

**HOUSE . . . . . No. 3134**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Antonio F. D. Cabral***

*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 to establish paid family leave.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>



**HOUSE . . . . . No. 3134**

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 3134) of Antonio F. D. Cabral and others for legislation to further regulate paid family leave. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

An Act to establish paid family 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. The General Laws are amended by inserting after chapter 175J the  
2 following chapter:-

3 CHAPTER 175K

4 PAID FAMILY LEAVE ACT

5 Section 1. Short Title. This chapter shall be known and may be cited as the  
6 “Massachusetts Paid Family Leave Act”.

7 Section 2. Definitions. In this chapter—

8 (a) the term “base period” has the same meaning as provided by section 1(a) of  
9 chapter 151A;

- 10           (b)     the term “benefit year” has the same meaning as provided by section 1(c) of  
11 chapter 151A;
- 12           (c)     the term “child” has the same meaning as provided by the federal Family Medical  
13 Leave Act;
- 14           (d)     the term “commission” means the Massachusetts commission against  
15 discrimination, as established by section 56 of chapter 6;
- 16           (e)     the term “contributions” means the payments made to the family and employment  
17 security trust fund and administrative account, as required by this chapter;
- 18           (f)     the term “dependent” means an unemancipated child, as provided by section 29(c)  
19 of chapter 151A;
- 20           (g)     the term “director” means the director of the Massachusetts family and medical  
21 leave program;
- 22           (h)     the term “disability benefits” means cash payments made to a covered employee  
23 pursuant to section 3 of this chapter;
- 24           (i)     the term “division” means the Massachusetts division of family and medical leave  
25 as established by subsection 8 of section 3 of this chapter;
- 26           (j)     the term “employee” has the same meaning as provided by section 1(h) of chapter  
27 151A;
- 28           (k)     the term “employer” has the same meaning as provided by section 1(i) of  
29 chapter 151A;

30 (l) the term “employment” has the same meaning as provided by section 1(k) of  
31 chapter 151A;

32 (m) the term “employment benefits” means all benefits provided or made available to  
33 employees by an employer, including group life insurance, health insurance, disability insurance,  
34 sick leave, annual or vacation leave, educational benefits, and pensions;

35 (n) the term “family and medical leave act” means the Federal Family and Medical  
36 Leave Act of 1993, 29 U.S.C. § 2611;

37 (o) the term “family member” means the spouse, child, parent, parent of spouse,  
38 grandparent, or grandchild of an individual seeking leave or disability benefits under this  
39 chapter;

40 (p) the term “family temporary disability benefits” means disability benefits provided  
41 pursuant to section 3 of this chapter to a covered employee who is on leave from or who has left  
42 his employment because he is caring for a family member by reason of—

43 (1) the birth of a child of the employee;

44 (2) the placement of a child with the employee for adoption or foster care; or

45 (3) a serious health condition of a family member of the employee;

46 (q) the term “family temporary disability leave” means leave taken by a covered  
47 employee from employment to provide care for a family member by reason of—

48 (1) the birth of a child of the employee;

49 (2) the placement of a child with the employee for adoption or foster care; or

50 (3) a serious health condition of a family member of the employee;

51 (r) the term “health care provider” means a person licensed to practice medicine,  
52 surgery, dentistry, chiropractic, podiatry, or osteopathy, or any other person determined by the  
53 division to be capable of providing health care services;

54 (s) the term “individual average weekly wage” has the same meaning as “average  
55 weekly wage” as defined in section 1(w) of chapter 151A and shall be calculated using the base  
56 period earnings as defined by section 1(a) of chapter 151A;

57 (t) the term “serious health condition” means an illness, injury, impairment, or  
58 physical or mental condition that involves either—

59 (1) inpatient care in a hospital, hospice, or residential medical facility; or

60 (2) continuing treatment by a health care provider;

61 (u) the term “state average weekly wage” means the average weekly wage as  
62 determined by the division of employment and training pursuant to section 29(a) of chapter  
63 151A;

64 (v) the term “temporary disability benefits” means disability benefits provided  
65 pursuant to section 3 of this chapter to a covered employee who is on a leave from or who has  
66 left his employment because of a serious health condition of the employee that makes him or her  
67 unable to perform the functions of his position;

68 (w) the term “temporary disability leave” means leave taken by a covered employee  
69 from employment because of a serious health condition of the employee that makes him or her  
70 unable to perform the functions of his position;

71 (x) the term “wages” means all remuneration as defined in section 1(s) of chapter  
72 151A; and

73 (y) the term “weekly benefit amount” means the amount of disability benefits paid to  
74 a covered employee on a weekly basis, as provided by section 3, subsection 3, of this chapter.

