MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2261

2005 SENATE JUDICIARY

SB 2261

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2261

Senate Judiciary Committee

☐ Conference Committee

Hearing Date February 2 , 2005

Tape Number	Side A	Side B	Meter #
1	X		4901- End
1		X	0.0 - 1100
Committee Clerk Signature Mona L Solberg			

Minutes: Relating to exempting the act of breast feeding from certain offenses.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen David Nething, Dist 12 - Introduced the bill (meter 4901) Introduced himself and his job to the students in the audience. This bill was brought forth from a constituent who breast feeding in public. Other states have a similar bill. I have taken the aspect of "decriminalization" out of the law. This is an act between a mother and a child that should not in any way have any impediments to it.

Senator Triplett asked if there has been any attempts at prosecution of this in ND? No I am not aware any? This is not a result driving an issue.

Jasmine Mielke, Jamestown mother gave testimony - Att. #1

Senator Triplett asked if Ms. Mielke had a bad experience that has caused her concern? My fear of confrontation and being charged with indecent exposure has had be hiding in hot vehicles and filthy rest-rooms. The worst is restaurants, when the baby smells food or sees others eating, they usually get hungry.

Jill Leppert, ND Dept of Health's Division of Nutrition and WIC Program Director.

Karen Ehrens, Licensed Registered Dietitian (LRD) (meter 5800) Gave testimony - Att #3

Senator Hacker asked if it was currently illegal to breast feed in public? I do not know if it is or is not but I do know that several people were asked to stop feeding in public.

Rebecca LaFavor; Registered Nurse and Mother (meter 320) Gave Testimony - Att #4.

Carol Two Eagles - Testified in support of the bill suggesting the idea of a public place providing a suitable location for feed.

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

The committee debated if this really is against the law to do. Some concern of breast feeding mothers taking advantage of this and flaunting the breast feeding.

Senator Triplett made the motion to Do Pass SB 2261 and **Sen. Nelson** seconded the motion.

All were in favor, motion passes.

Carrier: **Senator Triplett**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 2/2/05
Roll Call Vote #: 1.

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2261

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Triplett Seconded By Sen. Nelson

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Triplett

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 2, 2005 1:22 p.m.

Module No: SR-22-1692
Carrier: Triplett
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2261: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2261 was placed on the Eleventh order on the calendar.

2005 HOUSE HUMAN SERVICES

SB 2261

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2261**

House Human Services Committee

☐ Conference Committee

Hearing Date **23 February 2005**

Tape Number	Side A	Side B	Meter #
1	x		1210 - 3251
Committee Clerk Signature			

Minutes:

Chairman Price opened the hearing of SB 2261.

Senator Dave Nething, District 12, introduced the bill. This bill is brought to you today at the request of a constituent who is not able to be here today. I call this bill the decriminalization of breast feeding. Little did I realize the various problems that women endure in breast feeding. As you look through the bill there are three sections that relate to the criminal statutes and the fifth section brings it in to the definition of the nuisance. It is just one of those things that until you get all of these things put together, you don't realize that this is an important subject to deal with. With that explanation of how the bill happens to be here, I'm going to turn it over to the folks who know much more about it than I do.

Representative Dave Weiler, District 30, testified in support of the legislation. I just want to stand in support of this bill. It's a common sense bill and something we should pass.

Rep. Devlin: Do you know if someone has actually been charged in ND.

Rep. Weiler: I don't know. I can't be for sure.

Rebecca LaFavor, registered nurse and mother, testified in favor of the bill. **(Testimony attached and includes a Summary of Breast feeding Legislation from the Internet.)**

Jill Leppert, of ND Department of Health Division of Nutrition and Physical Activity, introduced into testimony and read a letter from **Jasmine Mielke, mother from Jamestown. (That letter is attached.)** She then read her testimony. **(Testimony attached.)**

Barbara Tengesdal, Voices of North Dakota's Children, testified in support of the bill. What's great for kids is not only the bonding and nutritional aspect but what it allows for them to have in the long term the immunities and other things. Recently there was a study from the American Pediatrics Association that looked at even the benefits for adopted children. To personally stand as a mom who breast fed an adopted child through a supplemental feeding system. People think it's crazy but it works. It's not just bonding but even using a lot of other formulas and buying breast milk from other families is a part of really giving kids the best benefits.

Karen Ehrens, licensed, registered dietitian, testified in favor of the bill. **(Testimony attached.)**

There was no further testimony and **Chairman Price closed the hearing of SB 2261.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2261**

House Human Services Committee

☐ Conference Committee

Hearing Date **2 March 2005**

Tape Number	Side A	Side B	Meter #
2	X		630 - 1540
Committee Clerk Signature			

Minutes:

Chairman Price opened discussion of SB 2261.

Rep. Weisz presented a proposed amendment. **(Attached.)** It makes the law clear that breast feeding is not considered a nuisance and is not considered indecent exposure under any criminal or civil statute.

Rep. Weisz: I move the amendments.

Rep. Porter: I second.

Rep. Potter: Would you go over one more time why the removal for section 4.

Rep. Weisz: The rationale for removing Section 4 was a mandate on businesses. The way the law was written a business would not be able to require them to cover up. They could do it any where, any how, any place. We're making it clear that the state says you can do and there is no penalty.

Rep. Uglem: I'm not real comfortable taking Section 4 out. I would rather have seen it modified with required modesty. I guess I can go along with it. I suppose we will see this again in two years.

A voice vote was taken. Yes: 9 No: 3 **The amendment carried.**

Chairman Price: We have the amended bill in front of us. What are your wishes.

Rep. Weisz: I move **Do Pass as Amended.**

Rep. Damschen: I second.

A roll call vote was taken.

Yes: 11 No: 1 Absent: 0

Rep. Weisz will carry the bill.

50604.0101
Title.0200

Prepared by the Legislative Council staff for
Representative Weisz
March 2, 2005

House Amendments to SB 2261 - Human Services Committee 03/03/2005

Page 1, line 1, remove "create and enact a new section to chapter 23-12 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to breastfeeding; and to" and remove "subsection 4 of section"

Page 1, line 3, remove "12.1-20-02 and" and remove ", 12.1-27.1-11,"

Page 1, remove lines 6 through 12

House Amendments to SB 2261 - Human Services Committee 03/03/2005

Page 2, remove lines 2 through 18

Renumber accordingly

Date: 3/2/05 Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HB~~ 2261

House **Human Services** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amd

Motion Made By Rep W Seconded By Damschen

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S.Price	✓		Rep.L. Kaldor	✓	
V Chrm.G. Kreidt	✓		Rep.L. Potter	✓	
Rep. V. Pietsch	✓		Rep.S. Sandvig		✓
Rep.J.O. Nelson	✓				
Rep.W.R. Devlin	✓				
Rep.T. Porter	✓				
Rep.G. Uglem	✓				
Rep C. Damschen	✓				
Rep.R. Weisz	✓				

Total (Yes) 11 **No** 1

Absent 0

Floor Assignment Rep Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2261: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2261 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 23-12 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to breastfeeding; and to" and remove "subsection 4 of section"

Page 1, line 3, remove "12.1-20-02 and" and remove ", 12.1-27.1-11,"

Page 1, remove lines 6 through 12

Page 2, remove lines 2 through 18

Renumber accordingly

2005 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2261

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2261

Senate Judiciary Committee

■ Conference Committee

Hearing Date March 28, 2005

Tape Number	Side A	Side B	Meter #
1	X		2426- End
Committee Clerk Signature Maria L Solberg			

CONFERENCE COMMITTEE

Minutes: Relating to exempting the act of breast feeding from certain offenses.

Senator Hacker , Chairman called the conference committee to order. All Senators and Representatives were present. The hearing opened with the chairman reviewing the changes made by the house. **Senator Triplett** asked why the house did what they did?

Rep. Weisz explained Section 1, 4 upon research we did not find in any connect that breast feeding would fall under sexual contact. The main issue of the debate would be Section 4. The house did not under any situation want a mandate this issue to business owners.

Senator Triplett (meter 2810) questioned the "liability" of the restaurant? By leaving this in we have left in that it is a legal act, we do not want to mandate it to a business that under any circumstance they have to allow it.

Senator Hacker stated that by leaving it the way the senate did it would give a clear message to the public our support of breast feeding.

The committee discussed the above issues over again. **Rep. Sandvig** stated that not all members of the house were in agreement with Rep. Weisz. The vote from the house to take out section 4 failed by 1 vote. **Senator Triplett** stated that the committee could compromise with the house if they agreed with the removal of the first two sections and put section 4 back in. **Rep. Weisz** and Damschen did not agree. Senator Triplett asked why this was an issue with him. Did he think that this is a bad thing? No, in fact my wife did it but she would not do it in a place that she though people would be uncomfortable with it. You may loose customers no matter what you do. Why cant businesses knowing that it is not illegal make there own decisions on the matter. This bill does not include any use of "modesty". **Senator Triplett** responded that our culture has gotten so far away from breast feeding is a natural act.. If by passing laws like this we encourage more people to breast feed, which is a good thing, after a period of time we will get back to a place where it is perceived as a natural act and not as something unusual or obscene. Rep. Sandvig stated all the places people have been asked to leave.

Rep. Weisz responded that we have not taken away any ones right to breast feed by not making it illegal. **Rep. Danshen** reinforced this. Senator Triplett stated that if we stopped at ..authorized to be., making it a more positive act. Cited personal involvement with WIC.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 2261

Senate Judiciary Committee

■ Conference Committee

Hearing Date March 31, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.0 - End
Committee Clerk Signature Mia L Solberg			

CONFERENCE COMMITTEE

Minutes: Relating to exempting the act of breast feeding from certain offenses.

Senator Hacker, Chairman called the Judiciary committee to order. All Senators and representatives were present. The hearing opened with the following:

Senator Hacker opened with a hand out of what other state laws are in detail. Att. #1

Rep. Wiesz questioned what the definition of "private" was. Discussion .

Senator Hacker submitted an amendment to the conference committee - Att. #2. The committee discussed the location aspect. What if I did not want someone to breast feed in my home? Are you mandating to me that I do not have a right to tell them they can not? **Senator Triplett** responded that you have the right to not let the person in the first place.

Rep Wiesz has great concerns with the use of "mandate".

Senator Triplett stated that a location that was not comfortable with this could have a "screened off" location. More discussion of public vs. private.

Vonnette Richter, Legislative Council was asked how she would interpret public vs. privately owned businesses an those this would effect it.

Senator Triplett referred to Vermont's bill litigation in Att. #1. (meter 1008)

Rep. Damschen stated that all definitions aside (meter 1308) you would still be forcing the public to have to deal with people who do this in bad taste.

Rep. Sandvig reminded the committee that not all house members were in agreement with the other two representatives that it was a very close division.

