

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

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
2 striking out, in lines 31 and 32, the words “one hundred and five A to one hundred and five C”  
3 and inserting in place thereof the following words:- 105A to 105D.

4 SECTION 2. Said chapter 149 is hereby further amended by striking out section 105D,  
5 as 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  
7 subsection 5 of Section 1 of chapter 151B.

8 An employee who has completed the initial probationary period set by the terms of  
9 employment or, if there is no probationary period, has been employed by the same employer for  
10 at least 3 consecutive months as a full-time employee, who is absent from that employment for a  
11 period not exceeding 8 weeks for the purpose of giving birth or for adopting a child under the  
12 age of 18 or for adopting a child under the age of 23 if the child is mentally or physically  
13 disabled, or becoming the primary caregiver of a child born or adopted in the previous 12-

14 months, the 8 week period to be called parental leave, and who shall give at least 2 weeks notice  
15 to the employer of the anticipated date of departure and intention to return, shall be restored to  
16 the employee's previous, or a similar, position with the same status, pay, length of service credit  
17 and seniority, wherever applicable, as of the date of the leave. The parental leave may be with or  
18 without pay at the discretion of the employer.

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

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

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

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