75 Section 3. Temporary Disability Leave and Family Temporary Disability Leave.

76 (a) Types of Eligibility.

77 (1) Eligibility for Temporary Disability Leave. Beginning on the effective date of this  
78 Act, and for one year thereafter, an employee is eligible for temporary disability leave if the  
79 employee has accrued at least 1,250 hours of service for any employer in the Commonwealth and  
80 has been employed for nine months, whichever occurs later, starting from the effective date of  
81 this act. No benefit shall be paid during the first nine months of the effective date of this act,  
82 regardless of the service time of any claimant. Beginning on the one-year anniversary of the  
83 effective date of this Act, and for one year thereafter, an employee is eligible for temporary  
84 disability leave if he has met the monetary eligibility requirements set forth in section 24(a) of  
85 chapter 151A.

86 (2) Eligibility for Family Temporary Disability Leave. Beginning on the effective date of  
87 this Act, and for one year thereafter, an employee is eligible for temporary disability leave or  
88 family care leave if the employee has accrued at least 1,250 hours of service for any employer in  
89 the Commonwealth and has been employed for nine months, whichever occurs later, starting  
90 from the effective date of this act. No benefit shall be paid during the first nine months of the  
91 effective date of this act, regardless of the service time of any claimant. Beginning on the one-  
92 year anniversary of the effective date of this Act, and for one year thereafter, an employee is

93 eligible for temporary disability leave or family care leave if he has met the monetary eligibility  
94 requirements set forth in section 24(a) of chapter 151A.

95 (b) Length and Timing of Leave.

96 (1) Length. The duration of temporary disability leave or family temporary disability  
97 leave shall be limited to any of the following maximum amounts of time during any 12-month  
98 period:

99 (i) 12 weeks on a full-time basis.

100 (ii) The equivalent of 12 weeks on a full-time basis, where the employee takes leave on a  
101 part-time basis.

102 (iii) A combination of full-time and part-time leave as set forth in clauses (i) and (ii);  
103 provided that such leave shall not exceed the equivalent of 12 weeks on a full-time basis.

104 (2) Timing. In the case of family temporary disability leave taken because of the birth  
105 of a child of the employee, or the placement of a child with the employee for adoption or foster  
106 care, the entitlement to leave shall expire at the end of the 12-month period beginning on the date  
107 of the birth or placement.

108 (c) Certification. An employer may require that a request for temporary disability  
109 leave or family temporary disability leave be supported by a certification of the need for leave.

110 The certification shall be sufficient if it meets the criteria set forth in section 7.

111 (d) Reinstatement and Employment Benefits.



112           (1)     An employer shall restore an employee who has taken temporary disability leave  
113 or family temporary disability leave pursuant to this chapter to the employee's previous position,  
114 or to a substantially similar position with the same status, pay, employment benefits, length of  
115 service credit, and seniority as of the date of leave.

116           (2)     An employer shall not be required to restore an employee who has taken  
117 temporary disability leave or family temporary disability leave to the previous or to a  
118 substantially similar position if other employees of equal length of service credit and status in the  
119 same or substantially similar positions have been laid off due to economic conditions or other  
120 changes in operating conditions affecting employment during the period of leave; provided,  
121 however, that the employee who has taken leave shall retain any preferential consideration for  
122 another position to which he was entitled as of the date of leave.

123           (3)     Taking of temporary disability leave shall not affect an employee's right to  
124 receive accrued vacation time, sick leave, bonuses, advancement, seniority, length of service  
125 credit, employment benefits, plans or programs for which he was eligible at the date of the  
126 employee's leave, and any other rights incident to the employee's employment.

127           (4)     Employers may require employees taking family temporary disability leave to use  
128 up to 2 weeks of accrued vacation time prior to taking said leave.

129           (5)     During the duration of an employee's temporary disability leave or family  
130 temporary disability leave, the employer shall continue to provide for and contribute to the  
131 employee's employment-related health insurance benefits, if any, under the same terms and  
132 conditions as those existing prior to leave.

133           (6)     Nothing in this chapter shall be construed so as to affect any bargaining  
134 agreement, company policy, or other federal, state, or municipal law which provides for greater  
135 or additional rights to leave than those provided for by this section.

136           Section 4.     Notice Requirements.

137           (a)     Where an employee intends to take family temporary disability leave because of  
138 the birth of a child of the employee, or the placement of a child with the employee for adoption  
139 or foster care, and where the need for leave is foreseeable, the employee shall notify the  
140 employer of the intended leave at least 30 days prior to the date that the leave is to begin, except  
141 that if the date of the birth or placement requires leave to begin in less than 30 days, the  
142 employee shall provide such notice as is practicable.