Senator Triplett discussed the amendment and **Rep. Demschen** and **Rep. Wiesz** were not interested in it or working with it

Senator Hacker , Chairman closed the Hearing

50604.0102
Title.

Prepared by the Legislative Council staff for
Senator Hacker
March 30, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2261

That the House recede from its amendments as printed on page 736 of the Senate Journal and pages 900 and 901 of the House Journal and that Senate Bill No. 2261 be amended as follows:

Page 1, line 2, remove "subsection 4 of section"

Page 1, line 3, remove "12.1-20-02 and" and remove ", 12.1-27.1-11,"

Page 1, remove lines 6 through 12

Page 2, remove lines 2 through 13

Page 2, line 17, replace "<u>, irrespective of whether the nipple of</u>" with a period

Page 2, remove line 18

Renumber accordingly

April 6

50604.0103
Title.

Prepared by the Legislative Council staff for
Representative Sandvig
April 4, 2005

PROPOSED AMENDMENTS TO SENATE BILL NO. 2261

That the House recede from its amendments as printed on page 736 of the Senate Journal and pages 900 and 901 of the House Journal and that Senate Bill No. 2261 be amended as follows:

Page 1, line 2, remove "subsection 4 of section"

Page 1, line 3, remove "12.1-20-02 and" and remove ",12.1-27.1-11,"

Page 1, remove lines 6 through 12

Page 2, remove lines 2 through 13

Page 2, line 16, replace "location, public or private," with "place of public accommodation"

Page 2, line 17, replace "irrespective of whether the nipple of" with "provided the woman acts in a discreet and modest manner."

Page 2, remove line 18

Renumber accordingly

Date: 4/6
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2 241

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken 0.103 Move Amend

Motion Made By Seconded By

Senators	Yes	No	~~Senators~~	Yes	No
Sen. Hacker - Chair	✓		Rep. Nesz		✓
Sen. Nelson	A		Rep. Dancheck		✓
Sen. Triplett (2)	✓		Rep. Sandvig (R)	✓	

Total (Yes) No

Absent

Floor Assignment Fail

If the vote is on an amendment, briefly indicate intent:

Date:
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2261

Senate Judiciary Conference Committee Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As

Motion Made By Damschen Seconded By Nelson

Senators	Yes	No	Representatives	Yes	No
Senator Hacker	✓		~~Rep. Weisz~~ Svverson	✓	
Sen. Nelson (2)	✓		(1) Rep. Damschen Trenbeath	✓	
Senator Triplett	✓		~~Rep. Sandvig~~		

Total (Yes) No 0

Absent 0

Floor Assignment Senator Trenbeath Rep.

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2261: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2261 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to breastfeeding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Breastfeeding. A woman may breastfeed her child in a public place if the woman acts in a discrete and modest manner."

Renumber accordingly

2005 TESTIMONY

SB 2261

Att #1

02 February 2005
59th Legislative Assembly of ND
Senate Judiciary Committee
Senate Bill 2261

Mr. Chairman, members of the committee:

My name is Jasmine Mielke from Jamestown. I am here on my own behalf to testify in favor of senate bill 2261.

As the mother of two young children, both of which were breastfed for at least 8 months, I understand that breastfeeding a baby is an important and natural act imperative to their development, emotional well-being, and health. Science continues to tell us that breast milk provides a wide range of benefits for our children that formula cannot, and that's why it is important for me to have the law support my efforts to provide this crucial advantage to my children.

My husband and I are expecting our third child this April, and I hope that I don't have to endure discrimination and embarrassment if our baby happens to get hungry in a public place. Allow me to share with you the inconvenience and discomfort of feeling obligated to retreat to sun-baked or freezing cars in the parking lot in order to breastfeed. Unsanitary restroom facilities, without chairs, are an even less desirable option. Knowing that I'm legally entitled to remain in public places, such as restaurants, to breastfeed my baby would be a welcome relief.

I am sorry if some people find breastfeeding offensive or inappropriate in public. But it is my experience that breastfeeding mothers make every effort to be discreet. It is hardly my intention to make a spectacle of myself by delivering the best method available to quiet the hunger pangs of my crying baby.

It should be a collaborative effort to raise the healthiest children possible. To deny a mother the right to do so based on the possibility of incidental exposure of the breast in public is ludicrous.

Thank you for your time,

Jasmine Mielke

AH #1

SUMMARY OF BREASTFEEDING LEGISLATION IN THE US
as of 09/21/04

by

Elizabeth N. Baldwin, Esq.
updated by Shannon Harvey, Esq.
revised and updated by Melissa R. Vance, Esq.

Introduction. This updated document lists state laws regarding breastfeeding. This page will no longer include pending or defeated legislation, unless otherwise noted. Only specific state laws are reproduced; preambles, resolutions, directions from the legislature to other state agencies, and other information that is not codified in state law has been deleted. However, if you are interested in proposing legislation in your state and need that information, or if you have any corrections, additions or comments, please contact the webmaster at webmaster@lalecheleague.org. For legal questions, please contact a legal professional.

There are many sources of "laws" including regulations, court decisions, and court rules. Please note that because a State does not have legislation regarding breastfeeding in public does not mean that breastfeeding in public is prohibited. As to exemption from jury duty, this may be covered by court rule, local practice or regulation. (Only statutes specifically mentioning breastfeeding are listed here; however, a nursing mother may be covered under another exemption.) For more information regarding jury duty exemptions see: www.familyfriendlyjuryduty.org. If you know of a law, regulation, court rule, written court decision that impacts breastfeeding, and is not listed herein, please contact webmaster@lalecheleague.org.

Alabama | Alaska | Arizona | Arkansas | California | Colorado | Connecticut | Delaware | Florida | Georgia | Hawaii | Idaho | Illinois | Indiana | Iowa | Kansas | Kentucky | Louisiana | Maine | Maryland | Massachusetts | Michigan | Minnesota | Mississippi | Missouri | Montana | Nebraska | Nevada | New Hampshire | New Jersey | New Mexico | New York | North Carolina | North Dakota | Ohio | Oklahoma | Oregon | Pennsylvania | Rhode Island | South Carolina | South Dakota | Tennessee | Texas | Utah | Vermont | Virginia | Washington | West Virginia | Wisconsin | Wyoming

ALABAMA

Alabama has no legislation regarding breastfeeding.

ALASKA

Alaska enacted legislation in 1998 that clarifies a woman breastfeeding a child in public is not a violation of their criminal statutes. The law also prohibits any municipality from enacting a law that prohibits or restricts the right of a mother to breastfeed.

Alaska Stat. § 01.10.060(b), § 29.25.080
1998 AK. ALS 78; 1998 AK. Sess. Laws 78; 1998 AK. Ch. 78; 1997 AK. SB 297

Sec. 01.10.060 (b) In the laws of the state, `lewd conduct,' `lewd touching,' `immoral conduct,' `indecent conduct,' and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this subsection may be construed to authorize an act that is an offense under AS 11.61.123.

Sec. 29.25.080. Breast-feeding. A municipality may not enact an ordinance that prohibits or restricts a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. In a municipal ordinance, `lewd conduct,' `lewd touching,' `immoral conduct,' `indecent conduct,' and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this section may be construed to authorize an act that is an offense under a municipal ordinance that establishes an offense with elements substantially equivalent to the elements of an offense under AS 11.61.123. This section is applicable to home rule and general law municipalities.

ARIZONA

There is no legislation regarding breastfeeding. A bill was introduced in 2002 to exempt breastfeeding from the indecent exposure laws; however, it did not become law.

ARKANSAS

There is no legislation regarding breastfeeding in Arkansas.

CALIFORNIA

California has enacted several significant breastfeeding laws on the following issues: (1) lactation services or information must be made available by all hospitals/maternity care facilities; (2) breastfeeding

in public (note: that the law does not apply to breastfeeding at a private home of another); (3) jury duty; and (4) accommodations for employed breastfeeding mothers.

Cal Health & Saf Code § 123360 and § 123365
1995 Cal ALS 463; 1995 Cal AB 977; Stats 1995 ch 463

§123360 The State Department of Health Services shall include in its public service campaign the promotion of mothers breast feeding their infants.

§123365
(a) All general acute care hospitals, as defined in subdivision (a) of Section 1250, and all special hospitals providing maternity care, as defined in subdivision (f) of Section 1250, shall make available a breast feeding consultant or alternatively, provide information to the mother on where to receive breast feeding information.
(b) The consultant may be a registered nurse with maternal and newborn care experience, if available.
(c) The consultation shall be made available during the hospitalization associated with the delivery, or alternatively, the hospital shall provide information to the mother on where to receive breast feeding information.
(d) The patient may decline this consultation or information.

Cal. Civ. Code §43.3
1997 Cal ALS 59; 1997 Cal AB 157; Stats 1997 ch 59

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and child are authorized to be present.

Cal Code Civ. Proc. § 210.5
2000 Cal AB 1814; 2000 Cal ALS 266; Stats 2000 ch 266

§ 210.5. Standardized jury summons
...shall adopt a standardized jury summons for use, with appropriate modifications, around the state, that is understandable and has consumer appeal. The standardized jury summons shall include a specific reference to the rules for breast-feeding mothers. The use of the standardized jury summons shall be voluntary, unless otherwise prescribed by the rules of court.

2004 California Rules of Court (Note: this is not a statute).
Rule 859. Deferral of jury service

A mother who is breastfeeding a child may request that jury service be deferred for up to one year, and may renew that request as long as she is breastfeeding. If the request is made in writing, under penalty of perjury, the jury commissioner must grant it without requiring the prospective juror to appear at court.

Rule 859 adopted effective July 1, 2001.

Cal. Lab. Code §1030, 1031, 1032, 1033 (2001)
2001 Cal ALS 821; 2001 Cal AB 1025; Stats 2001 ch 821,

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.

1031. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars ($100) for each violation.
(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1.
(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

COLORADO

Effective April 23, 2004, Colorado protected a woman's right to breastfeed anywhere she has the right to be. A lengthy preamble section set forth support for breastfeeding.

C.R.S.25-6-302. Breastfeeding.

A mother may breastfeed in any place she has a right to be.

C.R.S. 25-6-301. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) The American Academy of Pediatrics recommends breastfeeding exclusively for the first six months of an infant's life but continuing with other forms of nutrition for at least the first twelve months of an infant's life and as long thereafter as is mutually desired.

(b) The American Academy of Pediatrics has continuously endorsed breastfeeding as the optimal form of nutrition for infants and as a foundation for good feeding practices. Extensive research indicates that there are diverse and compelling advantages to breastfeeding for infants, mothers, families, and society.

(c) Epidemiologic research shows that breastfeeding of infants provides benefits to their general health, growth, and development and results in significant decreases in risk for numerous acute and chronic diseases.

(d) Research in developed countries provides strong evidence that breastfeeding decreases the incidence and severity of diarrhea, lower respiratory infection, otitis media, and urinary tract infection.

(e) Research studies have also shown that human milk and breastfeeding have possible protective effects against the development of a number of chronic diseases, including allergic diseases and some chronic digestive diseases. In addition, human milk and breastfeeding may prevent obesity.

