

2005 DRAFTING REQUEST

Bill

Received: **06/09/2005**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Sarah Briganti**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Discrimination
Health - miscellaneous**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Sen.Risser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Right to breastfeed

Instructions:

See Attached--permit a mother to breast-feed her child in any public or private location where she is authorized to be, except in the private residence of another.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 06/09/2005	kfollett 07/12/2005		_____			S&L
/1			pgreensl 07/12/2005	_____	Inorthro 07/12/2005		S&L
/2	gmalaise 07/28/2005	kfollett 08/09/2005	jfrantze 08/10/2005	_____	lemery 08/10/2005	sbasford 09/12/2005	

FE Sent For:

<END>

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FE Sent For:

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JRS
8/10
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FE Sent For:

<END>

Malaise, Gordon

From: Briganti, Sarah
Sent: Monday, June 06, 2005 4:22 PM
To: Malaise, Gordon
Subject: Breastfeeding discrimination



State Legislatures
Art 4-05.pd...



Laws, Acts, and
Legislation.ht...

Gordon,

Thank you for your assistance with this draft. I've attached the Ohio legislation on the matter, as well as a recent State Legislatures magazine article. Senator Risser found the Ohio language to be right to the point and would like to find a way to work that into Wisconsin law.

Let me know if you have any questions.

Sarah Briganti
Legislative Assistant
Office of State Senator Fred Risser
(608)266-1627



STATE CAPITOLS—THE NEW “HOT SPOTS”

Looking for a new wireless Internet access point, or “hot spot,” to surf the Web or check e-mail while keeping up with legislative events? Look no farther than your state capitol. They are the new hot spots, joining the more highly publicized Starbucks, Kinkos, and various high-tech airports.

At least 14 states now offer wireless Internet access in the capitol for anyone who has a laptop equipped for wireless. Private citizens, journalists and lobbyists, while waiting for hearings or meetings with legislators, can track bill status and committee updates on legislative Web sites, and still keep in touch with business and family matters by e-mail.

Legislatures have long been ahead of the curve on adopting wireless. The historic nature of capitol buildings sometimes makes them incompatible with the wires and cables necessary to network computers, so wireless technology has been the perfect solution in many cases.

At least 32 states have wireless networks that allow legislators and legislative staff to access information on their laptops in the chamber or in offices. But public demand for wireless Web access has now prompted many states to extend that service throughout the capitol to the public.

The Arizona Legislature in 2003 was the first to provide widespread wireless Internet access to the public. The Arizona POWER (Public Online Wireless Electronic Resource) network is one of the largest free hot spots in the state. Arizona POWER was launched through a public-private partnership with Intel and Cox Communications and with services provided by hotZona, a local ISP. Senator Dean Martin and Representative Robert Robson spearheaded the project, and the three companies donated products, services and support for the network.

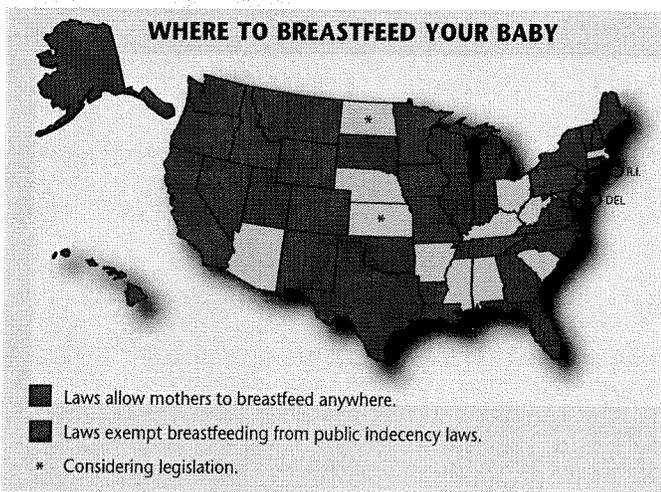


Senate intern and Oklahoma University student Makenna Smith logs on to Oklahoma's newest Internet hot-spot with wireless service access on the Senate's third, fourth and fifth floors as well as in the chamber and the gallery.

Since 2003, the 13 other states that have now begun to provide public wireless Internet access in capitols are Iowa, Kentucky, Maine, Nevada, New Mexico (pilot project), North Dakota, Oklahoma, South Carolina, Texas, Utah, Virginia, Vermont, Washington and West Virginia.

