

HOUSE No. 4557

The Commonwealth of Massachusetts

PRESENTED BY:

Jamie Zahlaway Belsito and Joan B. Lovely

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 paid pregnancy loss leave.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jamie Zahlaway Belsito</i>	<i>4th Essex</i>	<i>2/18/2022</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/18/2022</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>4/6/2022</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>4/6/2022</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>4/7/2022</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>4/7/2022</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>4/8/2022</i>
<i>Jeffrey Rosario Turco</i>	<i>19th Suffolk</i>	<i>4/11/2022</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>4/12/2022</i>

HOUSE No. 4557

By Representative Belsito of Topsfield and Senator Lovely, a joint petition (subject to Joint Rule 12) of Jamie Zahlaway Belsito and Joan B. Lovely for legislation to establish a paid pregnancy loss leave program for employers to provide three days of paid leave to certain workers experiencing a pregnancy loss. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to paid pregnancy loss 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 175M of the General Laws is hereby amended by adding the
2 following section:-

3 Section 12. (a) As used in this section the following terms shall, unless the context clearly
4 requires otherwise, have the following meanings:

5 “Assisted reproductive technology procedure”, as defined in 42 U.S.C. 263a-7.

6 “Covered employer”, any individual, corporation, partnership or other private or public
7 entity, including any agent thereof, who engages the services of an employee for wages,
8 remuneration or other compensation for each working day during each of 20 or more calendar
9 workweeks in the current or preceding year; provided, that covered employer shall include any
10 person who acts, directly or indirectly, in the interest of a covered employer to any of the
11 employees of such covered employer and any successor in interest of a covered employer.

12 “Domestic partner”, (1) the person recognized as the domestic partner of an unmarried
13 employee under any domestic partnership or civil union law of a state or political subdivision of
14 a state; or (2) an unmarried, adult person who is in a committed, personal relationship with the
15 employee, who is not in such a relationship with any other person and who is designated to the
16 employee’s employer by such employee as that employee’s domestic partner.

17 “Employee”, any person whose primary place of employment is in the commonwealth
18 and who performs services for an employer for wages, remuneration or other compensation,
19 including employees employed by the commonwealth, its departments, sub-divisions, quasi-
20 public agencies or a municipality, district, political subdivision or its instrumentalities.

21 “Employer”, (i) a covered employer; (ii) the commonwealth, its departments, sub-
22 divisions or quasi-public agencies; or (iii) a municipality, district, political subdivision or its
23 instrumentalities; provided, however, that the United States government shall not be considered
24 an “employer”.

25 “Employment benefits”, all benefits provided or made available to employees by an
26 employer, including, but not limited to, group life insurance, health insurance, disability
27 insurance, sick leave, annual or vacation leave, educational benefits and pensions.

28 “Paid pregnancy loss leave”, paid time-off that is compensated by an employer at the
29 employee’s regular rate of pay, and with the same employment benefits to which the employee is
30 entitled from such employer as a term of the employee’s employment, for the purposes described
31 in subsection (c); provided, however, that in no case shall the employee’s hourly compensation
32 be less than that provided under section 1 of chapter 151.

33 “Spouse”, a person who is married to the employee.

34 (b)(1) An employer shall grant to each employee employed by the employer 24 hours of
35 paid pregnancy loss leave on the employee's first workday of each calendar year. The employee
36 shall use the paid pregnancy loss leave as needed during that calendar year for the purposes
37 described in subsection (c). The employee shall be compensated by the employer while
38 maintaining the same employment benefits to which the employee is entitled as a term of
39 employment by an employer to an employee.

40 (2) Paid pregnancy loss leave granted pursuant to this section shall not carry over from 1
41 year to the next.

42 (3) Any employer with a paid pregnancy loss leave policy who makes available an
43 amount of paid pregnancy loss leave that is sufficient to meet the requirements of this section
44 and that is made available for all stated reasons and under all stated conditions that are the same
45 as the purposes and conditions outlined in subsection (c) shall not be required to grant an
46 employee additional paid pregnancy loss leave under this section.

47 (4) Nothing in this section shall be construed as requiring financial or other
48 reimbursement to an employee from an employer upon the employee's termination, resignation,
49 retirement or other separation from employment for granted paid pregnancy loss leave that has
50 not been used.

51 (5) An employer may not require, as a condition of providing paid pregnancy loss leave
52 pursuant to this section, that the employee involved search for or find a replacement employee to
53 cover the hours during which the employee is using paid pregnancy loss leave.