(f) In addition, breastfeeding has been related to the possible enhancement of cognitive development.

(g) Breastfeeding has been shown to have numerous health benefits for mothers, including an earlier return to prepregnant weight, delayed resumption of ovulation with increased child spacing, improved bone remineralization postpartum with reduction

in hip fractures in the postmenopausal period, and reduced risk of ovarian cancer and premenopausal breast cancer, as well as increased levels of oxytocin, resulting in less postpartum bleeding and more rapid uterine involution.

(h) In addition to individual health benefits, breastfeeding results in substantial benefits to society, including reduced health care costs, reduced environmental damage, reduced governmental spending on the women, infants, and children supplementary feeding programs, and reduced employee absenteeism for care attributable to infant illness.

(i) Breastfeeding is a basic and important act of nurturing that should be encouraged in the interests of maternal and infant health.

(2) The general assembly further declares that the purpose of this part 3 is for the state of Colorado to become involved in the national movement to recognize the medical importance of breastfeeding, within the scope of complete pediatric care, and to encourage removal of societal boundaries placed on breastfeeding in public.

CONNECTICUT

In 1997, Connecticut enacted a law that prohibits any person from restricting or limiting the right of a mother to breastfeed her child. In 2001, a law was enacted with provides that employees can express breast milk or breastfeed on the job during meal or break periods, and that employers must make reasonable efforts to provide a place nearby the work area that is not a toilet stall to express milk in private as long as it would not impose an undue hardship on the operation of the employer.

Conn. Gen. Stat. § 46a-64, and § 53-34b
1997 Ct. ALS 210; 1997 Ct. P.A. 210; 1997 Ct. SB 260

Section 46a-64 provides: (Formerly Sec. 53-35). Discriminatory public accommodations practices prohibited.
(a) It shall be a discriminatory practice in violation of this section ...
(3) for a place of public accommodation, resort or amusement to restrict or limit the right of a mother to breast-feed her child; ... (c) Any person who violates any provision of this section shall be fined not less than twenty-five nor more than one hundred dollars or imprisoned not more than thirty days or both.

§ 53-34b. Deprivation of the right to breast-feed one's child.
No person may restrict or limit the right of a mother to breast-feed her child.

Conn. Gen. Stat. § 31-40w
2001 Ct. ALS 182; 2001 Ct. P.A. 182; 2001 Ct. HB 5656

(a) Any employee may, at her discretion, express breast milk or breastfeed on site at her workplace during her meal or break period.
(b) An employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express her milk in private.
(c) An employer shall not discriminate against, discipline or take any adverse employment action against any employee because such employee has elected to exercise her rights under subsection (a) of this section.
(d) As used in this section, "employer" means a person engaged in business who has one or more employees, including the state and any political subdivision of the state; "employee" means any person engaged in service to an employer in the business of the employer; "reasonable efforts" means any effort that would not impose an undue hardship on the operation of the employer's business; and "undue hardship" means any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources and the nature and structure of its operation.

DELAWARE

In 1997, Delaware enacted a law that clarifies a mother's right to breastfeed in any location of public accommodation that she is permitted to be.

31 Del. C. § 310
1997 Del. ALS 10; 71 Del. Laws 10; 1997 Del. HB 31

Breast-feeding.
Notwithstanding any provision of law to the contrary, a mother shall be entitled to breast-feed her baby in any location of a place of public accommodation, wherein the mother is otherwise permitted.

FLORIDA

Florida led the nation by enacting the first comprehensive breastfeeding legislation in the United States. The legislation not

only exempted breastfeeding from criminal statutes, but created a new law that stated this important and basic act of nurture must be encouraged in the interests of maternal and child health. Finally, it provides for a breast-feeding encouragement policy for facilities providing maternity services and newborn infant care.

Fla. Stat. Ann. § 383.015
1993 Fl. ALS 4; 1993 Fla. Laws ch. 4; 1993 Fla. HB 231

The breast feeding of a baby is an important and basic act of nurture which must be encouraged in the interests of maternal and child health and family values. A mother may breast feed her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether or not the nipple of the mother's breast is covered during or incidental to the breast feeding.

Fla. Stat. 800.02, 800.03, 800.04

Statute language omitted. These statutes exclude breastfeeding from various sexual offenses, from the definition of an unnatural and lascivious act.

Fla. Stat. § 827.071 (Child abuse statute)

(g) "Sexual conduct" means ... A mother's breastfeeding of her baby does not under any circumstances constitute "sexual conduct."

Fla .Stat. §383.016, , 383.016, 383.311, and 363.318

Section 383.016 of the Florida Statutes, provides for a breast-feeding encouragement policy for facilities providing maternity services and newborn infant care and authorizing use of "baby-friendly" designation. Sections 383.016, 383.311, and 363.318 of the Florida Statutes relating to breast feeding, administration of maternal and child health programs, education for birth center clients, and postpartum care for birth center clients, requiring encouragement of breastfeeding.

GEORGIA

Georgia enacted a law that begins by clarifying the importance of breastfeeding, and states that a mother has a right to breastfeed in public where she is allowed to be with her baby. Prior to 2002, the law required that breastfeeding be conducted in a modest manner;

however, that language was stricken. Georgia also allows, but does not require, employers to accommodate breastfeeding mothers when they return to work.

Ga. Code An. § 31-1-9

The breast-feeding of a baby is an important and basic act of nurture which should be encouraged in the interests of maternal and child health. A mother may breast-feed her baby in any location where the mother and baby are otherwise authorized to be.

Ga. Code An. § 34-1-6

(a) As used in this Code section, the term 'employer' means any person or entity that employs one or more employees and shall include the state and its political subdivisions.
(b) An employer may provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child. The employer may make reasonable efforts to provide a room or other location (in close proximity to the work area), other than a toilet stall, where the employee can express her milk in privacy. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this Code section if to do so would unduly disrupt the operations of the employer.

HAWAII

Hawaii has enacted legislation regarding nursing in public, and has been at the forefront regarding the right of women to continue breastfeeding when they return to work. Hawaii's employment legislation specifically states that it is discrimination to treat a breastfeeding mother differently from any other employee, including the refusal to hire or employ, or to bar or discharge from employment, or withhold pay, demote or penalize a lactating employee because an employee breastfeeds or expresses milk at the workplace. It requires employers to allow women to breastfeed or express milk during their regular or authorized breaks at work.

HRS §489-21, HRS §489-22

§489-21 Discriminatory practices; breast feeding.
It is a discriminatory practice to deny, or attempt to deny, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public

accommodations to a woman because she is breast feeding a child.

§489- 22 Private cause of action.
Any person who is injured by an unlawful discriminatory practice under this part may bring proceedings to enjoin the unlawful discriminatory practice, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys' fees, the cost of suit, and $100. Any action under this part shall be subject to the jurisdiction of the district courts as provided in chapter 604, and may be commenced and conducted in the small claims division of the district court.

Note that Section 489-23 states that the Hawaii civil rights commission does not have jurisdiction to enforce the law relating to breastfeeding.

History: Approved by the Governor June 14, 2000.

HRS § 378-2, HRS §378-10

§378 – 10.2 Breastfeeding.
No employer shall prohibit an employee from expressing breastmilk during any meal period or other break period required by law to be provided by the employer or required by collective bargaining agreement.

§378-2 Discriminatory practices made unlawful; offenses defined.
It shall be an unlawful discriminatory practice: ...
(7) For any employer or labor organization to refuse to hire or employ, or to bar or discharge from employment, or withhold pay, demote or penalize a lactating employee because an employee breastfeeds or expresses milk at the workplace. For purposes of this paragraph, the term "breastfeeds" means the feeding of a child directly from the breast.

IDAHO

Idaho exempts breastfeeding mothers from jury duty.

Idaho Code § 2-209, §2-212
1996 Ida. ALS 189; 1996 Idaho Sess. 189; 1996 Ida. Ch. 189; 1996 Ida. SB 1468

Idaho Code §2-209

The Court shall provide that a mother nursing her child shall have service postponed until she is no longer nursing the child.

Idaho Code § 2-212

A person who is not disqualified for jury service under section 2-209, Idaho Code, may have jury service postponed by the court or the jury commissioner only upon a showing of undue hardship, extreme inconvenience, or public necessity, or upon a showing that the juror is a mother breastfeeding her child.

ILLINOIS

Illinois has enacted several significant breastfeeding laws: (1) clarifying that breastfeeding in not public indecency; (2) authorizing a public information campaign; (3) providing for a program in WIC for lactation support, including payment for equipment and services; and (4) accommodations for employed mothers who are breastfeeding. On August 16, 2004, a law was enacted regarding a mother's right to breastfeed in public.

Public Act 093-0942, SB 3211, enacted August 16, 2004.

Section 1. Short title. This Act may be cited as the Right to Breastfeed Act.

Section 5. Purpose. The General Assembly finds that breast milk offers better nutrition, immunity, and digestion, and may raise a baby's IQ, and that breastfeeding offers other benefits such as improved mother-baby bonding, and its encouragement has been established as a major goal of this decade by the World Health Organization and the United Nations Children's Fund. The General Assembly finds and declares that the Surgeon General of the United States recommends that babies be fed breastmilk, unless medically contraindicated, in order to attain an optimal healthy start.

Section 10. Breastfeeding Location. A mother may breastfeed her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breastfeeding; however, a mother considering whether to breastfeed her baby in a place of worship shall comport her behavior with the norms appropriatein that place of worship.

Section 15. Private right of action. A woman who has been denied the right to breastfeed by the owner or manager of a public or private location, other than a private residence or place of worship, may bring an action to enjoin future denials of the right to breastfeed. If the woman prevails in her suit, she shall be awarded reasonable attorney's fees and reasonable expenses of litigation.

Section 99. Effective date. This Act takes effect upon becoming law.

720 ILCS 5/11-9,
1995 ILL. ALS 59; 1995 Ill. Laws 59; 1995 ILL. P.A. 59; 1995 ILL. SB 190;

Sec. 11-9. Public indecency. (a) Any person of the age of 17 years and upwards who performs any of the following acts in a public place commits a public indecency: ...
(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of the person. Breast-feeding of infants is not an act of public indecency.

20 ILCS 2310/2310-442
1997 ILL. ALS 24; 1997 Ill. Laws 244; 1997 ILL. P.A. 244; 1997 ILL. SB 404

Permits the Department of Health to conduct a public campaign on breastfeeding. The Department may include the information in a brochure prepared under Section 55.64 or in a brochure that shares other information with the general public and is distributed free of charge. The information required under this Section may be distributed to the parents or legal custodians of each newborn upon discharge of the infant from a hospital or other health care facility.

20 ILCS 1305/10-25
1997 ILL. ALS 290; 1997 Ill. Laws 290; 1997 ILL. P.A. 290; 1997 ILL. HB 619

Sec. 10-25. Women, Infants, and Children Nutrition Program.
...

