

HOUSE No. 1816

The Commonwealth of Massachusetts

PRESENTED BY:

Robert M. Koczera

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 passage of the accompanying bill:

An Act providing unpaid family and medical leave.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Robert M. Koczera	11th Bristol
Christine E. Canavan	10th Plymouth
John V. Fernandes	10th Worcester
Cleon H. Turner	1st Barnstable

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3798 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROVIDING UNPAID FAMILY AND MEDICAL 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 2000 Official Edition, is hereby
2 amended by adding the following section:-

3 Section 105E.

4 (a) The following word shall have the following meaning, unless the context requires or specifically prescribes a
5 different meaning:-

6 “Employer”, any person in the Commonwealth engaged in commerce or in any industry or activity affecting
7 commerce who employs 35 or more employees for each working day during each of 20 or more calendar
8 workweeks in the year 2006 who employs 20 or more employees for each working day during each of 20 or more
9 calendar workweeks in the year 2007 and does not include the Commonwealth, its subdivisions, or any agencies,
10 commissions or authorities of the state.

11 (b) Except as otherwise provided by this section, an employer shall provide leave and be subject to the requirements
12 of sections 101 to 105, inclusive, of the Family and Medical Leave Act of 1993, 29 U.S.C. sections 2611 to 2615,
13 inclusive, as it may be amended.

14 (c) Nothing in this section shall be construed to affect any bargaining agreement or company policy which provides
15 employees with greater or additional benefits than those required by this section.

16 (d) Nothing in this section shall be construed to limit or diminish and employee’s rights under chapter 152.

17 (e) (1) Subject to paragraph (2), during the period any employee takes leave under this section, the employer shall
18 offer to maintain group health benefits under the conditions that applied immediately before the leave began. (2)
19 During the leave period, the employer may require the employee to make the contribution normally paid by the
20 employee for health benefits.

21 (f) No employee shall be penalized by any employer in any way as a result of any action on the part of the employee
22 to seek his or her rights under the provisions of this section. It shall be unlawful for any person to discharge or in
23 any other manner discriminate against any individual because such individual:-

24 (1) has filed any charge, or has instituted or cause to be instituted any proceeding, under or related to this section;

25 (2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right
26 provided under this section; or

27 (3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this section.

28 (g) In the event an employee believes an employer has violated subsection (f), such employee shall have available
29 tat law or equity, the remedies provided under sections 148 to 150, inclusive, of chapter 149. The attorney general
30 shall enforce this section under the authority provided in chapter 149.

31 (h) Each employer shall post, in one or more conspicuous places where he or she customarily posts notices to
32 employees, a notice in a form approved by the department setting forth employees' rights under this section. Any
33 employer who violates this subsection shall be subject to a fine of not more than one hundred dollars for each
34 offense. Each day that any employer fails to post the prescribed notice shall constitute a separate offense.