143           (b)     Where an employee intends to take temporary disability leave or family  
144 temporary disability leave because of a serious health condition of the employee or of a family  
145 member of the employee, and where the need for leave is foreseeable based on planned medical  
146 treatment, the employee shall notify the employer of the intended leave at least 30 days prior to  
147 the date that the leave is to begin, except that if the date of the treatment requires leave to begin  
148 in less than 30 days, the employee shall provide such notice as is practicable.

149           (c)     The notice required under this subsection shall consist of the anticipated starting  
150 date of the leave, the length of the leave, and the expected date of return.

151           (d)     Where an employer fails to provide notice of the provisions of this chapter as  
152 required under section 17, the employee's notice requirement shall be waived.

153           Section 5.     Unlawful Practices.

154 (a) It shall be unlawful for any employer to retaliate by discharging, firing,  
155 suspending, expelling, disciplining or in any other manner discriminating against an employee—

156 (1) for exercising any right to which such employee is entitled under this section or  
157 with the purpose of interfering with the exercise of any right to which such employee is entitled  
158 under this section; or

159 (2) who has filed a complaint or instituted or caused to be instituted a proceeding  
160 under or related to this section, has testified or is about to testify in an inquiry or proceeding, or  
161 has given or is about to give information connected to any inquiry or proceeding relating to this  
162 section.

163 (b) Any negative change in the seniority, status, employment benefits, pay, or other  
164 terms or conditions of employment of an employee who has been restored to a position pursuant  
165 to this section that occurs within 6 months of such restoration, or of an employee who has  
166 participated in proceedings or inquiries pursuant to this section within 6 months of the  
167 termination of proceedings shall be presumed to be retaliation under this section.

168 (c) Administrative Enforcement. The commission shall be responsible for the  
169 interpretation and enforcement of this section and may promulgate rules and regulations to carry  
170 out the provisions of this chapter.

171 (d) Enforcement and Relief. Enforcement of this section and relief for violations of  
172 this section shall be governed by the procedures set forth in sections 5 through 9 of chapter  
173 151B.

174 (e) Establishment Temporary Disability Benefits and Family Temporary Disability  
175 Benefits.

176 (1) An otherwise eligible employee who is on leave from employment or who has left  
177 employment because said employee is ineligible or is no longer eligible for a leave shall be  
178 entitled to receive temporary disability benefits or family temporary disability benefits in the  
179 amount and manner provided by this section and according to regulations promulgated by the  
180 division.

181 (2) Eligibility.

182 (i) An employee is eligible to receive temporary disability benefits if he has met the  
183 monetary eligibility requirements set forth in section 24(a) of chapter 151A.

184 (ii) An employee is eligible to receive family temporary disability benefits if he has met  
185 the monetary eligibility requirements set forth in section 24(a) of chapter 151A and is employed  
186 by an employer who employs at least eleven employees, as defined by subsection (d)(4) of  
187 section 148 of chapter 149.

188 Section 6. Amount and Duration of Disability Benefits.

189 (a) Weekly Benefits. For an employee who takes leave—

190 (1) on a full-time basis, the weekly benefit amount shall be equal to 60 per cent of the  
191 eligible individual's weekly wage up to a maximum of \$1,000 per week. Commencing January  
192 1, 2018, the division shall adjust annually the maximum weekly benefit amount to reflect  
193 changes in the United States Bureau of Labor Statistics Consumer Price Index for the Boston-

194 Cambridge-Quincy consolidated metropolitan statistical area for all urban consumers, all goods,  
195 or its successor index; and

196 (2) on a part-time basis, the weekly benefit amount shall be prorated.

197 (b) Duration of Disability Benefits.

198 (1) Temporary Disability Benefits. The duration of temporary disability benefits shall  
199 not exceed 26 weeks during the benefit year.

200 (2) Family Temporary Disability Benefits. The duration of family temporary  
201 disability benefits shall not exceed 12 weeks during the benefit year.

202 (c) Waiting Period.

203 (1) No disability benefits shall be paid during the first 7 consecutive days of any  
204 claim for temporary disability benefits. This waiting period shall not apply to claims for family  
205 temporary disability benefits.

206 (2) This section does not in any way prohibit an employee from utilizing, at the  
207 employee's option, accrued sick or vacation pay during the first 7 consecutive days of the  
208 employee's claim for temporary disability benefits.

