wage replacement stipends to eligible employees. All presumptions  
234 shall be made in favor of the availability of leave and payment of stipends under this section.

235 SECTION 9. Item 1201-0100 The department shall allocate not less than \$250,000 for purposes  
236 of an outreach program to increase participation in the earned income tax credit program.

237 SECTION 10. Item 7002-0010 The department shall allocate not less than \$200,000 to the  
238 work-family council.

239 SECTION 11. Item 7002-0100 The department shall expend not less than \$500,000 for the  
240 administration of the paid family leave program established in chapter 149 of the General Laws  
241 section 52E and implementation of an outreach program to inform parents with newborn or  
242 adopted children and persons with serious medical conditions about the availability of paid  
243 leave.

244 SECTION 12. The department of workforce development shall commence paying stipends  
245 under section 6 180 days after the effective date of this act.

246 SECTION 13. The work-family council established by section 1 of this act shall, on an on-going  
247 basis, analyze and review the operations of the paid family and medical leave program created in  
248 this act. No later than 2 years after the effective date of this act, the council shall file with the  
249 clerks of the senate and house of representatives a comprehensive report on this program. This  
250 report shall include, but not be limited to, analysis of the following: (1) the extent to which  
251 employees take paid leave under the program; (2) the extent to which employees have family or  
252 medical needs or obligations that they are unable to meet by taking paid leave under the  
253 program; (3) the effect of the program on private employers, including the effect on employee  
254 productivity, employer costs and cost savings, employee morale, and employee turnover rates;  
255 (4) the effect of the program on the competitiveness of the commonwealth's economy; (5) the  
256 medical effects of the program on employees, family members of employees, and the broader  
257 population; (6) the ease or difficulty of administering paid leave for employees; (7) employee  
258 patterns for returning to work; (8) the cost of replacing workers on leave and training temporary  
259 workers; and (9) any proposed modifications to the program.

260 SECTION 14: Section 204 of chapter 6 of the General Laws, as appearing in the 2004 Official  
261 Edition, is hereby amended by adding after the words “twenty-three D” in line 47, the  
262 following:-

263 “advising the treasurer in the performance of duties required under section 2000 of chapter 29  
264 in administering the strong family trust fund to encourage employee involvement in the  
265 program”