THE BENEFITS OF BREASTFEEDING

Mother and baby can both benefit from breastfeeding. But does that mean breastfeeding should be allowed anywhere? That's the question several state legislatures have been dealing with.



For a mother, breastfeeding can help her return quickly to her pre-pregnancy weight and reduce her risk of pre-menopausal breast cancer and osteoporosis. Breast milk for babies helps prevent infections, allergies and diarrhea resulting in fewer illnesses than formula-fed babies.

Breastfeeding in public, however, remains a controversial issue. Some say there is no reason not to allow breastfeeding in public—it is the mother's right. Others believe breastfeeding should be done in private.

Fearing that breastfeeding mothers could be charged with indecency, state legislators have passed legislation to clarify the legality of breastfeeding in public places.

Thirty-two states specifically state that mothers are allowed to breastfeed anywhere and 15 simply exempt breastfeeding from public indecency laws. Kansas and North Dakota are currently considering legislation.

Research has indicated that breast milk is the best form of nutrition for babies and it saves families and the government money. However, the United States has one of the lowest breastfeeding rates in the developed world. The U. S. Department of Health and Human Services and the Ad Council are trying to change that through a new public relations campaign. According to the campaign: “Babies were born to be breastfed.”

To learn more, visit: www.adcouncil.org/campaigns/breastfeeding.

126th Ohio General Assembly

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SB 41

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The online versions of legislation provided on this website are **NOT** official. The official version of bills are available from the LSC Bill Room located at the north end of the Ground Floor of the Statehouse. Enrolled bills are the final version passed by the Ohio General Assembly and presented to the Governor for signature. The official version of acts signed by the Governor are available from the Secretary of State's Office in the Borden Building, 180 East Broad St., Columbus.

(126th General Assembly) (Senate Bill Number 41)

AN ACT

To enact section 3781.55 of the Revised Code to require any place of public accommodation to allow a mother to breast-feed within the place of public accommodation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3781.55 of the Revised Code be enacted to read as follows:

Sec. 3781.55. A mother is entitled to breast-feed her baby in any location of a place of public accommodation wherein the mother otherwise is permitted.

"Place of public accommodation" has the same meaning as in section 4112.01 of the Revised Code.

Please send questions and comments to the [Webmaster](#).
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Malaise, Gordon

From: Briganti, Sarah
Sent: Thursday, June 09, 2005 10:22 AM
To: Malaise, Gordon
Subject: RE: 50 States Summary of Breastfeeding Laws

Gordon,

Thank you for the research that you did on this. I agree with your concerns about the "public accomodation" definition and like the idea of language that allows breastfeeding in "any public or private location where the mother is authorized to be".

Please draft the bill with broader coverage and include the exemption for private residences as California has done.

Thanks again for your help!

Sarah

-----Original Message-----

From: Malaise, Gordon
Sent: Wednesday, June 08, 2005 6:06 PM
To: Briganti, Sarah
Subject: 50 States Summary of Breastfeeding Laws

Sarah:

Attached is a link to a 50-state summary of breastfeeding laws prepared by the NCSL.

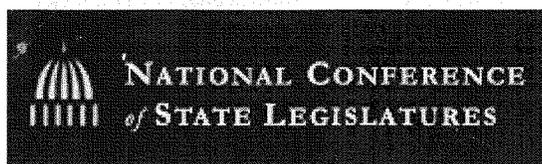
As you will see, most states simply permit a mother to breast-feed her child "in any public or private location where the mother is authorized to be." The Ohio law, on the other hand, is limited to "public places of accommodation," which is a defined term that is limited to businesses providing goods or services to the public.

The use of that term might produce anomalous loopholes. For example, LIRC has held that a city clerk's office and a sheriff's office are not "public places of accommodation" because goods or services are not offered for sale to the public in those places.

Accordingly, I would recommend that the broader reference, i.e., "any public or private location," be used instead. If we use that broad term, then we should probably also do as California did and exempt the private residence of another.

Gordon

<http://www.ncsl.org/programs/health/breast50.htm>



50 State Summary of Breastfeeding Laws

Updated May 2005

More than half of the states (**37**) have enacted legislation related to breastfeeding.

