

HOUSE No. 1683

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy

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 the creation of a paid family and medical leave advisory board.

PETITION OF:

NAME:

Jeffrey N. Roy

DISTRICT/ADDRESS:

10th Norfolk

HOUSE No. 1683

By Mr. Roy of Franklin, a petition (accompanied by bill, House, No. 1683) of Jeffrey N. Roy for legislation to establish an advisory council on paid family and medical leave. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to the creation of a paid family and medical leave advisory board.

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. The General Laws, as appearing in the 2016 are hereby amended by adding,
2 after Chapter 23M, the following new section:

3 Chapter 23N.

4 Section 1. (a) There is hereby established an advisory council on paid family and medical
5 leave in this chapter and in chapter one hundred and seventy-five M, called the advisory council,
6 with members to be appointed by the Governor. The voting membership of said council shall be
7 composed of ten members in total with four members representing employers and providers of
8 paid family and medical leave in the commonwealth, at least one of whom shall represent
9 manufacturing classifications, at least one of whom shall represent the retail industry, at least one
10 of whom shall represent contracting classifications, and one of whom shall represent the staffing
11 industry and four members representing employees, at least one of whom shall represent a
12 private sector union, one of whom shall represent a public sector union, one of whom shall

13 represent a community based organization, and one of whom shall have knowledge and
14 experience with the temporary disability insurance system”. At least one employer
15 representative shall be from a list of nominees provided by Associated Industries of
16 Massachusetts. At least one employee representative shall be from a list of nominees provided by
17 Raise Up Massachusetts. The Governor shall also appoint two members representing the public
18 provided the public members have appropriate knowledge and familiarity of paid family and
19 medical leave law and practices in the workplace.

20 The Governor shall also appoint one member representing the temporary disability
21 insurance industry, 2 attorneys specializing in employment and/or labor law, with one having a
22 practice representing employees and one having a practice representing employers, and one
23 member who is self-employed, none of whom shall be voting members.

24 The secretary of labor and workforce development and the secretary of housing and
25 economic development shall be ex officio, nonvoting members. Any person appointed to fill a
26 vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the
27 unexpired portion of such term.

28 (b) In appointing initial members to the Advisory Council, the Governor shall appoint
29 one employer and one employee member for a period of two years, one from each group for a
30 period of three years, one from each group for a period of four years and one for each group for a
31 period of five years. The two public members shall be appointed for a period of three years.
32 After the initial appointment, each appointee shall be eligible to be reappointed for one term of
33 five years. Members shall be eligible for no more than an initial appointment and one
34 reappointment. In appointing council members, the Governor must seek to appoint members

35 reflecting the widest representational diversity possible consistent with the demographics of the
36 commonwealth.

37 Seven members shall constitute a quorum for purposes of holding a meeting and voting.
38 No formal action or position shall be taken by the council without the affirmative vote of at least
39 seven members. All members of the advisory council shall serve without compensation and at
40 the pleasure of the Governor. The advisory council shall meet no less than quarterly during each
41 calendar year.

42 Meetings of the advisory council shall be called by the chair or upon written petition by a
43 majority of voting members. Such meetings shall be subject to section 11A1/2 of chapter 30A.
44 The secretary of labor and workforce development or designee, the chair of the commonwealth
45 employment relations board, and the director of the department shall serve as ex-officio non-
46 voting members of the advisory council.

47 Extraordinary meetings of said advisory council may also be called by the chairman and
48 vice chairman, jointly or upon petition by a majority of voting members. Such meetings shall be
49 subject to the provisions of section 11 1/2 of chapter 30A. Said advisory council shall take no
50 action pursuant to its authority under this chapter or said chapter one hundred and seventy-five
51 unless a quorum of its voting members is present.

52 Meetings may be held more frequently at the joint request of the chair and vice chair of
53 the council, provided they give all members at least 30 days notice of any extraordinary meeting
54 and its purpose or of their intention to regularly hold meetings more frequently.

55 (c) The governor shall, from time to time, designate one of the council members as chair
56 of the advisory council. The chair shall serve for no more than 2 years, and the position shall

57 rotate among employee, employer, and public members. No member of the advisory council
58 shall be subject to chapter 31. Such appointees shall not succeed themselves as chairman or vice-
59 chairman.