209 Section 7. Certification Requirements.

210 (a) If required by an employer, pursuant to section 3(c), an employee who makes a  
211 claim for temporary disability benefits shall provide a certification issued by the employee's  
212 health care provider. The certification shall be sufficient if it states the date on which the serious  
213 health condition commenced, the probable duration of the condition, the appropriate medical

214 facts within the knowledge of the health care provider as required by the division, and a  
215 statement that the employee is unable to perform the functions of his position.

216 (b) If required by an employer, pursuant to section 3(c), an employee who makes a  
217 claim for family temporary disability benefits because of—

218 (1) the serious health condition of a family member of the employee shall provide a  
219 certification issued by the family member's health care provider. The certification shall be  
220 sufficient if it states the date on which the serious health condition commenced, the probable  
221 duration of the condition, the appropriate medical facts within the knowledge of the health care  
222 provider as required by the division, a statement that the employee is needed to care for the  
223 family member, and an estimate of the amount of time that the employee is needed to care for the  
224 family member;

225 (2) the birth of a child of the employee shall provide either a birth certificate or a  
226 certification issued by the health care provider of the child of the eligible employee. The  
227 certification shall be sufficient if it states the date of the child's birth;

228 (3) the placement of a child with the employee for adoption or foster care shall  
229 provide a certification issued by the health care provider of the child, an adoption or foster care  
230 agency involved in the placement, or by other persons as determined by the division. The  
231 certification shall be sufficient if it states the date of placement; and

232 (4) the placement with the employee for adoption or foster care of a child 18 years of  
233 age or older and incapable of self-care because of a mental or physical disability shall, in  
234 addition to the certification required by paragraph (3), also provide a certification issued by the  
235 health care provider of the child, or by other persons as determined by the division. The

236 certification shall be sufficient if it states the nature of the disability and fact that the child is  
237 incapable of self-care.

238 (c) Ineligibility Determination. An individual shall not be eligible to receive  
239 disability benefits if the deputy director finds that the individual, for the purpose of obtaining  
240 disability benefits, has willfully made a false statement or representation, with actual knowledge  
241 of the falsity thereof, or has willfully withheld a material fact concerning the facts required to be  
242 certified pursuant to this subsection.

243 Section 8. Wages and Other Forms of Wage Replacement.

244 (a) No individual may receive disability benefits under this section for a week in  
245 which the individual receives an amount equal to or greater than the weekly benefit amount in  
246 the form of wages or a wage replacement under—

247 (1) any government program or law, including but not limited to unemployment  
248 insurance, worker's compensation other than for permanent partial disability incurred prior to the  
249 temporary disability claim, or under other state or federal temporary or permanent disability  
250 benefits law;

251 (2) a permanent disability policy or program of an employer;

252 (3) a temporary disability policy or program of an employer; or

253 (4) a paid sick, vacation, family, or medical leave policy of an employer. For a week  
254 in which an individual receives wages or a wage replacement less than the weekly benefit  
255 amount, the individual shall receive disability benefits equal to the difference between the  
256 weekly benefit amount and the amount of wages or wage replacement received.

257 (b) Any wage replacement received under the programs or policies listed in  
258 subsection (a) and resulting from the same birth, adoption, or serious health condition on which  
259 the individual's claim for disability benefits is based shall be deducted from the total amount of  
260 disability benefits for which the individual would otherwise be eligible; provided that this  
261 paragraph shall not apply to wage replacement received as a result of a paid sick or vacation  
262 policy of an employer.

263 Section 9. Massachusetts Division of Family and Medical Leave.

264 There shall be a division of family and medical leave within the executive office of labor  
265 and workforce development which shall be administered by a director appointed by the governor.  
266 The division shall produce an annual report detailing all funds earned or received and all costs  
267 and benefits paid and shall make this report available on line no later than 60 days after the end  
268 of the commonwealth's fiscal year.

269 Section 10. Provision of Temporary Disability Benefits and Family Temporary  
270 Disability Benefits.

271 (a) Provision for Payment of Disability Benefits. An employer or an association of  
272 employers shall secure temporary disability benefits and family temporary disability benefits for  
273 employees by—

274 (1) depositing and maintaining with the treasurer of the commonwealth, the  
275 contributions which the employer is required to pay according to the terms of this chapter and in  
276 the form and manner determined by the division;



277           (2)     insuring and keeping insured the payment of temporary disability benefits and  
278 family temporary disability benefits with any stock, mutual, reciprocal or other insurer  
279 authorized to transact the business of disability insurance in the commonwealth, provided that  
280 the policy is acceptable to the division as satisfying the obligation to provide for the payment of  
281 disability benefits under this chapter, that the benefits under the policy are at least as favorable as  
282 the disability benefits required by this chapter and that the policy does not require contributions  
283 from any employee or class of employees;