- Thirty states allow mothers to breastfeed in any public or private location (**California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Texas, Vermont** and **Virginia**).
- Fifteen states exempt breastfeeding from public indecency laws (**Alaska, Florida, Illinois, Michigan, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Dakota, Utah, Virginia, Washington** and **Wisconsin**).
- Ten states have laws related to breastfeeding in the workplace (**California, Connecticut, Georgia, Hawaii, Illinois, Minnesota, Rhode Island, Tennessee, Texas,** and **Washington**).
- Eight states exempt breastfeeding mothers from jury duty (**California, Idaho, Iowa, Minnesota, Nebraska, Oklahoma Oregon** and **Virginia**).
- Four states have implemented or encouraged the development of a breastfeeding awareness education campaign (**California, Illinois, Missouri, and Vermont**).

Several states have unique laws related to breastfeeding. For instance,

- **California** and **Texas** have laws related to the procurement, processing, distribution or use of human milk.
- **Louisiana** prohibits any child care facility from discriminating against breastfed babies.
- **Maine** requires courts, when awarding parental rights and responsibilities with respect to a child, to consider whether the child is under age one, and being breastfed.
- **Maryland** exempts from the sales and use tax the sale of tangible personal property that is manufactured for the purpose of initiating, supporting or sustaining breastfeeding.
- **Rhode Island** requires the Department of Health to prepare a consumer mercury alert notice, explaining the danger of eating mercury-contaminated fish to women who are pregnant or breastfeeding their children.

First Letter of State A C D F G H I K L M N O R T U V W

State

Summary of Statutes

Alabama

American Samoa

Alaska

Alaska Stat. § 29.25.080 (1998) prohibits a municipality from enacting an ordinance that prohibits or restricts a woman breastfeeding a child in a public or private location where the woman and child are otherwise authorized to be. The law clarifies that "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar terms do

not include the act of a woman breastfeeding a child in a public or private location where the woman and child are otherwise authorized to be. (SB 297)

Arizona
Arkansas
California

Cal. Civil Code § 210.5 (2000) allows the mother of a breastfed child to postpone jury duty for one year and specifically eliminates the need for the mother to appear in court to request the postponement. The law also provides that the one-year period may be extended upon written request of the mother. [Chap. 266 (AB 1814)]

Cal. Health and Safety Code § 1647 (1999) declares that the procurement, processing, distribution or use of human milk for the purpose of human consumption is considered to be a rendition of service rather than a sale of human milk. [Chap. 87 (AB 532)]

Cal. Assembly Concurrent Resolution 155 (1998) encourages the state and employers to support and encourage the practice of breastfeeding, by striving to accommodate the needs of employees, and by ensuring that employees are provided with adequate facilities for breastfeeding and expressing milk for their children. The resolution memorializes the governor to declare by executive order that all state employees be provided with adequate facilities for breast feeding and expressing milk.

Cal. Civil Code § 43.3 (1997) allows a mother to breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present. (AB 157)

Cal. Assembly Concurrent Resolution 95 (1996) proclaims the week of August 1 through 7, 1996, as Breastfeeding Awareness Week.

Cal. Health and Safety Code § 123360, 123365 (1995) requires the Department of Health Services to include in its public service campaign the promotion of mother who breastfeed their infants. The law requires hospitals to make available a breastfeeding consultant or alternatively, provide information to the mother on where to receive breastfeeding information. (AB 973, AB 977)

Cal. Assembly Concurrent Resolution 41 (1995) proclaims August 1 through 7, 1995, Breastfeeding Awareness Week.

Cal. Lab. Code § 1030, 1031, 1032, 1033 (2001) Employers need to allow a break and a provide a room for a mother who desires to milk in private.

Colorado

CRS 25-6-301, 25-6-302 (2004) recognizes the benefits of breastfeeding and encourages mothers to breastfeed. The law also allows a mother to breastfeed in any place she has a right to be. (SB 88)

Connecticut

Conn. Public Act § 01-182 (2001) requires employers to provide reasonable time each day to an employee who needs to express breast milk for her infant child and to provide accommodations where an employee can express her milk in privacy. [HF 5656]

Conn. Gen. Stat. § 46a-64 (1997) prohibits places of public accommodation, resorts or amusements from restricting or limiting the right of a mother to breastfeed her child. [P.A. 97-210]

Delaware

Del. Code Ann. tit. 31 § 310 (1997) entitles a mother to breastfeed her child in any location of a place of public accommodation wherein the mother is otherwise permitted. [71 Del. Laws, c. 10, § 1]

District of Columbia

Florida

Fla. Stat. § 775.084 (1999) creates certain offenses under the Children's Protective Act, and provides an exception for maternal breastfeeding.

