

By Mr. Valianti of Marlborough, petition of Daniel J. Valianti and Antonio F. D. Cabral relative to the granting of parenting leave by employers. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO PARENTING 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 Chapter 149, Section 105D of the General Laws, as appearing
2 in the 1990 Official Edition of the Massachusetts General Laws is
3 hereby amended by striking out said section and inserting in
4 place thereof the following new section: —

5 Section 105D. An employee who has completed the initial pro-
6 bationary period set by the terms of his/her employment or, if
7 there is no such probationary period, has been employed by the
8 same employer for at least three consecutive months as a full-time
9 employee, who is absent from such employment for a period not
10 exceeding twelve weeks for the purpose of giving birth, post-birth
11 care, for adopting a child under eighteen years of age if the child
12 is mentally or physically disabled, said period to be hereinafter
13 called maternity/paternity leave, and who shall give at least two
14 weeks' notice to his/her employer of his/her anticipated date of
15 departure and intention to return, shall be restored to his/her pre-
16 vious, or similar, position with the same status, pay, length of
17 service credit and seniority, wherever applicable, as of the date of
18 his/her leave. The first four weeks of said leave shall be with pay.
19 The remaining eight weeks of said maternity/paternity leave may
20 be with or without pay at the discretion of the employer.

21 An employee who has completed the initial probationary period
22 set by the terms of his/her employment or, if there is no such pro-
23 bationary period, has been employed by the same employer for at

24 least three consecutive months, who is absent from such employ-
25 ment for a period not exceeding twelve weeks for the purpose of
26 caring for the employee's spouse, parent, grandparent, grandchild,
27 brother or sister living in the same household, or child, whether or
28 not the child is natural, adoptive, foster, stepchild or child under
29 legal guardianship of the employee or the employee's spouse, said
30 period to be hereinafter called family medical leave, and who
31 shall give at least two weeks' notice to his/her employer of his/her
32 anticipated date of departure and intention to return, shall be
33 restored to his/her previous, or similar, position with the same sta-
34 tus, pay, length of service credit and seniority, wherever applica-
35 ble, as of the date of his/her leave. The first four weeks of said
36 leave shall be with pay. The remaining eight weeks of said family
37 medical leave may be with or without pay at the discretion of the
38 employer.

39 Such employer shall not be required to restore an employee on
40 maternity/paternity/family medical leave to his/her previous or
41 similar position if other employees of equal length of service
42 credit and status in the same or similar position have been laid off
43 due to economic conditions or other changes in operating condi-
44 tions affecting employment during the period of said
45 maternity/paternity/family medical leave; provided, however, that
46 such employee or maternity/paternity/family medical leave shall
47 retain any preferential consideration for another position to which
48 s/he may be entitled as of the date of his/her leave.

49 Such maternity/paternity/family medical leave shall not affect
50 the employee's right to receive vacation time, sick leave, bonuses,
51 advancement, seniority, length of service credit, benefits, plans or
52 programs for which s/he was eligible at the date of his/her leave,
53 and any other advantages or rights of his/her employment incident
54 to his/her employment position; provided, however, that such
55 maternity/paternity/family medical leave shall not be included,
56 when applicable, in the computation of such benefits, rights, and
57 advantages; and provided, further, that the employer need not pro-
58 vide for the cost of any benefits, plans, or programs during the
59 period of maternity/paternity/family medical leave unless such
60 employer so provides for all employees or leave of absence.
61 Nothing in this section shall be construed to affect any bargaining
62 agreement or company policy which provides for greater or addi-
63 tional benefits than those required under this section.

64 A notice of this provision shall be posted in every establish-
65 ment of employment.

66 For the purposes of this section, an “employer” shall be defined
67 as in subsection five of section one of chapter one hundred and
68 fifty-one B.

