

Massachusetts Paid Family and Medical Leave Insurance Program Bills  
[H.2172](#) (filed by Rep. Ken Gordon) and [S.1048](#) (filed by Sen. Karen Spilka)

<b>Provisions</b>	<b>HOUSE BILL, H.2172</b>	<b>SENATE BILL, S.1048</b>
<b>Covered employers</b>	All employers who are required to contribute to the state’s unemployment insurance (UI) program; all employers not covered by the UI program <sup>1</sup> but who choose to join the paid family and medical leave (PFML) insurance program. Cities and towns can vote to accept the law, join the program and cover their employees.	Same as the House bill.
<b>Eligible employees</b>	All employees who meet the financial eligibility requirements of the state’s UI program; and self-employed people who join the program and pay premiums for at least two quarters in the prior 12 months.	Employees who have worked at least 1,250 hours for the employer; and self-employed people who join the program and pay premiums for at least two quarters in the prior 12 months.
<b>Leaves covered</b>	<p>Paid Family Leave (PFL) to care for a family member in the event of the birth, adoption, or fostering of a child; or a family members’ serious illness or injury.</p> <p>Paid Medical Leave (PML) for the worker’s own non-work related serious illness or injury.</p> <p>Paid Military Leave to allow the worker to attend to family needs that arise from a family member’s active duty service.</p>	Same as the House bill.

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<sup>1</sup> Certain employees are excluded from the Commonwealth’s UI program and therefore from the PFML program: employees of churches, trainees at certain nonprofit organizations, work-study jobholders at a college or university, certain federal employees, prison inmates, certain agricultural laborers, and election workers. See M.G.L. ch. 151A, §§ 6, 6A.

<b>Length of leave</b>	Up to 12 weeks of PFL. Up to 26 weeks of PML. Caps leave at 26 weeks for employees eligible for both leaves in the same benefit year.	Up to <u>16</u> weeks of PFL. Same as the House bill for the PML. Cap is the same as the House bill but can include up to 16 weeks of PFL.
<b>Job protection while on leave</b>	Yes, for up to 26 weeks (unless other employees in similar jobs have been laid off in the interim).	Same as the House bill.
<b>Waiting period for use of leave</b>	Employees are not paid for the first seven days of a leave, except in the case of an employee whose PFL absence immediately follows a period of PML leave, such as the birth of a child.	Same as the House bill.
<b>Impact on, and interaction with, other leave programs</b>	Leave under this bill runs concurrently with job protected leave under the Massachusetts Parental Leave Act, and the federal family and medical leave act (FMLA).  Employers cannot require employees to exhaust rights to any sick, vacation or personal time prior to or while taking either leave.	Same as the House bill.  Same as the House bill.
<b>Benefit amount</b>	Provides partial wage replacement on a graduated basis ( <i>90% replacement of the worker's wages equal to 30% of the state's average weekly wage; and 33% of the excess</i> ), with the total weekly benefit capped at \$650.00, and adjusted annually to reflect the effects of inflation.  The benefit amount is pro-rated for workers taking leave on a part-time basis.	Wage replacement is at the rate of 50% in the first year (1/1/18), 70% in the second year (1/1/19), and 90% in the third (1/1/20) and following years that the law is effective. The weekly benefit is capped at \$1,000.00. The cap is adjusted annually to reflect the effects of inflation.  Same as the House bill.

<b>Family members covered</b>	The spouse, domestic partner, child, parent, parent of a spouse or domestic partner of the employee; a person who was like a parent to the employee when the employee was a minor; a grandchild, grandparent, or sibling of the employee.	Same as the House bill.
<b>Definition of “child”</b>	A biological, adopted, or foster child, stepchild or legal ward, a child to whom the employee is like a parent, or a person to whom the employee stood in the place of a parent when the person was a minor.	Same as the House bill.
<b>Funding method</b>	Employers can require employees to contribute up to 50% of the premium cost; self-employed people pay 100% of their premium costs.  Employers may pay into a state fund, secure private insurance approved by the department, maintain a private plan or agreement approved by the department, or use an existing plan under a collective bargaining agreement approved by the department.	Same as the House bill.  Employers must pay into a state fund all contributions due from them and collected from employees.
<b>Agency charged with processing applications for leave</b>	Department of family and medical leave within the executive office of labor and workforce development	Same as the House bill.
<b>Enforcement agency</b>	Fair labor division of the Massachusetts Attorney General	Same as the House bill.
<b>Private right of action</b>	Yes. Employees can pursue a private right of action in court following a complaint process with the office of the Attorney General, and seek treble damages.	Yes. Employees can file a suit in the Superior Court for treble damages for violation of their rights under this law.

<b>Employer's existing PFML policies</b>	Does not affect any company policy that provides for greater or additional rights.	Same as the House bill.
<b>Collectively bargained agreements</b>	Does not affect or modify any collective bargaining agreement that provides for greater or additional rights.	Same as the House bill.
<b>Prohibition against discrimination and retaliation for use of PFML</b>	Yes.	Same as the House bill.
<b>Certification requirement</b>	The employee must provide the employer with a certification from a health care provider, a birth certificate, or a certification from an adoption or foster care agency (as required by the circumstances of the leave).	The employee must provide the employer with certification from a health care provider, depending on the nature of the leave requested.
<b>Confidentiality requirement</b>	Medical information provided by the employee as part of the certification requirement must be kept confidential by the employer.	Same as the House bill.
<b>Notification requirement</b>	When leave is foreseeable, employee must give employer 30 days' notice. If that is not possible, the employee must give the employer as much notice as is practicable.	Same as the House bill.