Fla. Stat. § 383.016 (1994) authorizes a facility lawfully providing maternity services or newborn infant care to use the designation "baby-friendly" on its promotional materials. The facility must be in compliance with at least 80 percent of the requirements developed by the Department of Health in accordance with UNICEF and World Health Organization baby-friendly hospital initiatives. (SB 1668)

Fla. Stat. § 383.015 (1993) allows a mother to breastfeed in any public or private location. (HB 231)

Fla. Stat. § 800.02, 800.03, 800.04 These statutes exclude breastfeeding from various sexual offenses, from the definition of an unnatural and lascivious act.

Fla. Stat. § 827.071 a mother breastfeeding her baby does not under any circumstance constitute "sexual conduct".

Georgia

Ga. Act No. 922 (2002) changes the previous law, **§ 31-1-9**, and inserts the phrase: "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." (S.B. 221)

Ga. Code § 31-1-9 (1999) allows a mother to breastfeed in any location where she is otherwise authorized to be, provided that she "acts in a discreet and modest way." [Act 304 (SB 29)]

Ga. Code § 34-1-6 (1999) allows employers to provide daily unpaid break time for a mother to express breast milk for her infant child. Employers may also be required to make a reasonable effort to provide a private location (other than a toilet stall) in close proximity to the work place for this activity. The employer is not required to provide break time if to do so would unduly disrupt the workplace operations.

Guam

Hawaii

Hawaii Rev. Stat. § 367-3 (1999) requires the Hawaii Civil Rights Commission to collect, assemble, and publish data concerning instances of discrimination involving breastfeeding or expressing breast milk in the workplace. Prohibits employers to forbid an employee from expressing breast milk during any meal period or other break period. (HB 266)

Hawaii Rev. Stat. § 378-2 (1999) makes it discriminatory 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 breastfeeding a child. (HB 2774)

HRS 489.21, HRS 489-22 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, privilege, advantages, and accommodations of a place of public accommodations to a woman because she is breast feeding a child.

Idaho

Idaho Code § 2-209 (1996) allows nursing mothers to postpone jury service 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

Ill. P.A. 93-942 (2004) Creates the Right to Breastfeed Act. Provides that a mother may breastfeed her baby in any location, public or private, where the mother is otherwise authorized to be; a mother who breastfeeds in a place of worship shall follow

the appropriate norms within that place of worship. (SB 3211)

Ill. Law, P.A. 92-68 (2001) creates the Nursing Mothers in the Workplace Act, and requires that employers provide reasonable unpaid break time each day to employees who need to express breast milk. The law also requires employers to make reasonable efforts to provide a room or other location, other than a toilet stall, where an employee can express her milk in privacy. (SB 542).

Ill. Rev. Stat. ch. 20 § 2310/55.84 (1997) allows the Department of Public Health to conduct an information campaign for the general public to promote breastfeeding of infants by their mothers. The law allows the department to include the information in a brochure that shares other information with the general public and is distributed free of charge. [P.A. 90-244]

Ill. Rev. Stat. ch. 720 § 5/11-9 (1995) clarifies that breastfeeding of infants is not an act of public indecency. (SB 190)

Indiana

Ind. Code § 16-35-6 allows a woman to breastfeed her infant anywhere that the law allows her to be. (HB 1510)

Iowa

Iowa Code § 607A.5 (1994) allows a woman to be excused from jury service if she submits written documentation verifying, to the court's satisfaction, that she is the mother of a breastfed child and is responsible for the daily care of the child.

Iowa Code § 135.30A (2002) a woman may breast-feed the woman's own child in any public place where the woman's presence is otherwise authorized.

Kansas

Kentucky

Louisiana

La. House Concurrent Resolution 35 (2002) establishes a joint study of requiring insurance coverage for outpatient lactation support for new mothers.

