

# SENATE . . . . . No. 33

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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 adoption of the accompanying bill:

An Act relative to parental leave.

PETITION OF:

NAME:

*Brian A. Joyce*

DISTRICT/ADDRESS:

*Norfolk, Bristol and Plymouth*

# SENATE . . . . . No. 33

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By Mr. Joyce, a petition (accompanied by bill, Senate, No. 33) of Brian A. Joyce for legislation relative to parental leave. Children, Families and Persons with Disabilities.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 48 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
\_\_\_\_\_

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, as appearing in the 2010  
2   Official Edition, is hereby amended by striking out, in lines 31 and 32, the words “one hundred  
3   and five A to one hundred and five C” and inserting in place thereof the following words:- 105A  
4   to 105D.

5           SECTION 2. Said chapter 149 is hereby further amended by striking out section 105D, as  
6   appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

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

9           (2) An employee shall be restored to the employee’s previous, or a similar, position with  
10   the same status, pay, length of service credit and seniority, wherever applicable, as of the date of  
11   the leave if the employee meets all of the following requirements:

12           (a) The employee has completed the initial probationary period set by the terms of  
13   employment or, if there is no probationary period, has been employed by the same employer for  
14   at least 3 consecutive months as a full-time employee;

15           (b) The employee has been absent from that employment for a period not exceeding 8  
16   weeks, deemed parental leave, for the purpose of:

(i) giving birth; or  
(ii) adopting a child under the age of 18;  
(iii) adopting a child under the age of 23 if the child is mentally or physically disabled; or  
(iv) becoming the primary caregiver of a child born or adopted in the previous 12-months.

(c) The employee gave at least 2 weeks' notice to the employer of the anticipated date of departure and the intention to return.

(3) The parental leave may be with or without pay at the discretion of the employer.

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

(5) The parental leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employee was eligible at the date of the leave, and any other advantages or rights of employment incident to the position. When applicable, the parental leave shall not be included in the computation of the benefits, rights, and advantages. The employer need not provide for the cost of any benefits, plans, or programs during the period of parental leave, unless the employer so provides for all employees on leave of absence.

(6) Nothing in this section shall be construed to affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this section.

(7) The employer shall post notice of the provisions of this section in a conspicuous place where employees may view the notice.

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