284           (3)     a private plan or agreement which the employer may, by her or his sole act,  
285 terminate at any time, provided that the plan or agreement is acceptable to the division as  
286 satisfying the obligation to provide for the payment of disability benefits under this chapter, that  
287 the benefits under the plan or agreement are at least as favorable as the disability benefits  
288 required by this chapter, and that the policy does not require contributions from any employee or  
289 class of employees; or

290           (4)     any plan or agreement in existence by agreement or collective bargaining contract  
291 between the employer or employers or an association of employers and an association of  
292 employees, provided that the plan or agreement is acceptable to the division as satisfying the  
293 obligation to provide for the payment of disability benefits under this chapter, that the benefits  
294 under the plan or agreement are at least as favorable as the disability benefits required by this  
295 chapter, and that the plan or agreement does not require contributions from any employee or of  
296 any class of employees.

297 (b) Notice of Insurance. If payment of disability benefits is provided in whole or in  
298 part pursuant to paragraphs (2), (3) or (4) of subsection (a), the employer or insurer shall file  
299 with the division a notice of coverage and statement of benefits provided.

300 (c) No Contribution Required by Employer with Private Plan. Employers providing  
301 for the payment of disability benefits under subsections (2), (3) or (4) of subsection (a), shall not  
302 be required to make contributions pursuant to subsection (a)(1). Employees of employers  
303 providing for the payment of disability benefits under paragraphs (2), (3) or (4) of subsection (a),  
304 shall not be required to make contributions pursuant to subsection (a)(1).

305 (d) Employee Reimbursement for Temporary Disability Benefits. An employer who  
306 employs 10 or fewer employees, as defined by subsection d(4) of subsection 148 of chapter 149  
307 and who provides for the payment of disability benefits under this section, may seek  
308 reimbursement from its employees for up to 50 percent of the cost of the portion of said plans or  
309 agreements which provide temporary disability benefits, as required by this chapter. Said  
310 reimbursement shall be prorated for each employee to equal the percentage of the employer's  
311 total compensation payments to all employees that is represented by said employee's total  
312 compensation received from that employer.

313 (e) Employee Reimbursement of Family and Medical Leave Benefits. Employers  
314 providing for the payment of disability benefits under section, may seek reimbursement for that  
315 portion of the cost of said plans or agreements which provide family temporary disability  
316 benefits, as required by this chapter, from that employer's employees. Said reimbursement shall  
317 be prorated for each employee to equal the percentage of the employer's total compensation

318 payments to all employees that is represented by said employee's total compensation received  
319 from that employer.

320 (f) Nothing in this section or chapter shall be construed as to affect any bargaining  
321 agreement, company policy, or other state or federal law which provides for greater or additional  
322 benefits than those required under this chapter.

323 Section 11. Temporary Disability Trust Fund and Family and Medical Leave Trust  
324 Fund and Administrative Accounts.

325 (a) Establishment of the Temporary Disability Trust Fund. There is established in the  
326 treasury of the state, separate and apart from all public monies or funds of the state, a temporary  
327 disability trust fund which shall be administered by the deputy director exclusively for the  
328 purposes of this chapter. All payments pursuant to this part shall be paid into the trust fund and  
329 all disability benefits payable under this chapter shall be paid from the trust fund. The trust fund  
330 shall consist of—

331 (1) all contributions collected pursuant to this section, together with any interest  
332 thereon;

333 (2) interest earned on any monies in the trust fund;

334 (3) any property or securities acquired through the use of monies belonging to the  
335 trust fund;

336 (4) all earnings of such property and securities;

337 (5) all monies transferred into the trust fund from the family and employment security  
338 administrative account; and

339 (6) all other monies received for the trust fund from any source.

340 (b) Establishment of the Temporary Disability Administrative Account. There is  
341 established in the treasury of the state, separate and apart from all public monies or funds of the  
342 state, a temporary disability administrative account which shall be administered by the deputy  
343 director exclusively for the purposes of this chapter. The administrative account shall consist  
344 of—

345 (1) all contributions collected pursuant to this section, together with any interest  
346 thereon;

347 (2) all fines and penalties for the administrative account pursuant to this chapter;

348 (3) all monies collected by way of subrogation;

349 (4) interest earned on any monies belonging to the administrative account;

350 (5) any property or securities acquired through the use of monies belonging to the  
351 administrative account;

352 (6) all earnings of such property and securities;

353 (7) all monies appropriated to the administrative account by the legislature; and

354 (8) all other monies received for the administrative account from any source.