LRS 51. 2247.1 (2001) states that a mother may breastfeed her baby in any place of public accommodation, resort, or amusement, and clarifies that breastfeeding is not a violation of law. (HB 377)

LRS 46. 1409 B 5 prohibits any child care facility from discriminating against breastfed babies. (HB 233)

Maine

Me. Rev. Stat. Ann. tit. 5, § 4634 (2001) amends the Maine Human Rights Act to declare that a mother has the right to breastfeed her baby in any location, whether public or private, as long as she is otherwise authorized to be in that location. [Public Law No. 206 (LD 1396)]

Me. Rev. Stat. Ann. tit. 19-a § 1653 (1999) requires the court, in making an award of parental rights and responsibilities with respect to a child, to apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court must consider the primary the safety and well being of the child, and consider whether the child is under one year of age, and being breastfed. [Public Law No. 702 (HB 2774)]

Maryland

Md. Code § 20-801 Laws, Chap. 369 (2003) permits a woman to breastfeed her infant in any public or private place and prohibits anyone from restricting or limiting this right. (SB223)

Massachusetts

Michigan

Mich. Comp. Laws §§ 41.181, 67.1aa, and 117.4i (1994) states that public nudity laws do not apply to a woman breastfeeding a child.

Minnesota

Minn. Laws, Chap. 269 (2000) allows a nursing mother, upon request, to be excused

from jury service if she is not employed outside of her home and if she is responsible for the daily care of the child. (HF 1865)

Minn. Stat. § 181.939 (1998) requires employers to provide daily unpaid break time for a mother to express breast milk for her infant child. Employers are also required to make a reasonable effort to provide a private location (other than a toilet stall) in close proximity to the work place for this activity. (SB 2751)

Minn. Stat. § 145.905 a mother may breastfeed 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 breastfeeding.

Mississippi

Missouri

Mo. Rev. Stat. § 191.915 (1999) requires hospitals and ambulatory surgical centers to provide new mothers with information on breastfeeding, the benefits to the child and information on local breastfeeding support groups or a consultation. The law requires physicians who provide obstetrical or gynecological consultation to inform patients about the postnatal benefits of breastfeeding. The law requires the Department of Health to provide and distribute written information on breastfeeding and the health benefits to the child. (SB 8)

Mo. Rev. Stat. § 191.918 (1999) allows a mother, with as much discretion as possible, to breastfeed her child in any public or private location.

Montana

Mont. Code Ann. § 50-19-501 (1999) states that the breastfeeding of a child in any location, public or private, can not be considered a nuisance, indecent exposure, sexual conduct, or obscenity. (SB 398)

Nebraska

Neb. Rev. Stat. §25-1601-4 (2004) state that a nursing mother is excused from jury duty until she is no longer breastfeeding; nursing mother must file qualification form supported by certificate from her physician requesting exemption.

Nevada

Nev. Rev. Stat. § 201.232, 201.210, 201.220 (1995) states that the breastfeeding of a child in any location, public or private, is not considered a violation of indecent exposure laws. (SB 317)

New Hampshire

N.H. Rev. Stat. Ann. § 121:1, et seq. (1999) states that breastfeeding does not constitute indecent exposure and that limiting or restricting a mother's right to breastfeed is discriminatory. [HB 441]

New Jersey

N.J. Rev. Stat. § 26:4B-4/ 5 (1997) entitles a mother to breastfeed her baby in any location, including public accommodations, resorts or amusements. Failure to comply with the law may result in a fine.

New Mexico

N.M. Stat. Ann. § 28-20-1 (1999) permits a mother to breastfeed ^{public} her child in any public or private location where she is otherwise authorized to be. (SB 545)

New York

N.Y. Civil Rights Law § 79-e (1994) permits a mother to breastfeed her child in any public or private location. (SB 3999) ^{where otherwise authorized to be}

North Carolina

N.C. Gen. Stat. § 14-190.9 (1993) states that a woman is allowed to breastfeed in any public or private location, and she is not in violation of indecent exposure laws. (HB 1143)

North Dakota

Ohio

Oklahoma

2004 OK Laws, Chap. 332 allows a mother to breastfeed her child in any location that she is authorized to be and exempts her from the crimes and punishments listed in the penal code of the state of Oklahoma. Additionally, mothers who are breastfeeding can request to be exempt from service as jurors. (HB 2102)

