

SENATE No. 1863

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 clarifying parental rights to unpaid leave .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patricia D. Jehlen</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>William N. Brownsberger</i>	
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Sonia Chang-Diaz</i>	
<i>Cynthia S. Creem</i>	
<i>James B. Eldridge</i>	
<i>Susan C. Fargo</i>	
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Thomas M. McGee</i>	<i>Third Essex and Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Karen E. Spilka</i>	
<i>Ellen Story</i>	<i>3rd Hampshire</i>

SENATE No. 1863

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1863) of Patricia D. Jehlen, Denise Andrews, William N. Brownsberger, Christine E. Canavan and other members of the General Court for legislation to clarify parental rights for unpaid leave. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act clarifying parental rights to unpaid 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 105D of chapter 149 of the General Laws is amended by
2 striking out section 105D and inserting in place thereof the following section:-

3 Section 105D. (a) Any full-time or part-time employee who has completed the
4 initial probationary period, not to exceed six months or, if there is no such probationary period,
5 has been employed by the same employer for at least three consecutive months as an employee,
6 shall be entitled to eight weeks of parental leave for the birth of the child of the employee, for the
7 purpose of giving birth or adopting a child, or for the birth, placement or arrival of a child under
8 the age of eighteen, or a child under the age of twenty-three if the child is mentally or physically
9 disabled, into the employee’s household whom the employee intends to adopt or for whom the
10 employee will serve as in loco parentis. The employee shall give at least two weeks’ notice to
11 the employer of the anticipated date of departure and intention to return, as soon as both possible
12 and practicable taking into account the facts and circumstances of the individual’s situation. The

13 employee shall be restored to the employee's previous, or a similar, position with the same
14 status, pay, length of service credit and seniority, wherever applicable, as of the date of the leave.
15 At the discretion of the employer, said parental leave may be with or without pay. If the
16 employer agrees to provide parenting leave for a period of time that exceeds eight weeks, the
17 employer may not deny the employee the rights under this section unless the employer clearly
18 informs the employee in writing prior to the commencement of the parenting leave and prior to
19 any subsequent extension of said leave that taking more than eight weeks of leave will result in
20 the denial of reinstatement or other rights and benefits.

21 (b) Such employer shall not be required to restore an employee on parental
22 leave to the employee's previous or a similar position if other employees of equal length of
23 service credit and status in the same or similar position have been laid off due to economic
24 conditions or other changes in operating conditions affecting employment during the period of
25 such parental leave; provided, however, that such employee on parental leave shall retain any
26 preferential consideration for another position to which the employee may be entitled as of the
27 date of her leave.

28 (c) Such parental leave shall not affect the employee's right to receive vacation
29 time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or
30 programs for which the employee was eligible at the date of the leave, and any other advantages
31 or rights of her employment incident to the employee's position; provided, however, that such
32 parental leave shall not be included, when applicable, in the computation of such benefits, rights,
33 and advantages; and provided, further, that the employer need not provide for the cost of any
34 benefits, plans, or programs during the period of parental leave unless such employer so provides
35 for other similarly situated employees on leave of absence. Nothing in this section shall be

36 construed to affect any bargaining agreement or company policy which provides for greater or
37 additional benefits than those required under this section.

38 (d) A notice of this provision shall be posted in every establishment in which
39 employees are employed.

40 (e) For the purposes of this section, an “employer” shall be defined as in
41 subsection 5 of section one of chapter one hundred and fifty-one B.

42 (f) For the purposes of this section, a “part time employee” shall be defined as
43 an employee who has been employed for at least 625 hours of service during the 6 month period
44 immediately preceding the leave.

45 (g) This section shall be construed liberally for the accomplishment of its
46 purpose which is to afford employees eight weeks parenting leave and the Massachusetts
47 Commission Against Discrimination shall have the authority to promulgate regulations to
48 effectuate these remedial purposes.

49 SECTION 2. Section 4 of chapter 151B is hereby amended by striking out
50 paragraph 11A and inserting in place thereof the following paragraph:

51 11A. For an employer, by itself or its agent, to refuse to restore certain
52 employees to employment following their absence by reason of a parental leave taken in
53 accordance with section one hundred and five D of chapter one hundred and forty-nine or to
54 otherwise fail to comply with the provisions of said section, or for the commonwealth and any of
55 its boards, departments and commissions to deny vacation credit to any employee for the fiscal

56 year during which said employee is absent due to a parental leave taken in accordance with said
57 section or to impose any other penalty as a result of a parental leave of absence.