355 (c) Establishment of the Family and Medical Leave Trust Fund. There is established  
356 in the treasury of the state, separate and apart from all public monies or funds of the state, a  
357 family and medical leave trust fund which shall be administered by the deputy director  
358 exclusively for the purposes of this chapter. All payments pursuant to this part shall be paid into

359 the trust fund and all disability benefits payable under this chapter shall be paid from the trust  
360 fund. The trust fund shall consist of—

361 (1) all contributions collected pursuant to this section, together with any interest  
362 thereon;

363 (2) interest earned on any monies in the trust fund;

364 (3) any property or securities acquired through the use of monies belonging to the  
365 trust fund;

366 (4) all earnings of such property and securities; all monies transferred into the trust  
367 fund from the temporary disability administrative account; and all other monies received for the  
368 trust fund from any source.

369 (d) Establishment of the Family and Medical Leave Administrative Account. There is  
370 established in the treasury of the state, separate and apart from all public monies or funds of the  
371 state, a family and medical leave administrative account which shall be administered by the  
372 deputy director exclusively for the purposes of this chapter. The administrative account shall  
373 consist of—

374 (1) all contributions collected pursuant to this section, together with any interest  
375 thereon;

376 (2) all fines and penalties for the administrative account pursuant to this chapter;

377 (3) all monies collected by way of subrogation;

378 (4) interest earned on any monies belonging to the administrative account;

379 (5) any property or securities acquired through the use of monies belonging to the  
380 administrative account;

381 (6) all earnings of such property and securities

382 (7) all monies appropriated to the administrative account by the legislature; and

383 (8) all other monies received for the administrative account from any source.

384 (e) Management of the Funds. The state treasurer shall be the treasurer and custodian  
385 of the temporary disability trust fund and the family and medical leave trust fund and the  
386 temporary disability administrative account and the family and medical leave administrative  
387 account and shall administer the trust funds and administrative accounts in accordance with the  
388 directions of the deputy director. All monies in the trust funds and administrative accounts shall  
389 be held in trust for the purposes of this part only and shall not be expended, released,  
390 appropriated, or otherwise disposed of for any other purpose. Monies in the trust funds and  
391 administrative accounts may be deposited in any depository bank in which general funds of the  
392 commonwealth may be deposited, but such monies shall not be commingled with other  
393 commonwealth funds and shall be maintained in separate accounts on the books of the  
394 depository bank. Such monies shall be secured by the depository bank to the same extent and in  
395 the same manner as required by the general depository law of the commonwealth, and collateral  
396 pledged for this purpose shall be kept separate and distinct from any other collateral pledged to  
397 secure other funds of the commonwealth. The trust funds shall maintain an annualized amount of  
398 at least 140 per cent of the previous year's expenditure.

399 (f) Management of the Administrative Accounts. The deputy director shall pay all  
400 expenses incurred in administering the provisions of this chapter. In the event that the balance in

401 the temporary disability trust fund shall at any time be insufficient to pay disability benefits  
402 under this chapter, the governor, upon the deputy director's request, shall cause such sums as  
403 may be required for the payment of such disability benefits to be transferred from the temporary  
404 disability administrative account to the temporary disability trust fund. In the event that the  
405 balance in the family and medical leave trust fund shall at any time be insufficient to pay  
406 disability benefits under this chapter, the governor, upon the deputy director's request, shall  
407 cause such sums as may be required for the payment of such disability benefits to be transferred  
408 from the family and medical leave administrative account to the family and medical leave trust  
409 fund.

410 (g) Disbursements from the Funds. Expenditures of monies in the temporary  
411 disability trust fund and the family and medical leave trust fund shall not be subject to provisions  
412 of law requiring specific appropriations or other formal release by state officers of money in their  
413 custody. All disability benefits shall be paid from the trust funds upon warrants drawn upon the  
414 state treasurer by the comptroller of the commonwealth supported by vouchers approved by the  
415 deputy director.

416 (h) Investment of Monies. With the approval of the deputy director, the secretary of  
417 administration and finance may, from time to time, invest such monies in the temporary  
418 disability trust fund and the family and medical leave trust fund as are in excess of the amount  
419 deemed necessary for the payment of disability benefits for a reasonable future period, subject to  
420 clause (i). Such monies may be invested in bonds of any political or municipal corporation or  
421 subdivision of the commonwealth, or any of the outstanding bonds of the commonwealth, or  
422 invested in bonds or interest-bearing notes or obligations of the commonwealth, or of the United  
423 States, or those for which the faith and credit of the United States are pledged for the payment of

424 principal and interest (or in federal land bank bonds or joint stock farm bonds). The investments  
425 shall at all times be so made that all the assets of the trust funds shall always be readily  
426 convertible into cash when needed for the payment of disability benefits. The director of  
427 administration and finance shall dispose of securities or other properties belonging to the trust  
428 funds only under the direction of the deputy director.