Oregon **Or. Rev. Stat. § 109.001 (1999)** allows a woman to breastfeed in a public place. (SB 744)

Or. Rev. Stat. §§ 10.050 (1999) excuses a woman from acting as a juror if the woman is breastfeeding a child. A request from the woman must be made in writing. (SB 1304)

Pennsylvania
Rhode Island

R.I. Gen. Laws § 23-13.2-1 (2003) calls for employers to provide a safe private place for an employee to breastfeed her child and express breast milk. (HB 5507/SB 151)

R.I. Gen. Laws § 23-72-1 (2001) requires the Department of Health to prepare a consumer mercury alert notice. The notice shall explain the danger of eating mercury-contaminated fish to women who are pregnant or breastfeeding their children. (HB 6112)

R.I. Gen. Laws § 11-45-1 (1998) excludes mothers engaged in breastfeeding from disorderly conduct laws. (HB 8103, SB 2319)

South Carolina
South Dakota

SD § 22-22-24.1 (2002) exempts mothers who are breastfeeding from indecency laws.

Tennessee

Tenn. Code Ann. § 50-1-305 (1999) requires employers to provide daily unpaid break time for a mother to express breast milk for her infant child. Employers are also required to make a reasonable effort to provide a private location (other than a toilet stall) in close proximity to the work place for this activity. (SB 1856)

Texas

Tex. Health Code § 161.071 (2001) calls for the Department of Health to establish minimum guidelines for the procurement, processing, distribution, or use of human milk by donor milk banks. (HB 391)

Tex. Health Code Ann. § 165.001, et seq. (1995) authorizes a woman to breastfeed her child in any location and provides for the use of a "mother-friendly" designation for employers who have policies supporting work site breastfeeding. (HB 340, HB 359)

U.S. Virgin Islands
Utah

Utah Code Ann. § 17-15-25 (1995) states that city and county governing bodies may not inhibit a woman's right to breastfeed in public.

Utah Code Ann. § 76-10-1229.5 (1995) states that a breastfeeding woman is not in violation of any obscene or indecent exposure laws. (H.B. 262)

Vermont

Vt. Acts, Chap. No. 117 (2002) finds that breastfeeding a child is an important, basic and natural act of nurture that should be encouraged in the interest of enhancing maternal, child and family health. The law allows 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. The law directs the human rights commission to develop and distribute materials that provide information regarding a woman's legal right to breastfeed her child in a place of public accommodation. (S.B. 156)

Virginia

Va. Code 2.2-1147.1 (2002) guarantees a woman the right to breast-feed her child on any property owned, leased or controlled by the state. The bill also stipulates that childbirth and related medical conditions specified in the Virginia Human Rights Act include activities of lactation, including breast-feeding and expression of milk by a mother for her child. (H.B. 1264)

HJ 145 (2002) Encourages employers to recognize the benefits of breastfeeding and to provide unpaid break time and appropriate space for employees to breast-feed or express milk.

Va. Code § 18.2-387 (1994) exempts mothers engaged in breastfeeding from indecent exposure laws.

Va. Chapter No. 195 (2005) Provides that a mother who is breast-feeding a child may be exempted from jury duty upon her request. The mother need not be "necessarily and personally responsible for a child or children 16 years of age or younger requiring continuous care . . . during normal court hours" as the existing statute provides.

Washington

Wash. Revised Code § 9A.88.010 (2001) states that the act of breastfeeding or expressing breast milk is not indecent exposure. (HB 1590)

Wash. Revised Code § 43.70 (2001) allows any employer (governmental and private) to use the designation of "infant-friendly" on its promotional materials if the employer follows certain requirements. [Chap. 88]

West Virginia

Wisconsin

Wis. Stat. §§ 944.17(3), 944.20(2) and 948.10(2) (1995) provides that breastfeeding mothers are not in violation of criminal statutes of indecent or obscene exposure. (AB 154)

Wyoming

Wyo. House Joint Resolution 5 (2003) encourages breastfeeding and recognizes the importance of breastfeeding to maternal and child health. The resolution also commends employers, both in the public and private sectors, who provide accommodations for breastfeeding mothers.

Sources: National Conference of State Legislatures; Child Health USA 2000. Washington, DC: U.S. Department of Health and Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau; 2000. Note: List may not be comprehensive, but is representative of state laws that exist. NCSL appreciates additions and corrections.