> (e) The Department may include a program of lactation support services as part of the benefits and services provided for pregnant and breast feeding participants in the women, infants and children nutrition program. The program may include payment for breast pumps, breast shields, or any supply

deemed essential for the successful maintenance of lactation, as well as lactation specialists who are registered nurses, licensed dietitians, or persons who have successfully completed a lactation management training program.

820 ILCS 260/1 et seq.
2001 ILL. ALS 68; 2001 Ill. Laws 68; 2001 ILL. P.A. 68; 2001 ILL. SB 542

Sec. 1. Short title. This Act may be cited as the Nursing Mothers in the Workplace Act

Section 10. Break time for nursing mothers.
An employer shall provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this Section if to do so would unduly disrupt the employer's operations.

Section 15. Private place for nursing mothers.
An employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee described in Section 10 can express her milk in privacy.

Illinois has enacted several significant breastfeeding laws: (1) clarifying that breastfeeding in not public indecency; (2) authorizing a public
information campaign; (3) providing for a program in WIC for lactation support, including payment for equipment and services; and (4) accommodations for employed mothers who are breastfeeding

INDIANA

Ind. Code. IC § 16-35-6-1
As added by P.L.125-2003, SEC.1.

Notwithstanding any other law, a woman may breastfeed her child anywhere the woman has a right to be.

IOWA

Iowa has laws pertaining to jury duty and breastfeeding in public.

Iowa Code § 607A.5, 2002
Iowa House File #2350, 1994
1994 Ia. ALS 1196; 1994 Ia. Ch. 1196; 1994 Ia. LAWS 1196; 1994 Ia. HF 2350

607A.5 Automatic Excuse From Jury Service

A person shall be excused from jury service if the person submits written documentation verifying, to the court's satisfaction, that the person is solely responsible for the daily care of a permanently disabled person living in the person's household and that the performance of juror service would cause substantial risk of injury to the health of the disabled person or that the person is the mother of a breastfed child and is responsible for the daily care of the child. However, if the person is regularly employed at a location other than the person's household, the person shall not be excused under this section.

Iowa Code § 135.30A, 2002
2000 Ia. ALS 1140; 2000 Ia. Ch. 1140; 2000 Ia. LAWS 1140; 1999 Ia. SF 2302

135.30A Breastfeeding in Public Places
Notwithstanding any other provision of law to the contrary, a woman may breast-feed the woman's own child in any public place where the woman's presence is otherwise authorized.

KANSAS

There is no legislation in Kansas regarding breastfeeding.

KENTUCKY

Kentucky does not have legislation pertaining to breastfeeding. Bills have been introduced in 2002 and 2003, but they have not become law. For the last bill see:
http://www.lrc.state.ky.us/record/04rs/HB646/bill.doc

LOUISIANA

Louisiana in 2003 enacted that first law that prohibits child care facilities from discriminating against breastfed babies. Louisiana enacted a breastfeeding in public law in 2001, which initially sets forth the importance of breastfeeding, and then goes on to state

that it is discrimination to prohibit a mother from breastfeeding her baby in public. This law also states that it is segregation to ask her to go to a different place to breastfeed. In 2002, a resolution was approved establishing a joint study on the topic of insurance coverage for outpatient lactation support. (LHCR 35, 2002).

L.R.S. 46 § 1409(B)(5)
2003 La. Acts. 369

B. The Louisiana Advisory Committee on Licensing of Child Care Facilities and Child-Placing Agencies shall approve rules and regulations developed by the department to meet at least the following standards for all Class A child care facilities and child placement agencies as defined in this Chapter which, at a minimum, shall:

(5) Prohibit discrimination by child care facilities and child placement agencies on the basis of race, color, creed, sex, national origin, handicapping condition, ancestry, or whether the child is being breast-fed. A provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations, or patterns best addressed by its program. These policies shall be available to the legally responsible person for any child referred for placement.

L.R.S. 46 § 1413(E)

§1413. Rules, regulations, and standards for Class B licenses

E. No child care facility shall discriminate based on race, color, creed, disability, as defined in R.S. 51:2232(11), national origin ancestry or whether a child is being breast-fed. However, this shall not restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination. Nor shall it affect the rights of religious sectarian child-placing agencies to consider creed in any decision or action relating to foster care or adoption.

L.R.S. 51 § 2247.1
2001 La. ALS 576; 2001 La. ACT 576; 2001 La. HB 377

Section 2247.1. Breastfeeding; Discriminatory Practices Prohibited
A. Legislative Findings and Declarations.
(1) The Legislature of Louisiana hereby finds that the Surgeon General of the United States recommends that babies from birth to one year of age be breastfed, unless medically contraindicated, in

order for the babies to attain an optimal healthy start in life, but that despite that recommendation, statistics reveal a declining percentage of mothers who are now choosing to breastfeed their babies, and nearly half of all new mothers are choosing formula over breastfeeding before they even leave the hospital.

(2) The Legislature further finds that breast milk provides better nutrition and more immunity to disease, is easier for babies to digest, and may raise a baby's intelligence quotient, but that the social constraints of modern society work against the choice of breastfeeding and lead new mothers with demanding time schedules to opt for formula feeding for reasons such as embarrassment and the fear of social ostracism or criminal prosecution.

(3) The Legislature does hereby declare that the promotion of family values and infant health demands that our society put an end to the vicious cycle of embarrassment and ignorance that constricts women and men alike on the subject of breastfeeding, and that in a genuine effort to promote family values, our society should encourage public acceptance of this most basic act of nurture between mother and baby and should take appropriate steps to ensure that no mother is made to feel incriminated or socially ostracized for breastfeeding her baby.

B. Right to Breastfeed.

Notwithstanding any other provision of law to the contrary, a mother may breastfeed her baby in any place of public accommodation, resort, or amusement.

C. "Discriminatory Practice in Connection with Public Accommodations" to Include a Discriminatory Practice Against a Mother Breastfeeding her Baby.

Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a mother breastfeeding her baby shall be a "discriminatory practice in connection with public accommodations" for the purposes of this chapter.

D. Breastfeeding; Discriminatory Practices Prohibited.

It is a discriminatory practice in connection with public accommodations for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in this chapter, on the grounds that the individual is a mother breastfeeding her

baby. This discriminatory practice in connection with public accommodations is prohibited.

E. Breastfeeding Not a Violation of Law.
A mother breastfeeding her baby in any location, public or private, where the mother is otherwise authorized to be, shall not be deemed to be in violation of r.s. 14:106 or of any other provision of law.

MAINE

Maine is one of a handful of states that require courts to consider breastfeeding of a baby under one year of age in deciding parental responsibility issues in divorce and separation cases. Maine also enacted a law that clarifies women have a right to breastfeed in public where they have a right to be.

19 M.R.S. § 1653(P)
1999 Me. ALS 702; 1999 Me. Laws 702; 1999 Me. Ch. 702; 1999 Me. SP 888

3. BEST INTEREST OF CHILD. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

> P. If the child is under one year of age, whether the child is being breast-fed.

5 M.R.S. § 4634,
2001 Me. ALS 206; 2001 Me. Laws 206; 2001 Me. Ch. 206; 2001 Me. HP 1039

Right to Breast-feed
Notwithstanding any other provision of law, a mother may breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be.

MARYLAND

Maryland became the first state to enact a law that exempted from their sales tax law supplies that support breastfeeding, such as pumps, kits, shells, shields, SNS, feeding tubes, breast milk

storage bags, finger feeders, and purified lanolin. In 2003, Maryland passed legislation regarding breastfeeding in public. The preamble, not reproduced here, recites the advantages of breastfeeding.

Md. Code §20-801.
S.B. 223, Chap. 369
Signed by Governor, 5/22/03

> (a) A mother may breast-feed her child in any public or private location in which the mother and child are authorized to be.
> (b) A person may not restrict or limit the right of a mother to breast-feed her child.

Md. Code Ann §11-211
2001 Md. ALS 137; 2001 Md. Laws 137; 2001 Md. Chap. 137; 2001 Md. SB 252,

(b) The sales and use tax does not apply to a sale of:
(19) tangible personal property manufactured for the purpose of initiating, supporting or sustaining breast-feeding, including breast pumps, breast pump kits, nipple enhances, breast shields, breast shells, supplemental nursing systems, softcup feeders, feeding tubes, breast milk storage bags, periodontal syringes, finger feeders, haberman feeders, and purified lanolin.

MASSACHUSETTS

The only legislation in Massachusetts regarding breastfeeding pertains to maternity patients' right to know the annual percentage of women breast-feeding upon discharge from their admitting hospitals. M.G.L - Chapter 111, Section 70E Patients' and residents' rights (not reproduced here).

MICHIGAN

Michigan exempts breastfeeding from its public nudity statute. It also has a law that requires courts to consider whether a child is nursing in determining parenting time in family law cases

MCLS § 41.181, § 67.1, § 117.4i, § 117.5h,
1994 Mi. ALS 313 - 315; 1994 Mi. P.A. 313 - 315; 1994 Mi. SB 107 – 109

Amends various sections of the Michigan criminal code to expressly state that public nudity does not include a woman's breastfeeding of

a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

MCLS § 722.27a, Child Custody Act of 1970

§ 722.27a. Parenting time.
(6) The court may consider the following factors when determining the frequency, duration, and type of parenting time to be granted: ...
(b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.

MINNESOTA

Minnesota has two breastfeeding laws. One protects the right of a mother to breastfeeding in public. This bill is very strong, and clarifies that women have a right to breastfeed any place they have a right to be with their children, even if there is some exposure of the breast. The most impressive bill, however, is the second, which requires employers to accommodate breastfeeding mothers when they return to work

Minn. Stat. § 145.894, 2002
1990 Minn. ALS 568; 1990 Minn. Chapter Law 568;1990 Minn. S.F. No. 2621;

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children; ...

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites. The education program must include information about breastfeeding.

Minn. Stat. § 181.939
1998 Minn. ALS 369; 1998 Minn. Chapter Law 369; 1997 Minn. S.F. No. 2751

181.939 Nursing Mother
An employer must provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant

child. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this section if to do so would unduly disrupt the operations of the employer.

The employer must make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express her milk in privacy. The employer would be held harmless if reasonable effort has been made.

Minn. Stat. § 617.23

Indecent Exposure; Penalties
(d) It is not a violation of the indecent exposure statute for a woman to breast feed.

Minn. Stat. § 145.905
1998 Minn. ALS 407; 1998 Minn. Chapter Law 407; 1997 Minn. S.F. No. 3346

145.905 Location for Breast-feeding
A mother may breast-feed in any location, public or private, where the mother and child are otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast-feeding.

2002 Minn. Laws. Ch. 269

Requests that the Minn. Supreme Court Jury Reform taskforce look at the issue of nursing mothers and jury duty. Note that a draft of the Taskforce December 2001 report recommended that judges take into account the needs of nursing. Proposed legislation to excuse nursing nursing mothers has not been put into law.

