

**SENATE . . . . . No. 865**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Patricia D. Jehlen***

*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:

DISTRICT/ADDRESS:

*Patricia D. Jehlen*

*Second Middlesex*

*Brian A. Joyce*

*Norfolk, Bristol and Plymouth*

**SENATE . . . . . No. 865**

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By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 865) of Patricia D. Jehlen for legislation relative to parental leave. Labor and Workforce Development.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2247 OF 2011-2012.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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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. Chapter 149 of the General Laws, as appearing in the 2010 Official Edition,  
2 is hereby amended by striking out section 105D and inserting in place thereof the following  
3 section:-

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

6           (b) An employee who has completed the initial probationary period set by the terms of  
7 employment, not to exceed 3 months, or, if there is no such probationary period, has been  
8 employed by the same employer for at least 3 consecutive months as a full-time employee, shall  
9 be entitled to 8 weeks of parental leave for the purpose of giving birth or for the placement of a  
10 child under the age of 18, or under the age of 23 if the child is mentally or physically disabled,  
11 for adoption with the employee adopting or intending to adopt or for the placement of a child  
12 with an employee pursuant to a court order provided, however, that any 2 employees of the same  
13 employer shall only be entitled to 8 weeks of parental leave in aggregate for the birth or adoption  
14 of the same child. The employee shall give at least two weeks’ notice to the employer of the  
15 anticipated date of departure and intention to return or provide notice as soon as practicable if the  
16 delay is for reasons beyond the individual’s control. The employee shall be restored to the  
17 employee’s previous, or a similar, position with the same status, pay, length of service credit and  
18 seniority, wherever applicable, as of the date of the leave. An employee on parental leave for the

19 adoption of a child shall be entitled to the same benefits offered by the employer to an employee  
20 on parental leave for the birth of a child. The parental leave may be with or without pay at the  
21 discretion of the employer. If the employer agrees to provide parental leave for longer than 8  
22 weeks, the employer shall not deny the employee the rights under this section unless the  
23 employer clearly informs the employee in writing prior to the commencement of the parental  
24 leave, and prior to any subsequent extension of that leave, that taking longer than 8 weeks of  
25 leave will result in the denial of reinstatement or loss of other rights and benefits.

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

32 (d) The parental leave shall not affect the employee's right to receive vacation time, sick  
33 leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for  
34 which the employee was eligible at the date of the leave, and any other advantages or rights of  
35 employment incidental to the employment position; provided, however, that the parental leave  
36 shall not be included, when applicable, in the computation of the benefits, rights and advantages;  
37 and provided, further, that the employer need not provide for the cost of any benefits, plans, or  
38 programs during the parental leave unless such employer so provides for all employees who are  
39 on leave of absence. Nothing in this section shall be construed to affect any bargaining  
40 agreement or company policy which provides for greater or additional benefits than those  
41 required under this section.

42 (e) Every employer shall post and keep posted in a conspicuous place or places upon its  
43 premises a notice describing this section and the employer's policies related to this section.

44 SECTION 2. Section 4 of chapter 151B of the General Laws, as appearing in the 2010  
45 Official Edition, is hereby amended by striking out subsection 11A and inserting in place thereof  
46 the following subsection:-

47 11A. For an employer, or its agent, to refuse to restore certain employees to employment  
48 following an absence by reason of a parental leave taken in accordance with section 105D of  
49 chapter 149 or to otherwise fail to comply with that section or for the commonwealth and any of  
50 its boards, departments and commissions to deny vacation credit to any employee for the fiscal  
51 year during which the employee is absent due to a parental leave taken in accordance with that  
52 section or to impose any other penalty as a result of a parental leave of absence.