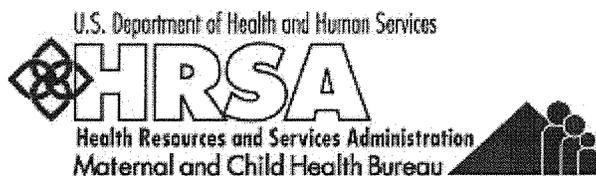
NCSL Contacts:

Jody Ruskamp

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3182/7
GMM...
7/12

Gen

1 AN ACT ...; relating to: permitting a mother to breast-feed in any public or
2 private location where she is otherwise authorized to be.

Analysis by the Legislative Reference Bureau

Under current law, there are various prohibitions against lewd behavior or sexual gratification in public. Those prohibitions, however, do not apply to a mother's breast-feeding of her child. This bill permits a mother to breast-feed her child in any public or private location where she is otherwise authorized to be, except in a private residence in which a resident has requested her not to breast-feed her child. A mother who is denied the right to breast-feed her child in violation of the bill may bring a civil action for injunctive relief, damages, including punitive damages, costs, and reasonable attorney fees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 253.15 of the statutes is created to read:
4 **253.15 Right to breast-feed.** (1) BREAST-FEEDING LOCATION. A mother may
5 breast-feed her child in any public or private location where the mother is otherwise
6 authorized to be, except in a private residence in which a resident has requested the
7 mother not to breast-feed her child.

7/28/05

Senator Risser

- delete exception for private residence

(if person in charge of private residence objects, he

may ask her to leave, then she is not authorized

to be there)

- delete Civil Action. Instead let general

penalty provision, i.e. \$200 forfeiture under

s. 939.61 (1) apply



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3182/1

GMM:kjf: [handwritten initials]

Soon

2005 BILL

and prohibits ^{any} person from interfering with the right of a mother to breast-feed her child as provided in the bill. Because no penalty is expressed in the bill for interfering with that right, a person who interferes with that right is subject to a ~~fine~~ forfeiture ~~of~~ ^{not} to exceed ^{\$1,200} \$200 under the general penalty provision under current law

Reyer

1 AN ACT to create 253.15 of the statutes; relating to: permitting a mother to
2 breast-feed in any public or private location where she is otherwise authorized
3 to be.

Analysis by the Legislative Reference Bureau

Under current law, there are various prohibitions against lewd behavior or sexual gratification in public. Those prohibitions, however, do not apply to a mother's breast-feeding of her child. This bill permits a mother to breast-feed her child in any public or private location where she is otherwise authorized to be, ~~except in a private residence in which a resident has requested her not to breast-feed her child. A mother who is denied the right to breast-feed her child in violation of the bill may bring a civil action for injunctive relief, damages, including punitive damages, costs, and reasonable attorney fees.~~

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 253.15 of the statutes is created to read:

5 **253.15 Right to breast-feed.** ~~(1) BREAST-FEEDING LOCATION.~~ A mother may
6 breast-feed her child in any public or private location where the mother is otherwise

BILL

No person may interfere with the right of a mother to breast-feed her child as provided in this section

1 authorized to be, ~~except in a private residence in which a resident has requested the~~
2 ~~mother not to breast-feed her child.~~

3 ~~(2) CIVIL ACTION. (a) Any person who is denied the right to breast-feed her child~~
4 ~~in violation of sub. (1) may bring a civil action for injunctive relief, damages,~~
5 ~~including punitive damages, costs, and, notwithstanding s. 814.04 (1), reasonable~~
6 ~~attorney fees.~~

7 ~~(b) An action commenced under par. (a) may be brought in the circuit court for~~
8 ~~the county where the alleged violation occurred or for the county where the person~~
9 ~~against whom the civil complaint is filed resides or has a principal place of business,~~
10 ~~and shall be commenced within one year after the alleged violation occurred.~~

SECTION 2. Initial applicability.

12 (1) RIGHT TO BREAST-FEED. This act first applies to acts occurring on the effective
13 date of this subsection.

14 (END)

Emery, Lynn

From: Briganti, Sarah
Sent: Friday, September 09, 2005 3:51 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3182/2 Topic: Right to breastfeed

It has been requested by <Briganti, Sarah> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-3182/2 Topic: Right to breastfeed