

SENATE BILL REPORT

ESSB 5295

As Passed Senate, February 9, 2000

Title: An act relating to breastfeeding.

Brief Description: Protecting the act of breastfeeding.

Sponsors: Senate Committee on Labor & Workforce Development (originally sponsored by Senators Costa, Prentice, Kohl-Welles, Thibaudeau, Fraser, Fairley and Heavey).

Brief History:

Committee Activity: Labor & Workforce Development: 2/8/99, 2/16/99 [DPS, DNPS]. Passed Senate, 3/8/99, 39-7; 2/9/00, 35-13.

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5295 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline, Oke and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senator Hochstatter.

Staff: Jill Reinmuth (786-7452)

Background: Although Washington laws do not address breastfeeding, laws in other states deal with indecent exposure, a woman's right to breastfeed, and expressing milk in the workplace.

Thirteen states have enacted laws specifically providing that breastfeeding is not indecent exposure.

Fourteen states have enacted laws addressing a woman's right to breastfeed. For example, New York law provides that breastfeeding is a civil right and a woman is entitled to breastfeed her baby in any public or private location where she is authorized to be.

Six states have enacted laws regarding expressing milk in the workplace. Minnesota law requires employers to provide mothers with reasonable unpaid break time to express milk and a room or other location (other than a toilet stall) to express in privacy. Texas law permits a business to use "mother-friendly" designations in promotional materials if it develops a qualified breastfeeding policy.

Summary of Bill: Washington law is amended to deal with indecent exposure, a women's right to breastfeed, and expressing milk in the workplace.

Breastfeeding is not indecent exposure.

It is an unfair practice to discriminate against a woman who is breastfeeding or who is expressing breast milk. Structural changes, modifications, or additions are not required to provide a room or other location for a nursing mother to breastfeed or express breast milk. It is not an unfair practice for a business, other than a public resort, accommodation, assemblage, or amusement, to offer an area, other than restroom, for nursing mothers to use.

An employer must provide a workplace location, other than a restroom, where an employee can express breast milk in privacy unless reasonable safety or security considerations require other options or where structural changes or additions would be required. It is not an unfair practice for an employer to provide a workplace location for nursing mothers to use.

An employer may use a "baby-friendly" designation in its promotional materials if it has a workplace breastfeeding policy approved by the Department of Health. The policy must address: (1) flexible work scheduling; (2) private locations for breastfeeding or expressing breast milk; (3) a water source for washing hands and equipment; and (4) a refrigerator for storing breast milk.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: More mothers are breastfeeding, and more doctors are recommending that mothers breastfeed. Breastfeeding is important to the health of mothers, children, and pre-term infants. The American Academy of Pediatrics recommends that breastfeeding continue for at least 12 months, and thereafter for as long as mutually desired.

Breastfeeding is not an act of indecent exposure. Yet the perception that breastfeeding is indecent or inappropriate can discourage mothers from breastfeeding.

When mothers return to work and continue to breastfeed, their employers can expect reduced absenteeism, reduced health care expenses, and increased productivity. Mothers simply need a time and a place to express breast milk when they return to work. Employers are only required to make reasonable efforts to provide workplace locations other than a restroom for employee to express milk in privacy.

Testimony Against: Business that are not public resorts, accommodations, assemblages, or amusements should not be required to designate specific areas, other than restrooms, for nursing mothers to use. Businesses should be permitted to designate restrooms as such areas. Requiring businesses to provide comfortable rooms for nursing mothers to use would establish a subjective standard that may be difficult to meet. Businesses need flexibility.

Testified: PRO: Senator Jeralita Costa, prime sponsor; Darcy Pintado; Mary Ann O'Hara; Gretchen Greer; Kyle Unland, Washington State Dietetic Association; Ann Simons; Nancy Danoff, M.D., Washington Chapter of the American Academy of Pediatrics; Sarah Huntington, Midwives Association of Washington State; Marsha C. Hudson; CON: Amber Balch, Association of Washington Business; Carolyn Logue, National Federation of Independent Business.

