SENATE DOCKET, NO. 1441 FILED ON: 1/18/2013

SENATE . . . . . No. 865

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*

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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.

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

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 105D and inserting in place thereof the following section:-

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

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

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

(c) 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 parental leave; provided, however, that 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.

(d) 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 incidental to the employment position; provided, however, that the parental leave shall not be included, when applicable, in the computation of the benefits, rights and advantages; and provided, further, that the employer need not provide for the cost of any benefits, plans, or programs during the parental leave unless such employer so provides for all employees who are on leave of absence. 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.

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

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

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