Minn. Stat. § 145.894
1990 Minn. ALS 568; 1990 Minn. Chapter Law 568;1990 Minn. S.F. No. 2621;

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children; ...

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the

delivery of individual and family nutrition education and counseling at project sites. The education programs must include a campaign to promote breast-feeding.

MISSISSIPPI

There are no breastfeeding-related laws in Mississippi.

MISSOURI

In 1999, Missouri enacted a law that requires new mothers be given information by the hospitals on breastfeeding and the benefits to the child, as well as information on local breastfeeding support groups. The law also requires them to offer breastfeeding consultations to new mothers when determined appropriate by the attending physician. Also, all physicians who provide ob/gyn care shall inform patients as to prenatal preparation for and postnatal benefits of breastfeeding.

The law then goes on to state that a woman has a right to breastfeed her child in public "...with as much discretion as possible." It is likely that this language is also unconstitutional and unlawful. This restrictive language requiring discretion does not promote breastfeeding, and should not be copied by other states.

R.S.Mo. § 191.915, § 191.918

§ 191.915. Breast-feeding information provided, when, by whom

1. Every hospital, as defined in section 197.020, RSMo, and ambulatory surgical center, as defined in section 197.200, RSMo, that provides obstetrical care shall:

(1) Provide new mothers, where appropriate as determined by the attending physician, with information on breast-feeding and the benefits to the child; and

(2) Provide new mothers, where appropriate as determined by the attending physician, with information on local breast-feeding support groups; or

(3) Offer breast-feeding consultations to new mothers, where appropriate as determined by the attending physician.

2. Beginning January 1, 2000, every licensed physician who provides obstetrical or gynecological consultation shall, where appropriate as determined by such physician, inform patients as to the prenatal preparation for and postnatal benefits of breast-feeding a child.

3. The department of health shall produce written information on breast-feeding and the health benefits to the child, and shall distribute such information to physicians described in subsection 2 of this section and to hospitals and ambulatory surgical centers described in subsection 1 of this section upon request.

§ 191.918. Breast-feeding in public permitted

Notwithstanding any other provision of law to the contrary, a mother may, with as much discretion as possible, breast-feed her child in any public or private location where the mother is otherwise authorized to be.

MONTANA

Montana has enacted a law that specifically sets forth the importance of breastfeeding, and clarifies that women have a right to breastfeed their children in public, even if there is exposure of the breast. It also clarifies that breastfeeding is not an indecent or criminal act.

Mont. Code Anno., § 50-19-501
1999 Mt. ALS 299; 1999 Mt. Laws 299; 1999 Mt. Ch. 299; 1999 Mt. SB 398

Nursing mother and infant protection.
(1) The Montana legislature finds that breastfeeding a baby is an important and basic act of nurturing that must be protected in the interests of maternal and child health and family values. A mother has a right to breastfeed the mother's child in any location, public or private, where the mother and child are otherwise authorized to be present, irrespective of whether or not the mother's breast is covered during or incidental to the breastfeeding.
(2) A unit of local government may not prohibit breastfeeding in public by local ordinance.
(3) The act of breastfeeding may not be considered
(a) a nuisance as provided in Title 27, chapter 30;
(b) indecent exposure as provided for in 455504;
(c) sexual conduct as defined in 455620(1)(f); or
(d) obscenity as provided for in 458201.

NEBRASKA
Neb.Rev.Stat.§25-1601 (2004)

Jurors; competency; disqualified; excused, when

4) A nursing mother shall be excused from jury service until she is no longer nursing her child by making such request to the court at the time the juror qualification form is filed with the jury commissioner and including with the request a physician's certificate in support of her request. The jury commissioner shall mail the mother a notification form to be completed and returned to the jury commissioner by the mother when she is no longer nursing the child.

NEVADA

Nevada has enacted a law that specifically sets forth the importance of breastfeeding, and clarifies that women have a right to breastfeed their children in public, even if there is exposure of the breast. It also clarifies that breastfeeding is not an indecent or criminal act.

Nev. Rev. Stat. Ann. § 201.210, § 201.220, § 201.232
1995 Nev. ALS 105; 1995 Nev. Stat. 105; 1995 Nev. Ch. 105; 1995 Nev. SB 317

§ 201.232. Breast feeding: Legislative intent; authorized in any public or private location where mother is authorized to be

1. The legislature finds and declares that:

(a) The medical profession in the United States recommends that children from birth to the age of 1 year should be breast fed, unless under particular circumstances it is medically inadvisable.

(b) Despite the recommendation of the medical profession, statistics reveal a declining percentage of mothers who are choosing to breast feed their babies.

(c) Many new mothers are now choosing to use formula rather than to breast feed even before they leave the hospital, and only a small percentage of all mothers are still breast feeding when their babies are 6 months old.

(d) In addition to the benefit of improving bonding between mothers and their babies, breast feeding offers better nutrition, digestion and immunity for babies than does formula feeding, and it may increase the intelligence quotient of a child. Babies who are breast fed have lower rates of death, meningitis, childhood leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections, diarrheal diseases, otitis media, allergies, obesity and developmental delays.

(e) Breast feeding also provides significant benefits to the health of the mother, including protection against breast cancer and other cancers, osteoporosis and infections of the urinary tract. The incidence of breast cancer in the United States might be reduced

by 25 percent if every woman breast fed all her children until they reached the age of 2 years.

(f) The World Health Organization and the United Nations Children's Fund have established as one of their major goals for the decade the encouragement of breast feeding.

(g) The social constraints of modern society weigh against the choice of breast feeding and lead new mothers with demanding time schedules to opt for formula feeding to avoid embarrassment, social ostracism or criminal prosecution.

(h) Any genuine promotion of family values should encourage public acceptance of this most basic act of nurture between a mother and her baby, and no mother should be made to feel incriminated or socially ostracized for breast feeding her child.

2. Notwithstanding any other provision of law, a mother may breast feed her child in any public or private location where the mother is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

Nev. Rev. State. § 201.210

1. A person who commits any act of open or gross lewdness is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Nev. Rev. State. § 201.220

1. A person who makes any open and indecent or obscene exposure of his person, or of the person of another, is guilty:

(a) For the first offense, of a gross misdemeanor.

(b) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

NEW HAMPSHIRE

New Hampshire has enacted a law about public breastfeeding.

N.H. Rev.Stat. Ann. §132:10-d)

New Hampshire House Bill # 441, 1999

Breastfeeding.
Breastfeeding a child does not constitute an act of indecent exposure and to restrict or limit the right of a mother to breastfeed her child is discriminatory.

NEW JERSEY

In 1997, New Jersey enacted a law that sets forth the importance of breastfeeding, and clarifies that women have a right to breastfeed her baby in public. This was one of the first laws that provided a fine and penalty for its violation.

N.J.S.A. 26:4B-4

2. Notwithstanding any provision of law to the contrary, a mother shall be entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement wherein the mother is otherwise permitted.

N.J.S.A. 26:4B-5

3. a. The local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect a violation of this act has occurred shall, by written notification, advise the owner, manager or other person having control of the public accommodation, resort or amusement of the initial complaint and of the penalties for any subsequent complaints. Thereupon, any owner, manager or other person having control of the public accommodation, resort or amusement receiving such notice who knowingly fails or refuses to comply with the provisions of this act is subject to a fine not to exceed $25.00 for the first offense following initial notification and not to exceed $100.00 for the second offense and not to exceed $200.00 for each offense thereafter. When there exists no local board of health or such board, body or officers having the authority to exercise the functions of the local board of health according to law in the municipality in which a violation of this act has allegedly occurred, the State Department of Health and Senior Services shall exercise the functions of the local boards of heath for purposes of this act.

b. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health and Senior Services or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of

health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

c. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "the penalty enforcement law," N.J.S.2A:58-1 et seq. Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services, or the local board of health, as the case may be, as plaintiff.

History: Approved May 19, 1997

NEW MEXICO

In 1999, New Mexico enacted a very simple law that just states that a mother may breastfeed her child in public, any place she is authorized to be.

N.M. Stat. Ann. § 28-20-1
1999 N.M. ALS 117; 1999 N.M. Laws 117; 1999 N.M. Ch. 117; 1999 N.M. SB 545

§ 28-20-1. Right to breastfeed.

A mother may breastfeed her child in any location, public or private, where the mother is otherwise authorized to be present.

NEW YORK

New York was the first state in the nation to enact any form of breastfeeding legislation. As far back as 1984, NY exempted breastfeeding of infants from their criminal statute. Then, in 1994 NY led the nation by enacting the most progressive breastfeeding legislation in the United States -- amending their civil rights act to grant mothers an absolute right to breastfeed in public.

Note that NY also has a law that allows under certain circumstances mothers who give birth in prison, or who are nursing a baby, to have the baby with them in prison while the baby is less than 12 months of age.

NY Penal Laws § 245.01, 245.02

§ 245.01. Exposure of a person

A person is guilty of exposure if he appears in a public place in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment.

§ 245.02. Promoting the exposure of a person

A person is guilty of promoting the exposure of a person when he knowingly conducts, maintains, owns, manages, operates or furnishes any public premise or place where a person in a public place appears in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment.

NY CLS Civ R § 79-e (Article 7 Miscellaneous Provisions).
1994 N.Y. ALS 98; 1994 N.Y. LAWS 98; 1994 N.Y. S.N. 3999

§ 79-E. Right To Breast Feed.
Notwithstanding any other provision of law, a mother may breast feed her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether or not the nipple of the mother's breast is covered during or incidental to the breast feeding.

NY CLS Correc § 611 (Article 22, Miscellaneous Provisions)

§ 611. Births to inmates of correctional institutions and care of children of inmates of correctional institutions

1. If a woman confined in any institution under the control of the state department of correction, or in any penitentiary or jail be pregnant and about to give birth to a child, the officer in charge of such institution, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from such institution and provided with comfortable accommodations, maintenance and medical care elsewhere, under such supervision and safeguards to prevent her escape from custody as he may determine, and subject to her return to such institution as soon after the birth of her child as the state of her health will permit...

2. A child so born may be returned with its mother to the correctional institution in which the mother is confined unless the chief medical officer of the correctional institution shall certify that the mother is physically unfit to care for the child, in which case the statement of the said medical officer shall be final. A child may remain in the correctional institution with its mother for such period as seems desirable for the welfare of such child, but not after it is one year of age, provided, however, if the mother is in a state reformatory and is to be paroled shortly after the child becomes one year of age, such child may remain at the state reformatory until its mother is paroled, but in no case after the child is eighteen months old. The officer in charge of such institution may cause a child cared for therein with its mother to be removed from the institution at any time before the child is one year of age...