54 (c) Paid pregnancy loss leave granted pursuant to this section may be used by an
55 employee for:

- 56 (1) An absence resulting from any of the following:
- 57 (i) a pregnancy loss;
- 58 (ii) an unsuccessful round of intrauterine insemination or of an assisted reproductive
59 technology procedure;
- 60 (iii) a failed adoption match or an adoption that is not finalized because it is contested by
61 another party;
- 62 (iv) a failed surrogacy arrangement; or
- 63 (v) a diagnosis or event that impacts pregnancy or fertility.
- 64 (2) An absence to care for a spouse or domestic partner who experiences a circumstance
65 described in paragraph (1).
- 66 (d) Paid pregnancy loss leave shall be provided upon the oral or written request of an
67 employee. The request shall include the expected duration of the period of the time and be
68 provided as soon as practicable after the employee is aware of the need for the period.
- 69 (e)(1) The department shall reimburse a covered employer that who engages the services
70 of 1 to 5 employees for each working day during each of 20 or more calendar workweeks in the
71 current or preceding year for 100 per cent of the wages paid by the covered employer to an
72 employee for the employee's paid pregnancy loss leave.
- 73 (2) The department shall reimburse a covered employer that who engages the services of
74 6 to 20 employees for each working day during each of 20 or more calendar workweeks in the

75 current or preceding year for 75 per cent of the wages paid by the covered employer to an
76 employee for the employee's paid pregnancy loss leave.

77 (3) The department shall reimburse a covered employer that who engages the services of
78 21 to 50 employees for each working day during each of 20 or more calendar workweeks in the
79 current or preceding year for 50 per cent of the wages paid by the covered employer to an
80 employee for the employee's paid pregnancy loss leave.

81 (4) An employer eligible for reimbursement under this subsection shall apply for
82 reimbursement in a form to be prescribed by the department. No employer shall require an
83 employee to submit information to the department related to the employee's paid pregnancy loss
84 leave.

85 (f)(1) The executive office of labor and workforce development, in consultation with the
86 executive office for administration and finance, shall prepare and provide to employers notice of
87 this section in English and in other languages required under clause (iii) of subsection (d) of
88 section 62A of chapter 151A. Employers shall post this notice in a conspicuous location
89 accessible to employees in every establishment where employees with rights under this section
90 work and shall provide a copy to their employees; provided, however, that in cases where the
91 employer does not maintain a physical workplace, or an employee teleworks or performs work
92 through a web-based platform, notification shall be sent via electronic communication or a
93 conspicuous posting in the web-based platform.

94 (2) Any employer who willfully violates the posting requirements of this subsection shall
95 be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

96 (g) Nothing in this section shall be construed to state or imply that the scope of the
97 activities prohibited by section 105 of the Family and Medical Leave Act of 1993, codified as 29
98 U.S.C. 2615, or the Civil Rights Act of 1964, 42 U.S.C. 2000a et seq., is less than the scope of
99 the activities prohibited by this section or is otherwise altered by the activities prohibited by this
100 section.

101 (h) (1) It shall be unlawful for any employer to interfere with, restrain or deny an
102 employee's ability to take paid pregnancy loss leave, including, but not limited to, using an
103 employee's taking of paid pregnancy loss leave as a negative factor in any employment action,
104 such as an evaluation, promotion, disciplinary action or termination, or otherwise subjecting an
105 employee to discipline or taking any other adverse action against an employee for the use of paid
106 pregnancy loss leave.

107 (2) It shall be unlawful for any employer to take any adverse action against an employee
108 because the employee opposes practices believed to be in violation of this section, or because the
109 employee supports the exercise of rights of another employee under this section, including, but
110 not limited to: (i) filing an action, or instituting or causing to be instituted any proceeding under
111 or related to this section; (ii) providing or intending to provide any information in connection
112 with any inquiry or proceeding related to this section; or (iii) testifying or intending to testify in
113 any inquiry or proceeding related to this section.

114 (i) Nothing in this section shall be construed to: (i) discourage employers, including the
115 commonwealth, its departments, sub-divisions or quasi-public agencies or a municipality,
116 district, political subdivision or its instrumentalities from adopting or retaining job-protected paid
117 time off policies that are more generous than policies mandated in this section; (ii) diminish or

118 impair the obligation of an employer to comply with any contract, collective bargaining
119 agreement or any employment benefit program or plan in effect on the effective date of this
120 section that provides to employees greater job-protected paid time off rights than the rights
121 established under this section; or (iii) pre-empt the power of a municipality, district, political
122 subdivision or its instrumentalities from adopting or retaining job-protected paid time off policies
123 consistent with or more generous than policies that comply with the requirements of this section.

124 (j) The executive office of labor and workforce development, in consultation with the
125 executive office for administration and finance and the executive office of health and human
126 services, shall develop and implement a multilingual outreach program to inform employers,
127 employees and health care providers about the availability of paid pregnancy loss leave.

128 (k) The secretary for labor and workforce development, or any department or agency
129 thereof designated by the secretary, may promulgate regulations or other guidance necessary for
130 the implementation of this section.

131 SECTION 2. The executive office of labor and workforce development, in consultation
132 with the executive office for administration and finance, shall prepare and provide to employers
133 the notice described in paragraph (1) of subsection (f) of section 12 of chapter 175M of the
134 General Laws not later than 7 days after the effective date of this act.