60 Members shall receive their traveling and other necessary expenses incurred in the
61 performance of their duties.

62 Section 2. The advisory council shall appoint such personnel as are reasonable and
63 necessary for the proper discharge of its duties, subject to the approval of the secretary of labor
64 and workforce development. The staff of the advisory council shall be funded from
65 administrative cost monies collected for the Family and Employment Security Trust Fund in
66 accordance with the provisions of section 7 of said chapter one hundred and seventy-five M. The
67 advisory council may expend for personnel and office expenses funds appropriated to the
68 department for that purpose.

69 The director shall provide for the advisory council suitable meeting space and such
70 clerical and other administrative assistance as the director and the council may deem necessary.

71 Section 3. The advisory council shall monitor, recommend, give testimony, and report on
72 all aspects of the Paid Family and Medical Leave system, except for the adjudication of
73 particular claims or complaints. Its powers include the issuance of reports, recommendations for
74 legislation, policies and programs, the conducting of research, the collecting of data from public
75 and private sources, and powers granted under the provisions of chapter one hundred and
76 seventy-five M to oversee the operation and implementation of the law.

77 The advisory council shall report at least annually in writing by no later than 90 days
78 following the last day of the fiscal year of the commonwealth to the secretary of labor and

79 workforce development on the state of the Paid Family and Medical Leave system, and shall
80 cause a copy of such report to be filed with the clerks of the house and senate of the general court
81 who shall send copies of such report to the joint committee on commerce and labor and the
82 house and senate committees on ways and means. The report shall include an evaluation of the
83 operations of the department along with recommendations for improving the paid family and
84 medical leave system.

85 Said advisory council shall also review the annual operating budget of the department, as
86 prepared by the director and as submitted to the secretary of labor and workforce development.
87 Upon the affirmative vote of at least seven voting members, the advisory council may submit its
88 own recommendation for the total operating budget to the secretary of labor and workforce
89 development.

90 The agency shall cooperate fully with all reasonable written requests for information and
91 documentation from the advisory council requested in pursuit of its established duties.

92 No later than five years after the establishment of the advisory council, it shall make an
93 investigation and study as to the costs and benefits associated with the regulations implementing
94 the insurance options pursuant to Section 11, to ensure completeness of coverage and
95 competitiveness in pricing.

96 The advisory council may expend, for the legal, actuarial, research, clerical, and other
97 expenses involved in the completion of such investigations and studies, such sums as may be
98 appropriated therefor subject to the administrative oversight of the Executive Office of Labor
99 and Workforce Development.

100 Said council shall file the results of its investigations and studies, and its
101 recommendations, if any, together with any drafts of legislation necessary to carry its
102 recommendations into effect with the governor and with the clerks of the house and senate of the
103 general court at the end of each fiscal year.

104 Section 4. Upon the creation of formal appeal and review process into an appeals board
105 for resolving claims by the Department of Family and Medical Leave, the advisory council shall
106 serve as the nominating panel for the appointment of any members to the appeals board. Before
107 any submission of nominations for appointment or reappointment to the board of review by the
108 Governor, the advisory council shall review applications for such nominations and consider the
109 following factors:

110 (1) skills in fact-finding;

111 (2) demonstrated basic understanding of family and medical leave law and/or temporary
112 disability law; and

113 (3) a bachelor's degree, advanced degree or demonstrated writing ability as evidenced by
114 at least 4 years in positions in which writing skills are a major job responsibility.

115 Each review of an applicant shall be made based on the application, experience,
116 education and training of the applicant, writing samples, in-person interviews, and any other
117 information the panel may require. When the application is for reappointment, the panel shall
118 review, in addition to any other information, the performance since the candidate's appointment
119 including, but not limited to:

120 (1) three decisions written and selected by the applicant;

121 (2) where applicable, the total number of cases decided by the applicant heard by an
122 appellate body, and the number of those cases which were remanded for further proceedings;

123 (3) any decisions of an appellate body which specifically reference the candidate's
124 demeanor or temperament;

125 (4) at the discretion of the director, written complaints from organizations that appear
126 before the appeals process, to the director regarding the candidate's demeanor or temperament;
127 and

128 (5) evidence of any demonstrable bias against particular parties, organizations or
129 attorneys.

130 The advisory council shall rate the candidate as highly qualified, qualified or unqualified.

131 If appropriate or requested, any information regarding a candidate compiled by the state
132 advisory council or the director shall be forwarded to the governor prior to the Governor
133 selecting an applicant.