3. If any woman, committed to any such correctional institution at the time of such commitment is the mother of a nursing child in her care under one year of age, such child may accompany her to such institution if she is physically fit to have the care of such child, subject to the provisions of subdivision two of this section. If any woman committed to any such institution at the time of such commitment is the mother of and has under her exclusive care a child more than one year of age the justice or magistrate committing such woman shall refer such child to the commissioner of public welfare or other officer or board exercising in relation to children the power of a commissioner of public welfare of the county from which the woman is committed to be cared for as provided by law in the case of a child becoming dependent upon the county.

NORTH CAROLINA

North Carolina, in 1993, exempted breastfeeding from the criminal statutes, and at the same time, clarified that women have the right to breastfeed in public, even if there is exposure of the breast.

N.C. Gen. Stat. sec. 14-190.9
1993 N.C. ALS 301; 1993 N.C. Sess. Laws 301; 1993 N.C. Ch. 301; 1993 N.C. HB 1143

§ 14-190.9. Indecent exposure.
(B) Notwithstanding any other provision of law, a woman may breast feed in any public or private location where she is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

NORTH DAKOTA

North Dakota has no legislation pertaining to breastfeeding.

OHIO

Ohio has no legislation pertaining to breastfeeding.

OKLAHOMA

As of May 25, 2004, Oklahoma implemented laws pertaining to breastfeeding. A mother's right to breastfeed is protected, and shall not constitute indecent exposure. Oklahoma has taken a progressive step by exempting breastfeeding mothers from jury duty.

HB 2101, Signed by Governor May 2004.
Title 63, Section 1-234.1 (new)

"The Legislature hereby declares that breast-feeding a baby constitutes a basic act of nurturing to which every baby has a right and which should be encouraged in the interests of maternal and child health. In furtherance of this right, a mother may breast-feed her baby in any location where the mother is otherwise authorized to be. Breast-feeding shall not constitute a violation of any provision of Title 21 of the Oklahoma Statutes."

38 O.S. 2001, Section 28

"C. Mothers who are breast-feeding a baby, upon their request, shall be exempt from service as jurors."

OREGON

Oregon has two breastfeeding laws. The first one very simply states that a woman has a right to breastfeed her child in public. The other exempts breastfeeding mothers from jury duty.

ORS § 109.001
1999 Ore. ALS 306; 1999 Ore. Laws 306; 1999 Ore. SB 744

A woman may breastfeed her child in a public place.

ORS § 10.050
999 Ore. ALS 1085; 1999 Ore. Laws 1085; 1999 Ore. SB 1304

... (4) a Judge of the Court or Clerk of Court shall excuse a woman from acting as a juror upon the request of the woman if the woman

is breastfeeding a child. A request for excuse from jury service under this subsection must be made in writing... (5) Unless the public need for juries in the court outweighs the individual circumstances of the person summoned, a Judge of the Court or Clerk of Court shall excuse a person from acting as a juror upon the request of that person if the person is the sole caregiver for a child or other dependent during the Court's normal hours of operation, the person is unable to afford day care or make other arrangements for the care of the dependent, and the person personally attends to the dependent during the Court's normal hours of operation.

PENNSYLVANIA

Pennsylvania has not yet enacted any breastfeeding legislation on a state level, but the City of Philadelphia does have an ordinance addressing breastfeeding in public.

Pennsylvania: City of Philadelphia City Ordinance 9-1105

City Ordinance 1996 Amends Section 9-1105 of the Fair Practices Code entitled "Unlawful Public Accommodations Practice" to prohibit a breastfeeding mother from or segregate a breastfeeding mother within any public accommodation where she would otherwise be authorized to be irrespective of whether or not the nipple of the mother's breast is covered during or incidental to breastfeeding.

RHODE ISLAND

Rhode Island enacted a very simple law in 1998 that clarifies breastfeeding in public is not a violation of the criminal statutes.

R.I. Gen. Laws § 11-45-1
1997 R.I. SB 2319

11-45-1. Disorderly conduct. -- (a) A person commits disorderly conduct if he or she intentionally, knowingly, or recklessly...
(e) In no event shall the provisions of this section be construed to apply to breastfeeding in public

SOUTH CAROLINA

South Carolina has no legislation regarding breastfeeding.

SOUTH DAKOTA

South Dakota simply exempts breastfeeding in public from their indecent exposure statutes. This bill was passed in 2002.

Law §22-22-24.1, 2002
2002 S.D. ALS 109; 2002 S.D. Laws 109; 2002 S.D. CH 109; 2002 S.D. SB 184; S.D. Cod.
S.D. Cod. Law §22-22-24 states in pertinent part:

(7) "Harmful to minor"....

(c)Taken as a whole, is without serious literary, artistic, political, or scientific value for minors. This term does not include a mother's breast-feeding of her baby; ...

(9)"Nudity," the showing or the simulated ...

... opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state for the purpose of creating sexual excitement. This term does not include a mother's breast-feeding of her baby irrespective of whether or not the nipple is covered during or incidental to feeding;

(10) "Obscene," the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient ...

(b) describes, in a patently offensive way, prohibited sexual acts; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value. This term does not include a mother's breast-feeding of her baby; ...

(14) sexual battery or simulates that sexual battery is being or will be committed. The term includes encouraging, aiding, abetting or enticing any person to commit any such acts as provided in this subdivision. The term does not include a mother's breast-feeding of her baby;

TENNESSEE

Tennessee's only breastfeeding legislation pertains to the workplace. In 1999, Tennessee became the second state in the

nation to require that employers accommodate breastfeeding mothers when they return to work.

Tenn. Code Ann. § 50-1-305
1999 Tn. ALS 161; 1999 Tenn. Pub. Acts 161; 1999 Tn. Pub. Ch. 161; 1999 Tn. SB 1856

(a) An employer shall provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer shall not be required to provide break time under this section if to do so would unduly disrupt the operations of the employer.
(b) The employer shall make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where the employee can express her breast milk in privacy. The employer shall be held harmless if reasonable effort has been made to comply with this subsection.
(c) For the purposes of this section, "employer" means a person or entity that employs one (1) or more employees and includes the state and its political subdivisions.

TEXAS

Texas enacted comprehensive laws in 1995 that set forth the benefits of breastfeeding, clarified that women have a right to breastfeed in public, set up standards for employers to advertise themselves as 'mother-friendly' if they develop breastfeeding support policies, and set up a demonstration project to determine the feasibility of breastfeeding support policies for all state employees. Texas also has a statute governing human milk banks. There is also a law governing breastfeeding services to mothers discharged early from the hospital; this law is effective April 2005.

Tex. Health & Safety Code § 161.071
Added by Acts 2001, 77th Leg., ch. 379, § 1, eff. Sept. 1, 2001.

MINIMUM GUIDELINES FOR HUMAN DONOR MILK BANKS. The department shall establish minimum guidelines for the procurement, processing, distribution, or use of human milk by donor milk banks.

Tex. Health & Safety Code § 165.001 et seq.
1995 Tex. ALS 600; 1995 Tex. Gen. Laws 600; 1995 Tex. Ch 600; 1995 Tex. HB 359

Chapter 165. Breast-feeding

Subchapter A. Breast-feeding Rights and Policies

Sec. 165.001. Legislative Finding

The legislature finds that breast-feeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values. In compliance with the breast-feeding promotion program established under the Federal Child Nutrition Act of 1966 (42 U.S.C. section 1771 et seq.), the Legislature recognizes breast-feeding as the best method of infant nutrition.

Sec. 165.002. Right to Breast-feed

A mother is entitled to breast-feed her baby in any location in which the mother is authorized to be.

Sec. 165.003 Business Designation as "Mother-Friendly".

(a) A business may use the designation "mother-friendly" in its promotional materials if the business develops a policy supporting the practice of worksite breast-feeding that addresses the following:

(1) Work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;

(2) The provision of accessible locations allowing privacy;

(3) Access nearby to a clean, safe water source and a sink for washing hands and rinsing out any needed breast-pumping equipment; and

(4) Access to hygienic storage alternatives in the workplace for the mother's breast milk.

(b) The business shall submit its breast-feeding policy to the department. The department shall maintain a list of "mother-friendly" businesses covered under this section and shall make the list available for public inspection.

Section 165.004. Services Provided by State Agencies.

Any state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with infants.

Subchapter B. Demonstration Project.

Section 165.031. Legislative Recognition.

The legislature recognizes a mother's responsibility to both her job and her child when she returns to work and acknowledges that a woman's choice to breast-feed benefits the family, the employer, and society.

Section 165.032. Demonstration Project.

(a) The Department shall establish a demonstration project in Travis County to provide access to worksite breast-feeding for

department employees who are mothers with infants.
(b) The department shall administer the demonstration project and shall determine the benefits of, potential barriers to, and potential costs of implementing worksite breast-feeding support policies for state employees.

Section 165.033. Breast-feeding Policy. The Department shall develop recommendations supporting the practice of worksite breast-feeding that address the following:
(1) Work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;
(2) The provision of accessible locations allowing privacy;
(3) Access nearby to a clean, safe water source and a sink for washing hands and rinsing out any needed breast-pumping equipment; and
(4) Access to hygienic storage alternatives in the workplace for the mother's breast milk.

Texas Insurance Code § 1366.051 et seq.
Added by Acts 2003, 78th Leg., ch. 1274, § 3, eff. April 1, 2005.

This law provides that the health insurer of a maternity patient discharged before that statutory minimum stay must be provided post delivery services including assistance and training in breast-feeding.

UTAH

Utah enacted legislation clarifying a woman's right to breastfeed in public, even if there was some exposure of the breast. It exempts breastfeeding form indecent exposure statutes. Utah is also one of the few states in the U.S. that provides consideration of breastfeeding in family law cases. The lack of reasonable alternatives of a nursing child as a factor the court can consider in determining whether the standard parenting schedule would apply. Note that under their guidelines, full weekend visitation and one week periods in the summer would begin at 18 months of age.

Utah Code Ann. § 10-8-41, § 10-8-50, § 17-15-25, § 76-9-702, § 76-10-1229.5,

10-8-41. Prostitution, lewd or perverted acts, gambling, and obscene or lewd publications.
(2) (a) A woman's breast feeding, including breast feeding in any place where the woman otherwise may rightfully be, does not under any circumstance constitute an obscene or lewd act, irrespective of

whether or not the breast is covered during or incidental to feeding.
(b) Boards of Commissioners and City Councils of Cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breastfeeding.

10-8-50. Disturbing the peace -- Public intoxication -- Fighting -- Obscene language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.
(3) (a) A woman's breast feeding, including breast feeding in any place where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd or indecent act, irrespective of whether or not the breast is covered during or incidental to feeding.
(b) Boards of Commissioners and City Councils of Cities may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breastfeeding.

17-15-25. Right to Breast Feed.
The County Legislative Bodies may not prohibit a woman's breast feeding in any location where she otherwise may rightfully be, irrespective of whether the breast is uncovered during or incidental to the breastfeeding.