429 (i) Federal Funds. To the extent allowed by federal law, federal funds received by the  
430 commonwealth for the specific purpose of maintaining or supporting paid family leave shall be  
431 used solely to reduce the rate of contributions required of employees pursuant to section 13.

432 Section 12. Disability Benefits to Be Paid from the Trust Funds; Recovery of  
433 Disability Benefits.

434 Temporary disability benefits shall be paid from the temporary disability trust fund to  
435 eligible individuals. Disability benefits shall also be paid from the trust fund to an employee who  
436 is entitled to receive such disability benefits but cannot because of the bankruptcy of his  
437 employer or because the employer is not in compliance with this chapter. Disability benefits paid  
438 from the trust fund to such employee may be recovered through bankruptcy proceedings or from  
439 the noncomplying employer. The deputy director shall institute administrative and legal action to  
440 effect recovery of such disability benefits.

441 Family temporary disability benefits shall be paid from the family and medical leave trust  
442 fund to eligible individuals. Disability benefits shall also be paid from the trust fund to an  
443 employee who is entitled to receive such disability benefits but cannot because of the bankruptcy  
444 of his employer or because the employer is not in compliance with this chapter. Disability  
445 benefits paid from the trust fund to such employee may be recovered through bankruptcy



446 proceedings or from the noncomplying employer. The deputy director shall institute  
447 administrative and legal action to effect recovery of such disability benefits.

448           Section 13.   Amount of Employer Payments to the Temporary Disability Trust Fund  
449 and Administrative Account.

450           For the purpose of accumulating funds for the payment of temporary disability benefits  
451 and administrative costs, each employer, with the exception of any employer complying with  
452 subsections (a)(2), (a)(3) or (a)(4) of section 10, shall in the first year after the date the employer  
453 becomes subject to this chapter, and each year thereafter, pay amounts as determined by the  
454 deputy director. Each employer shall transmit all such payments to the trust fund or  
455 administrative account in such manner, at such time, and under such conditions as shall be  
456 prescribed by regulations.

457           Section 14.   Amount of Employee Payments to the Family and Medical Leave Trust  
458 Fund and Administrative Account.

459           For the purpose of accumulating funds for the payment of family temporary disability  
460 benefits and administrative costs, each employee, with the exception of an employee employed  
461 by any employer complying with subsections (a)(2), (a)(3) or (a)(4) of section 10, shall in the  
462 first year after the date the employee becomes subject to this chapter, and each year thereafter,  
463 pay amounts as determined by the deputy director. Each employer shall transmit all such  
464 payments to the trust fund or administrative account in such manner, at such time, and under  
465 such conditions as shall be prescribed by regulations.

466           Section 15.   Annual Establishment of Rates for Trust Fund Operations.

467           (a)     On or before October first of each year, the deputy director shall certify to the  
468 secretary of administration and finance the estimated costs for the coming year of temporary  
469 disability benefits and for related administrative services provided by the division. Said rates of  
470 employer contribution to both the temporary disability trust fund and the temporary disability  
471 administrative account as established by this chapter shall be adjusted annually as consistent with  
472 the needs of the operation of said trust fund and administrative account.

473           (b)     On or before October first of each year, the deputy director shall certify to the  
474 secretary of administration and finance the estimated costs for the coming year of family  
475 temporary disability benefits and for related administrative services provided by the division.  
476 Said rates of employee contribution to both the family and medical leave trust fund and the  
477 family and medical leave administrative account as established by this chapter shall be adjusted  
478 annually as consistent with the needs of the operation of said trust fund and administrative  
479 account.

480           Section 16.     Request for Wage and Employment Information.

481           An employer to whom the division has sent a request for wage and employment  
482 information for an employee claiming temporary disability benefits or family temporary  
483 disability benefits under this chapter shall complete and file such information within ten days  
484 from the date the request was sent. If an employer does not respond within ten days, that  
485 employer may be held liable for any and all related costs incurred by the commonwealth.

486           Section 17.     Claims And Appeal

487           (a)     Filing of Claims. Claims for temporary disability benefits and family temporary  
488 disability benefits shall be filed with the division and shall be handled under the procedures  
489 prescribed by chapter 30A.

