

SENATE No. 2381

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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. Chapter 149 of the General Laws is hereby amended by striking out section
2 105D, as appearing in the 2008 Official Edition, and inserting in place thereof the following
3 section:-

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

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

15 adoption of a child shall be entitled to the same benefits offered by the employee's employer as
16 an employee on parental leave for the birth of a child. The parental leave may be with or without
17 pay at the discretion of the employer.

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

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

34 Every employer shall post and keep posted in a conspicuous place or places upon its
35 premises a notice describing this section and the employer's policies related to this section.

36 SECTION 2. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby
37 amended by striking out subsection 11A and inserting in place thereof the following subsection:-

38 11A. For an employer, or its agent, to refuse to restore certain employees to employment
39 following their absence by reason of a parental leave taken in accordance with section 105D of
40 chapter 149 or to otherwise fail to comply with the provisions of said section, or for the
41 commonwealth and any of its boards, departments and commissions to deny vacation credit to
42 any employee for the fiscal year during which the employee is absent due to a parental leave
43 taken in accordance with said section or to impose any other penalty as a result of a parental
44 leave of absence.

45 SECTION 3. Within 90 days after the effective date of this act, the Massachusetts
46 commission against discrimination shall promulgate regulations necessary to implement this act.