76-9-702. Lewdness -- Gross lewdness.
(5) A woman's breast feeding, including breast feeding in any place where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd or grossly lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

76-10-1229.5. Breast Feeding is not Violation of this Part.
A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a violation of this part, irrespective of whether or not the breast is covered during or incidental to feeding.

Utah Code Ann. § 30-3-34
1997 Ut. ALS 80; 1997 Utah Laws 80; 1997 Ut. Ch. 80; 1997 Ut. SB 33

Best interests -- Rebuttable presumption.
(1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.
(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-

35.5 shall be presumed to be in the best interests of the child. The parent-time schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:.....

(n) (n) the lack of reasonable alternatives to the needs of a nursing child;

Note that Utah Code Ann § 30-3-35.5 sets forth a minimum schedule for visitation for children under five years of age.

VERMONT

Vermont recently passed a law giving mothers the right to Breastfeed in public but it limits the right to where the mother is authorized to be present *with her child*. The Act also directed the Human Rights Commission to develop and distribute materials regarding a mother's legal right to breastfeed in any place of public accommodation; however, that portion of the law was not codified.

Vermont Senate Bill #156, 2001
2002 VT. ALS 117; 2002 VT Laws 117; 2002 VT. Act 117; 2001 VT. SB 156;

Sec. 2. 9 V.S.A. §4502(j) :

(J) Notwithstanding any other provision of law, a mother may breastfeed her child in any place of public accommodation in which the mother and child would otherwise have a legal right to be. Effective date, March 15, 2003.

VIRGINIA

Virginia has a law that exempts breastfeeding from their criminal statutes, clarifying that it is not a violation to breastfeed a child in any public place. In addition, Virginia law gives a woman a right to breastfeed on any property owned, leased or controlled by the Commonwealth. A resolution, H.J.Res. 145 (2002), encourages employers to recognize the importance of breastfeeding and to provide breaks and space for employees to breastfeed or express milk; however, this resolution does not have the force of law.

Va. Code Ann. § 18.2-387
1994 Va. ALS 398; 1994 Va. Acts 398; 1994 Va. Ch. 398; 1994 Va. HB 1188

Section 18.2-387 Indecent Exposure
Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present

Va. Code Ann. §2.2-1147.1, 2002
Virginia House Bill # 1264, 2002

Right to breast-feed

Notwithstanding any other provision of law, a woman may breast-feed her child at any location where that woman would otherwise be allowed on property that is owned, leased or controlled by the Commonwealth as defined in § 2.2-1147.

WASHINGTON

Washington exempts the act of breastfeeding or expressing breast milk from the indecent exposure laws. It also encourages employers to accommodate breastfeeding mothers, and sets up an incentive program for employers by allowing them to advertise that they are 'infant friendly' if they set up lactation support for their employees.

RCW 9A.88.010
2001 Wa. ALS 88; 2001 Wa. Ch. 88; 2001 Wa. HB 1590

(1) A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

RCW 43.70.640
2001 Wa. ALS 88; 2001 Wa. Ch. 88; 2001 Wa. HB 1590

Workplace breastfeeding policies -- Infant-friendly designation.

(1) An employer may use the designation "infant-friendly" on its promotional materials if the employer has an approved workplace breastfeeding policy addressing at least the following:
(a) Flexible work scheduling, including scheduling breaks and

permitting work patterns that provide time for expression of breast milk;

(b) A convenient, sanitary, safe, and private location, other than a restroom, allowing privacy for breastfeeding or expressing breast milk;

(c) A convenient clean and safe water source with facilities for washing hands and rinsing breast-pumping equipment located in the private location specified in (b) of this subsection; and

(d) A convenient hygienic refrigerator in the workplace for the mother's breast milk.

(2) Employers seeking approval of a workplace breastfeeding policy must submit the policy to the department of health. The department of health shall review and approve those policies that meet the requirements of this section. The department may directly develop and implement the criteria for "infant-friendly" employers, or contract with a vendor for this purpose...

(3) For the purposes of this section, "employer" includes those employers defined in RCW 49.12.005 and also includes the state, state institutions, state agencies, political subdivisions of the state, and municipal corporations or quasi-municipal corporations.

WEST VIRGINIA

West Virginia has not enacted any legislation pertaining to breastfeeding.

WISCONSIN

Wisconsin exempts breastfeeding of a child from the criminal statutes.

Wis. Stat. § 944.17, § 944.20, § 948.10
1995 Wis. ALS 165; 1995 Wis. Act 165; 1995 Wis. Laws 165; 1995 Wis. AB 154

Amends and creates sections 948.10, 944.17 (3), 944.20 (2) and 948.10 (2) of the statutes to state that the criminal statutes do not apply to a mother's breast-feeding of her child.

WYOMING

A joint resolution, HJER 0001, was signed by the Governor on 2/21/2003. This resolution does not have the force of law. The resolution "supports" breastfeeding, encourages reasonable

accommodation of breastfeeding mothers, and encourages state agencies that provide maternal or child health service to provide breastfeeding information. The portion supporting the right of mothers to breastfeed in any location where she has the right to be with her child was deleted.

Elizabeth N. Baldwin was an attorney and certified family mediator in Miami, Florida. She was the nation's expert on breastfeeding and the law, and provided information and assistance to anyone with a breastfeeding legal matter, including parents, attorneys, expert witnesses, psychologists, guardians, case workers and others in the legal system. Sadly, Ms. Baldwin passed away in 2003.

Melissa R. Vance has been a practicing attorney since 1987, and a La Leche League Leader since 1997. She practices in New Jersey.

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Att #2

Testimony

Senate Bill 2261

Senate Judiciary Committee

February 2, 2005; 10:00

North Dakota Department of Health

Good morning, Senator Traynor and members of the Senate Judiciary Committee. My name is Jill Leppert, and I am with North Dakota Department of Health's Division of Nutrition and Physical Activity. I am also the breastfeeding coordinator for the department's Special Nutrition Program for Women Infants and Children – or the WIC Program, as it is more commonly called. I am here today to provide testimony in support of Senate Bill 2261.

The North Dakota Department of Health supports mothers in their efforts to breastfeed their babies. Research shows that breast milk is best for babies and that breastfeeding is necessary for healthy infants, children and mothers. In fact, breastfeeding is recognized as the optimal method for feeding a baby by the American Academy of Pediatrics, the American Medical Association, the American Dietetic Association, and the American Public Health Association.

According to national studies, feeding babies formula increases many health-related costs. Nationally, the cost of treating diseases and conditions preventable by breastfeeding is more than $3.6 billion a year. Breast milk protects a baby against sudden infant death syndrome, juvenile diabetes, childhood cancer, ear infections, allergies, asthma, obesity and influenza.

Supporting a mother's choice to breastfeed her baby is essential to her success. This positive support must come from her family, her friends, her physician – and her community.

Mothers who breastfeed their babies in public places generally do so discreetly by using blankets and other means to ensure their privacy. Unfortunately, some mothers in North Dakota have faced resistance to their breastfeeding in public places. We have received reports from mothers who have been asked to stop breastfeeding their babies on airplanes and at malls, parks, swimming pools and restaurants.

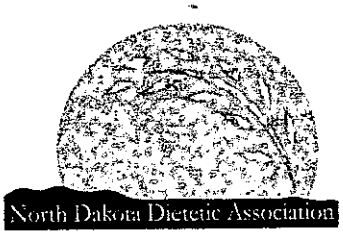
Carrying breast milk in a bottle for use in feeding at a later time presents several problems for mothers and babies. For example, it is difficult to keep milk cold and then find a place to warm it. In addition, a delay in nursing can cause plugged milk

ducts. Also, a baby who breastfeeds and then bottle feeds may become confused and reject his or her mother, especially in the early months of breastfeeding.

If passed, this law would not be unique to North Dakota. In fact, 32 other states – including South Dakota, Iowa, Montana and Minnesota – have similar legislation. We ask that you pass Senate Bill 2261 to protect the rights of mothers to breastfeed their babies in North Dakota.

This concludes my testimony. I am happy to answer any questions you may have.

Att #3



February 2, 2005 Signed over to House

Testimony for SB 2261

Chairman Traynor and Members of the Senate Judiciary Committee:

Good morning; my name is Karen Ehrens. I am a Licensed, Registered Dietitian (LRD) and appear before you today on behalf of the more than 280 members of the North Dakota Dietetic Association asking for your favorable consideration of SB 2261.

It is agreed by major medical associations including the American Academy of Pediatrics and the American Dietetic Association and government agencies including the US Centers for Disease Control and Prevention (CDC) and the US Department of Agriculture (USDA) that human breast milk is the best food for infants. Breastfeeding benefits both the physical and emotional health of mothers and infants.

Efforts to increase the rate and duration of breastfeeding by mothers in North Dakota are needed in several areas. Education of mothers and healthcare workers needs to continue along with efforts to build an environment where healthy behaviors are supported. **Recognizing a mother's right to participate in the natural act of breastfeeding by the legislature would help to support mothers in their efforts to provide the best start in life for their children.** Legislation such as this sends the message that you, the leaders in the North Dakota State Legislature, support the young families we are trying to keep here in the state and to those we are trying to attract.

We encourage you to pass this legislation in recognition of the importance of breastfeeding to the current and future health of the citizens and children of the state of North Dakota.

Writing for the Board of the North Dakota Dietetic Association,

Karen K Ehrens, LRD

Karen K. Ehrens, LRD

2261
9

Good morning ladies and Gentleman:

My name is Rebecca LaFavor; I am registered nurse and a mother. I am in favor of making it easier for mothers to breastfeed in public.

My experiences:

- I am the only one in the family to breastfeed. And with that choice I received a lot of negative feed back from my family. They thought I was putting my son in danger of starving, for several reasons or myths you would say, I would not make enough milk, I would not do it right, even if I make milk he would not get enough, my sister went to great lengths to discourage me. One conversation included her opinion about breastfeeding and daycare, my son or I would be able to adjust to daycare.
- I had no support base except my husband and my physician.

Husbandly quote:

"Before I was concerned with parenthood, breastfeeding made me uncomfortable. I didn't understand a baby's needs. Ignorance had me believing breastfeeding belonged at home.

While I was single, my best friend began raising a family of four. His wife believed so strongly in breastfeeding, she convinced an unmarried single guy! The evidence spoke for itself. Their children were very healthy, strong and intelligent. They grew so fast.

Ten years later, parenthood became my concern. My wife and I faced the breastfeeding decision. We knew we would face many challenges. The social challenges have been the hardest. We faced the same ignorance from our own family but we stood firm. Our son's development arrested their fears and defeated breastfeeding misconceptions. Our family began to understand.

Some may say fathers don't participate as much with breastfed babies. I found many ways to bond even though I rarely fed our son. We attached thoroughly and take great pride when we are complimented on our son's health. I feel immense pleasure when I say 'He's a breastfed baby!'"