490           (b)     Notice Required.

491           (1)     Every employer subject to this chapter shall keep posted in a conspicuous place  
492 or places on its premises a workplace notice prepared or approved by the division which shall set  
493 forth excerpts from this chapter and other information the division deems necessary to explain  
494 the chapter. Such workplace notice shall be issued in English, Spanish, Chinese, Haitian Creole,  
495 Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian, and any other language that is the  
496 primary language of at least 10,000 residents of the commonwealth or 0.5 per cent of all  
497 residents of the commonwealth. Each employer with 5 or more employees whose primary  
498 language is not English shall post the workplace notice in that language, if such notice is  
499 available from the division.

500           (2)     Each employer shall issue to each employee, within 30 days from date of the  
501 employee's first day of work, written information provided or approved by the division which  
502 explains the availability of temporary disability leave, family temporary disability leave,  
503 temporary disability benefits and family temporary disability benefits provided pursuant to this  
504 chapter.

505           (3)     Each employer shall issue to each employee taking temporary disability leave or  
506 family temporary disability leave, as soon as practicable, but not more than 30 days from the date  
507 that the employee gives notice of leave, written information provided or approved by the division  
508 which shall contain the name and mailing address of the employer; the identification number

509 assigned to the employer by the division; information describing the availability of temporary  
510 disability benefits and family temporary disability benefits provided pursuant to this chapter;  
511 instructions on how to file a claim for disability benefits; the address and telephone number of  
512 the regional office of the division which serves the recipient; and the telephone number of the  
513 division. Delivery is made when an employer provides such information to an employee in  
514 person or by mail to the employee's last known address.

515 (c) Failure to Comply.

516 (1) Fines. Any employer who fails to comply with the provisions of paragraphs (1) or  
517 (2) of subsection (b) shall be punished by a fine of not less than \$50 nor more than \$300. A  
518 subsequent violation of this subsection by the same employer shall be punished by a fine of not  
519 less than \$250 nor more than \$1,000. Where an employer fails to comply with this provision, an  
520 employee shall be deemed to have provided notice of leave under section 3(c) of this chapter.  
521 The employer shall have the burden of demonstrating compliance with subsections paragraphs  
522 (1) or (2) of subsection (b).

523 (2) Waiting Period. The waiting period under section 6(c)(1) for an employee who  
524 did not receive the information required by subsection (b)(3) and who failed to file timely for  
525 disability benefits, shall be the initial week that such employee would have been eligible to  
526 receive temporary disability benefits or family temporary disability benefits. The employer shall  
527 have the burden of demonstrating compliance with subsection (b)(3).

528 Section 18. Purpose and Construction. This act shall be liberally construed as remedial  
529 legislation to further its purpose of providing job-protected temporary disability leave and family  
530 temporary disability leave, as well as temporary disability benefits and family temporary

531 disability benefits, to the employees of the commonwealth. All presumptions shall be made in  
532 favor of the availability of leave and the payment of disability benefits under this chapter.

533 SECTION 2. Section 4 of chapter 151B of the General Laws, as appearing in the 2014  
534 Official Edition, is hereby amended by inserting after subsection 11A the following subsection:-

535 “11B. (1) For an employer to discharge, fire, suspend, expel, discipline or in any other  
536 manner discriminate against an employee—

537 (i) for exercising any right to which such employee is entitled under the provisions of  
538 chapter 175K; or

539 (ii) with the purpose of interfering with the exercise of any right to which such  
540 employee is entitled under chapter 175K.

541 (2) For any employer to discharge, fine, suspend, expel, discipline or in any other manner  
542 discriminate against an employee who has filed a complaint or instituted or caused to be  
543 instituted a proceeding under or related to section 5 of chapter 175K, or who has testified or is  
544 about to testify in an inquiry or proceeding, or who has given or is about to give information  
545 connected to any inquiry or proceeding relating to said section.

546 (3) For purposes of this subsection, any negative change in the seniority, status,  
547 employment benefits, pay or other terms or conditions of employment of an employee who has  
548 been restored to a position pursuant to section 5 of chapter 175K that occurs within 6 months of  
549 such restoration, or of an employee who has participated in proceedings or inquiries pursuant to  
550 said section within 6 months of the termination of proceedings shall be presumed to be  
551 retaliation.”.

552 SECTION 3. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General  
553 Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after clause (Q)  
554 the following clause:-

555 “(R) Amounts received by an individual for temporary disability leave or family  
556 temporary disability leave under chapter 175K of the General Laws.”.