

# Senate, No. 2381

[Senate, April 13, 2010 – Substituted by amendment by the Senate (Ways and Means) for Senate, No. 44.]

## The Commonwealth of Massachusetts



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IN THE YEAR OF TWO THOUSAND AND TEN

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### **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.** Chapter 149 of the General Laws is hereby amended by striking out  
2 section 105D, as appearing in the 2008 Official Edition, and inserting in place thereof the  
3 following section:-

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

6           An employee who has completed the initial probationary period set by the terms of  
7 employment or, if there is no probationary period, has been employed by the same employer for

8 at least 3 consecutive months as a full-time employee, who is absent from that employment for a  
9 period not exceeding 8 weeks for the purpose of giving birth, adopting a child under the age of  
10 18 or adopting a child under the age of 23 if the child is mentally or physically disabled, the 8  
11 week period to be called parental leave, and who shall give at least 2 weeks notice to the  
12 employer of the anticipated date of departure and intention to return, shall be restored to the  
13 employee's previous, or a similar, position with the same status, pay, length of service credit  
14 and seniority, wherever applicable, as of the date of the leave. An employee on parental leave  
15 for the adoption of a child shall be entitled to the same benefits offered by the employee's  
16 employer as an employee on parental leave for the birth of a child. The parental leave may be  
17 with or without pay at the discretion of the employer.

18 The employer shall not be required to restore an employee on parental leave to the  
19 previous or a similar position if other employees of equal length of service credit and status in  
20 the same or similar position have been laid off due to economic conditions or other changes in  
21 operating conditions affecting employment during the period of the parental leave; provided,  
22 however, that the employee on parental leave shall retain any preferential consideration for  
23 another position to which the employee may be entitled as of the date of the leave.

24 The parental leave shall not affect the employee's right to receive vacation time, sick  
25 leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for  
26 which the employee was eligible at the date of the leave, and any other advantages or rights of  
27 employment incident to the employment position; provided, however, that the parental leave  
28 shall not be included, when applicable, in the computation of the benefits, rights and  
29 advantages; and provided further, that the employer need not provide for the cost of any  
30 benefits, plans or programs during the period of parental leave unless the employer so provides

31 for all employees on leave of absence. Nothing in this section shall be construed to affect any  
32 bargaining agreement or company policy which provides for greater or additional benefits than  
33 those required under this section.

34 Every employer shall post and keep posted in a conspicuous place or places upon its  
35 premises a notice describing this section and the employer's policies related to this section.

36 **SECTION 2.** Section 4 of chapter 151B of the General Laws, as so appearing, is hereby  
37 amended by striking out subsection 11A and inserting in place thereof the following  
38 subsection:-

39 11A. For an employer, or its agent, to refuse to restore certain employees to employment  
40 following their absence by reason of a parental leave taken in accordance with section 105D of  
41 chapter 149 or to otherwise fail to comply with the provisions of said section, or for the  
42 commonwealth and any of its boards, departments and commissions to deny vacation credit to  
43 any employee for the fiscal year during which the employee is absent due to a parental leave  
44 taken in accordance with said section or to impose any other penalty as a result of a parental  
45 leave of absence.

46 **SECTION 3.** Within 90 days after the effective date of this act, the Massachusetts  
47 commission against discrimination shall promulgate regulations necessary to implement this act.