

SENATE No. 33

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

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 relative to parental leave.

PETITION OF:

NAME:

Brian A. Joyce

DISTRICT/ADDRESS:

Norfolk, Bristol and Plymouth

SENATE No. 33

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 33) of Brian A. Joyce for legislation relative to parental leave. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE

SENATE
 , NO. 48 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:

1 SECTION 1. Section 1 of chapter 149 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out, in lines 31 and 32, the words “one hundred
3 and five A to one hundred and five C” and inserting in place thereof the following words:- 105A
4 to 105D.

5 SECTION 2. Said chapter 149 is hereby further amended by striking out section 105D, as
6 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

7 Section 105D. (1) For the purposes of this section, an “employer” shall be defined as in
8 subsection 5 of section 1 of chapter 151B.

9 (2) An employee shall be restored to the employee’s previous, or a similar, position with
10 the same status, pay, length of service credit and seniority, wherever applicable, as of the date of
11 the leave if the employee meets all of the following requirements:

12 (a) The employee has completed the initial probationary period set by the terms of
13 employment or, if there is no probationary period, has been employed by the same employer for
14 at least 3 consecutive months as a full-time employee;

15 (b) The employee has been absent from that employment for a period not exceeding 8
16 weeks, deemed parental leave, for the purpose of:

17 (i) giving birth; or

18 (ii) adopting a child under the age of 18;

19 (iii) adopting a child under the age of 23 if the child is mentally or physically disabled; or

20 (iv) becoming the primary caregiver of a child born or adopted in the previous 12-
21 months.

22 (c) The employee gave at least 2 weeks' notice to the employer of the anticipated date of
23 departure and the intention to return.

24 (3) The parental leave may be with or without pay at the discretion of the employer.

25 (4) The employer shall not be required to restore an employee on parental leave to the
26 previous or a similar position if other employees of equal length of service, credit and status in
27 the same or similar position have been laid off due to economic conditions or other changes in
28 operating conditions affecting employment during the period of the parental leave. However, the
29 employee on parental leave shall retain any preferential consideration for another position to
30 which the employee may be entitled as of the date of the leave.

31 (5) The parental leave shall not affect the employee's right to receive vacation time, sick
32 leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for
33 which the employee was eligible at the date of the leave, and any other advantages or rights of
34 employment incident to the position. When applicable, the parental leave shall not be included
35 in the computation of the benefits, rights, and advantages. The employer need not provide for the
36 cost of any benefits, plans, or programs during the period of parental leave, unless the employer
37 so provides for all employees on leave of absence.

38 (6) Nothing in this section shall be construed to affect any bargaining agreement or
39 company policy which provides for greater or additional benefits than those required under this
40 section.

41 (7) The employer shall post notice of the provisions of this section in a conspicuous place
42 where employees may view the notice.

43 SECTION 3. Within 90 days after the effective date of this act, the secretary of the
44 executive office of labor and workforce development shall promulgate regulations necessary to
45 implement the requirements of this act.