

**SENATE . . . . . No. 1201**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*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:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/26/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/26/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/8/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/21/2023</i>

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By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1201) of Joan B. Lovely, Paul R. Feeney, Lindsay N. Sabadosa, Jason M. Lewis and others for legislation relative to paid pregnancy loss leave. Labor and Workforce Development.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4797 OF 2021-2022.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

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. Section 1 of Chapter 175M, of the General Laws, is hereby amended by  
2 inserting the following definitions:-

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

4 “Paid pregnancy loss leave”, paid time-off that is compensated by an employer at the  
5 employee’s regular rate of pay, and with the same employment benefits to which the employee is  
6 entitled from such employer as a term of the employee’s employment, for the purposes described  
7 in section 12(b); provided, however, that in no case shall the employee’s hourly compensation be  
8 less than that provided under section 1 of chapter 151.

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

10 SECTION 2. Section 3 of said Chapter 175M, as so appearing, is hereby amended, in line  
11 1, by inserting after the words "No family or medical leave benefits" the following text:-

12 except paid pregnancy loss leave

13 SECTION 3. Section 7 of Chapter 175M, of the General Laws, is hereby amended by  
14 striking, in lines 100-101, the words, "and (xiii) the number of cases remaining open at the close  
15 of such year.", and inserting in place thereof the following:-

16 "(xiii) the percentage of such claims for paid pregnancy loss leave, and (xiv) the number  
17 of cases remaining open at the close of such year."

18 SECTION 4. Said Chapter 175M of the General Laws is hereby amended by adding the  
19 following section:-

20 Section 12.

21 (a)(1) An employer shall grant to each employee employed by the employer 10 days of  
22 paid pregnancy loss leave on the employee's first workday of each calendar year. The employee  
23 shall use the paid pregnancy loss leave as needed during that calendar year for the purposes  
24 described in subsection (b). The employee shall be compensated by the employer while  
25 maintaining the same employment benefits to which the employee is entitled as a term of  
26 employment by an employer to an employee as accrued when the employee uses other forms of  
27 leave.

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

30 (3) Any employer with a paid pregnancy loss leave policy who makes available an  
31 amount of paid pregnancy loss leave that is sufficient to meet the requirements of this section  
32 and that is made available for all stated reasons and under all stated conditions that are the same  
33 as the purposes and conditions outlined in subsection (b) shall not be required to grant an  
34 employee additional paid pregnancy loss leave under this section if certified by the department as  
35 having a compliant plan.

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

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

43 (b) Paid pregnancy loss leave granted pursuant to this section may be used by an  
44 employee for:

45 (1) An absence resulting from any of the following:

46 (i) a pregnancy loss;

47 (ii) an unsuccessful round of intrauterine insemination or of an assisted reproductive  
48 technology procedure;

49 (iii) a failed adoption match or an adoption that is not finalized because it is contested by  
50 another party;

51 (iv) a failed surrogacy arrangement; or

52 (v) a diagnosis or event that impacts pregnancy or fertility.

53 (2) An absence to care for a spouse or domestic partner who experiences a circumstance  
54 described in paragraph (1).

55 (c) Paid pregnancy loss leave shall be provided upon the oral or written request of an  
56 employee. The request shall include the expected duration of the period of the time and be  
57 provided as soon as practicable after the employee is aware of the need for the period.

58 (d) Leave taken under this section shall be payable under section 3 of this chapter by the  
59 department.

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

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

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

76 (g) (1) It shall be unlawful for any employer to interfere with, restrain or deny an  
77 employee's ability to take paid pregnancy loss leave, including, but not limited to, using an  
78 employee's taking of paid pregnancy loss leave as a negative factor in any employment action,  
79 such as an evaluation, promotion, disciplinary action or termination, or otherwise subjecting an  
80 employee to discipline or taking any other adverse action against an employee for the use of paid  
81 pregnancy loss leave.

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

89 (h) Nothing in this section shall be construed to: (i) discourage employers, including the  
90 commonwealth, its departments or its instrumentalities from adopting or retaining job-protected  
91 paid time off policies that are more generous than policies mandated in this section; (ii) diminish  
92 or impair the obligation of an employer to comply with any contract, collective bargaining

93 agreement or any employment benefit program or plan in effect on the effective date of this  
94 section that provides to employees greater job-protected paid time off rights than the rights  
95 established under this section; (iii) require a municipality, district, political subdivision or its  
96 instrumentalities to comply with this section without first adopting the policies through  
97 procedures laid out in section 10 of this chapter; or (iv) pre-empt the power of a municipality,  
98 district, political subdivision or its instrumentalities from adopting or retaining job-protected paid  
99 time off policies consistent with or more generous than policies that comply with the  
100 requirements of this section.

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

105 (j) The secretary for labor and workforce development, or any department or agency  
106 thereof designated by the secretary, may promulgate regulations or other guidance necessary for  
107 the implementation of this section.

108 SECTION 5. The executive office of labor and workforce development, in consultation  
109 with the executive office for administration and finance, shall prepare and provide to employers  
110 the notice described in paragraph (1) of subsection (f) of section 12 of chapter 175M of the  
111 General Laws not later than 30 days after the effective date of this act.