-
- Not only did my son thrive but also he continues to be ahead of the average on the Denver assessments administered by the county.
- He has never been sick, not one earache, not one cold
- I am convinced this is because I breastfeed him.
- In July my family made a trip to the state fair. We on the second floor of the Fair building in the food court. My son was hungry. I proceeded to cover him with a blanket and feed him. My family moved to another table. My father's comment was "I could get arrested for that you know"
- In August at the Olive Garden in Fargo my husband and I where having lunch with friends. I proceed to feed my son

and then the waitstaff told us to leave.

This is a fear breastfeeding women should not have to worry about

Why is breastfeeding so good for my baby?

Human milk and infant formula are different. Not only does human milk provide all the protein, sugar, fat, and vitamins your baby needs to be healthy, but also has special benefits that formulas cannot match. It helps protect your baby against certain diseases and infections. Because of the protective substances in human milk, breastfed children are less likely to have the following:

Ear infections

Allergies
Vomiting
Diarrhea
Pneumonia, wheezing, and bronchitis
Meningitis
Research has should a link to a decrease of Childhood obesity
Research also suggests that breastfeeding may help to protect against Sudden Infant Death Syndrome (SIDS).

Other reasons why human milk is good for your child include the following:

It is easier for babies to digest.
It does not need to be prepared.
It costs nothing to make and is always in supply.
It is even good for the environment since there are no bottles, cans, and boxes to put in the garbage.
Breastfeeding also provides physical contact, warmth, and closeness, which help to create a special bond between a mother and her baby.

There are also many health benefits for you because breastfeeding does the following:

Burns more calories and helps you get back to your pre-pregnancy weight more quickly.
Reduces the risk of ovarian cancer and, in pre-menopausal women, breast cancer.
Builds bone strength to protect against bone fractures in older age.
Delays the return of your menstrual period, which may help extend the time between pregnancies. (Keep in mind that breastfeeding alone will not prevent pregnancy.)
Helps the uterus return to its regular size more quickly.
The longer you breastfeed, the greater the benefits will be to your baby and you, and the longer these benefits will last. The World

Health Organization (WHO) and many other experts encourage women to breastfeed for as long as possible.

The American Academy of Pediatrics is a staunch supporter of breastfeeding and advertises on its web site the following:
Breastfeeding Initiatives at the
American Academy of Pediatrics

From its inception, the American Academy of Pediatrics (AAP) has been a staunch advocate of breastfeeding as the optimal form of nutrition for infants. Although economic, cultural, and political pressures often confound decisions about infant feeding, the Academy firmly adheres to the position that breastfeeding ensures the best possible health as well as developmental and psychosocial outcomes for the infant. Enthusiastic support and involvement of pediatricians in the promotion and practice of breastfeeding is essential to the achievement of optimal infant and child health, growth, and development. Breastfeeding promotion at the American Academy of Pediatrics maintains high standards to maximize efforts to promote, support, and manage breastfeeding.

With that said, I implore you to make it easier for mother's who choose breastfeeding to do so where ever we may be. I have breastfeed my son in a bathroom, a dirty public bathroom. Why you ask, because I was out eating with my family, I was shopping, or as a new mother I need to socialize for my own health.

Most of mothers who breastfeed are very discreet, we wear shirts that are made to breastfeed, we cover ourselves with baby blankets, and some of us hide in the bathroom. But if I had the backing of this government to breastfeed freely with out the worry of being asked to leave a restaurant or store, I could counter the stares, and rudeness of people by saying I have a right to feed my son wherever he may be hungry. With this legislatures' support the misinformation about breastfeeding and the stigma attached to it

could start to fade, and with that we could have healthier children and mothers.

#1

SB2261

Good morning ladies and Gentleman:

My name is Rebecca LaFavor; I am registered nurse and a mother. I am in favor of making it easier for mothers to breastfeed in public.

My experiences:

- I am the only one in the family to breastfeed. And with that choice I received a lot of negative feed back from my family. They thought I was putting my son in danger of starving, for several reasons or myths you would say, I would not make enough milk, I would not do it right, even if I make milk he would not get enough, my sister went to great lengths to discourage me. One conversation included her opinion about breastfeeding and daycare, my son or I would not be able to adjust to daycare.
- I had no support base except my husband and my physician.
- Not only did my son thrive but also he continues to be ahead of the average on the Denver assessments administered by the county.
- He has never been sick, not one earache, not one cold
- I am convinced this is because I breastfeed him.
- In July my family made a trip to the state fair. We on the second floor of the Fair building in the food court. My son was hungry. I proceeded to cover him with a blanket and feed him. My family moved to another table. My father's comment was "I could get arrested for that you know"
- In August at the Olive Garden in Fargo my husband and I where having lunch with friends. I proceed to feed my son and was asked to leave. This is a fear breastfeeding women should not have to worry about.

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With that said, I implore you to make it easier for mother's who choose breastfeeding to do so where ever we may be. I have breastfeed my son in a bathroom, a dirty public bathroom. Why you ask, because I was out eating with my family, I was shopping, or as a new mother I need to socialize for my own health.

Husbandly quote:

"Before I was concerned with parenthood, breastfeeding made me uncomfortable. I didn't understand a baby's needs. Ignorance had me believing breastfeeding belonged at home.

While I was single, my best friend began raising a family of four. His wife believed so strongly in breastfeeding, she convinced an unmarried single guy! The evidence spoke for itself. Their children were very healthy, strong and intelligent. They grew so fast.

Ten years later, parenthood became my concern. My wife and I faced the breastfeeding decision. We knew we would face many challenges. The social challenges have been the hardest. We faced the same ignorance from our own family but we stood firm. Our son's development arrested their fears and defeated breastfeeding misconceptions. Our family began to understand.

Some may say fathers don't participate as much with breastfed babies. I found many ways to bond even though I rarely fed our son. We attached thoroughly and take great pride when we are complimented on our son's health. I feel immense pleasure when I say 'He's a breastfed baby!'"

Most of mothers who breastfeed are very discreet, we wear shirts that are made to breastfeed, we cover ourselves with baby blankets, and some of us hide in the bathroom. But if I had the backing of this government to breastfeed freely with out the worry of being asked to leave a restaurant or store, I could counter the stares, and rudeness of people by saying I have a right to feed my son wherever he may be hungry. With this legislatures' support the misinformation about breastfeeding and the stigma attached to it could start to fade, and with that we could have healthier children and mothers.

(2)

23 February 2005
59th Legislative Assembly of ND
House Human Services Committee
Senate Bill 2261

Madam Chairman, members of the committee:

My name is Jasmine Mielke from Jamestown. I apologize I cannot be present to submit testimony due to illness, but I would like to submit written testimony on my own behalf in favor of senate bill 2261.

As the mother of two young children, both of which were breastfed for at least 8 months, I understand that breastfeeding a baby is an important and natural act imperative to their development, emotional well-being, and health. Science continues to tell us that breast milk provides a wide range of benefits for our children that formula cannot, and that's why it is important for me to have the law support my efforts to provide this crucial advantage to my children.

My husband and I are expecting our third child this April, and I hope that I don't have to endure discrimination and embarrassment if our baby happens to get hungry in a public place. Allow me to share with you the inconvenience and discomfort of feeling obligated to retreat to sun-baked or freezing cars in the parking lot in order to breastfeed. Unsanitary restroom facilities, without chairs, are an even less desirable option. Knowing that I'm legally entitled to remain in public places, such as restaurants, to breastfeed my baby would be a welcome relief.

I am sorry if some people find breastfeeding offensive or inappropriate in public. But it is my experience that breastfeeding mothers make every effort to be discreet. It is hardly my intention to make a spectacle of myself by delivering the best method available to quiet the hunger pangs of my crying baby.

It should be a collaborative effort to raise the healthiest children possible. To deny a mother the right to do so based on the possibility of incidental exposure of the breast in public is ludicrous.

Please feel free to contact me with any questions you may have and thank you for your time,

Jasmine Mielke
1117 9th St SE
Jamestown, ND 58401
701.252.3159

#2261
#3

Testimony

Senate Bill 2261

House Human Services Committee

Wednesday, February 23, 2005; 2:30 p.m.

North Dakota Department of Health

Good afternoon, Chairman Price and members of the House Human Services Committee. My name is Jill Leppert, and I am with North Dakota Department of Health's Division of Nutrition and Physical Activity. I am also the breastfeeding coordinator for the department's Special Nutrition Program for Women Infants and Children – or the WIC Program, as it is more commonly called. I am here today to provide testimony in support of Senate Bill 2261.

The North Dakota Department of Health supports mothers in their efforts to breastfeed their babies. Research shows that breast milk is best for babies and that breastfeeding is necessary for healthy infants, children and mothers. In fact, breastfeeding is recognized as the optimal method for feeding a baby by the American Academy of Pediatrics, the American Medical Association, the American Dietetic Association, and the American Public Health Association.

According to national studies, feeding babies formula increases many health-related costs. Nationally, the cost of treating diseases and conditions preventable by breastfeeding is more than $3.6 billion a year. Breast milk protects a baby against sudden infant death syndrome, juvenile diabetes, childhood cancer, ear infections, allergies, asthma, obesity and influenza.

Supporting a mother's choice to breastfeed her baby is essential to her success. This positive support must come from her family, her friends, her physician – and her community.

Mothers who breastfeed their babies in public places generally do so discreetly by using blankets and other means to ensure their privacy. Unfortunately, some mothers in North Dakota have faced resistance to their breastfeeding in public places. We have received reports from mothers who have been asked to stop breastfeeding their babies on airplanes and at malls, parks, swimming pools and restaurants.

Carrying breast milk in a bottle for use in feeding at a later time presents several problems for mothers and babies. For example, it is difficult to keep milk cold and then find a place to warm it. In addition, a delay in nursing can cause plugged milk ducts.

Also, a baby who breastfeeds and then bottle feeds may become confused and reject his or her mother, especially in the early months of breastfeeding.

The heart of Senate Bill 2261 is Section 4, which gives a woman the right to breastfeed her baby wherever she is otherwise authorized to be. As explained by Legislative Council, much of the other language is modeled after bills in other states and is included to make the intent of the legislation very clear.

If passed, this law would not be unique to North Dakota. In fact, 32 other states – including South Dakota, Iowa, Montana and Minnesota – have similar legislation. We ask that you pass Senate Bill 2261 to protect the rights of mothers to breastfeed their babies in North Dakota.

This concludes my testimony. I am happy to answer any questions you may have.

Att 1 4/12

SB 2261 3

Proposed amendment to SB 2261

Pg 1 line 2 , after " breastfeeding " remove remainder of line .
Pg 1 remove line 3 and 4
Pg 1 , remove lines 6 thru 24
Pg 2 , remove lines 1 thru 13

Replace lines 16 thru line 18 with : A woman may breast feed her child in a place of public accommodation where the woman and child are otherwise normally authorized to be. This action must be accomplished in a manner that complies with the normally accepted societal standards of decency .

Pg 2 , remove lines 19 thru 30

Renumber accordingly