



State Legislation that Protects, Promotes, and Supports Breastfeeding

An inventory and analysis of state breastfeeding and
maternity leave legislation



Project of the United States Breastfeeding Committee

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PART I: STATE BREASTFEEDING LEGISLATION

Introduction

Once described by UNICEF as an “endangered practice” that “needs an entire culture to support and nurture it back to its full, patent strength (6),” breastfeeding is now being rediscovered for what it is and making its return as the best source of infant nutrition. This shift from a bottle-feeding to a breastfeeding culture is reflected in the numbers, with the most current national average for in-hospital breastfeeding initiation now at 70.1% (1), up from 54.2% a decade ago (16). Moreover, this figure shows that the national Healthy People 2010 breastfeeding objective of a 75% breastfeeding initiation rate is well within reach—reflecting any breastfeeding, not exclusive breastfeeding. As stated in the title of a 1989 WHO and UNICEF document, and as a theme that has been widely used in describing the strategy for preserving breastfeeding, the three components for successful national breastfeeding are protection, promotion, and support (6). There is no doubt that the increasing presence of these three forces contributes to the corresponding increase in breastfeeding rates.

National and state legislation plays an integral role in the protection of breastfeeding. Although national legislation should be enacted to protect breastfeeding women across the United States, enacting state legislation is often most practical and effective. This is because the state legislatures hold jurisdiction over many places (such as public locations) and situations (such as district court and jail practices) where women need their right to breastfeed protected (12). Hence, it is imperative that states assume this role in establishing appropriate legislation. This section will deal only with “breastfeeding legislation,” legislation that refers directly to breastfeeding. There are laws in other perinatal realms, such as maternity leave laws that also affect breastfeeding. These laws are compiled and discussed in Part II of this paper.

Both national and state breastfeeding laws are readily accessible. National breastfeeding bills (both pending and enacted) can be found on Congresswoman Carolyn D. Maloney’s Web site at: <http://www.house.gov/maloney/issues/breastfeeding>. Several compilations of state legislation also exist. La Leche League International (LLLI) provides the most complete and current summary of each state’s enacted breastfeeding legislation at: <http://www.lalecheleague.org/LawBills.html>. A concise summary of state legislation also exists on the Maloney Web site at: <http://www.house.gov/maloney/issues/breastfeeding/stateleg.htm>. A further list of state legislation listed by type, as well as a brief analysis by category can be found on the USBC Web site at: <http://www.usbreastfeeding.org/Issue-Papers/Legislation.pdf>. A Congressional Research Service (CRS) document, *Summary of State Breastfeeding Laws*, offers a summary of breastfeeding laws by state and an additional chart grouping state breastfeeding laws into five categories. This report may be found at the following Web site: www.breastfeeding.org/law/CRS2.pdf. The National Conference of State Legislatures also provides a summary of breastfeeding laws current through December 2004 at: www.ncsl.org/programs/health/breast50.htm.

In this report, state breastfeeding laws are analyzed by topic, using the information provided by the LLLI legislative summary (4), and in greater detail than in the USBC fact sheet (17). This analysis is the most current and includes legislative updates through May 25, 2004. This report also analyzes the effectiveness of the currently enacted state legislative provisions. When problematic or less effective provisions are encountered, both justifications of judgments as well as recommended revisions or solutions are offered. Each section concludes with a table outlining the combination of provisions providing the ideal or “best practice” legislation for that category. Appendix I is a paraphrased listing of enacted state legislation by state including clearly outlined statutes, a summary of provisions, and corresponding legislative documents. Appendix II offers descriptive, categorical labels detailing the type of legislation under the corresponding statutes, organized by state. Moreover, in both of the lists of this report, all states (not only those with laws enacted) are listed to show a comprehensive picture of this nation’s breastfeeding legislation status. States without breastfeeding laws enacted are dimmed to show the lack of provisions and to indicate that in these places, there is legislative work to be done. Finally,

Appendix III provides an extensive chart of state breastfeeding and maternity leave laws organized into a total of 11 categories (as well as subcategories), to provide greater detail and completeness.

Inventory and Analysis of Existing State Breastfeeding Legislation

(Current to May 25, 2004)

Many state legislatures have recognized both the benefits of breastfeeding and the need to increase its practice to match or exceed public health goals. Of the 50 states in the United States, 36 states (AK, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, LA, ME, MD, MI, MN, MO, MT, NV, NH, NJ, NM, NY, NC, OK, OR, RI, SD, TN, TX, UT, VT, VA, WA, WI) and one city (Philadelphia, PA) have established proactive laws and regulations regarding breastfeeding. A number of others have proposed bills yet to be enacted. The above states have enacted legislation with the main goal of protecting and clarifying the mother's right to breastfeed in various situations. Some states also have legislation promoting and supporting the act of breastfeeding.

Below are the ten categories of state breastfeeding legislation by type. Within each category, some states have laws that are the same while others may have different wording or different provisions altogether, although the laws relate to the same topic. We will examine what state provisions currently exist, which could be strengthened through modifications, and which combinations of provisions create the most powerful resultant law in each category.

1) Legislative Recognition

Certain states have made their support for breastfeeding visible by including a statement recognizing breastfeeding as the best source of nutrition for the infant in their legislation (GA, MT, OK, TX). The statement may be simple and general, stating that breastfeeding is "important" and a "basic act of nurture" that "should be encouraged in the interests of maternal and child health," as in Georgia's legislation. On the opposite end of the spectrum, state legislation such as that of Louisiana and Nevada details the recommendations of exclusive breastfeeding by the Surgeon General, the declining breastfeeding statistics, the many benefits of breastfeeding to both child and mother, the public health goals of international health agencies, the societal barriers to breastfeeding, and the fact that public acceptance of breastfeeding has been shown to promote family values. These lengthy and detailed sections declaring the legislature's recognition of breastfeeding are included in the preambles of the breastfeeding bills of ten states (AK, CO, DE, FL, LA, MT, NH, NJ, NV, NY). Especially strong is Colorado's legislative declaration of the entire state's dedication to involvement in "the national movement to recognize the medical importance of breastfeeding...and to encourage removal of societal boundaries placed on breastfeeding in public." Because the state legislature declares its dedication to breastfeeding in writing, mothers and mothers-to-be can also learn of the importance of breastfeeding and feel safe knowing that their state endorses this practice and will protect their right.

A legislative section recognizing breastfeeding as the best source of infant nutrition greatly enhances state breastfeeding legislation. As a preface to the protective laws, this type of legislation in the form of a statute clause or preamble section asserts that breastfeeding is imperative for optimal infant and mother health. Moreover, it explains why the subsequent breastfeeding laws are necessary. Such information, when in detailed form, also serves as a type of education. For example, the legislative recognition sections of ten state legislations (AK, CO, DE, FL, LA, MT, NH, NJ, NV, NY) state the American Academy of Pediatrics (AAP) recommendation that an infant be breastfed exclusively for the first six months of life, and then in combination with iron-fortified solid foods until one year of age (2). The many benefits of breastfeeding for mother, child, and society are also often included in detailed legislative recognition sections. This information educates mothers on the superiority of feeding breast milk over formula. Finally, certain preambles include recognition of the societal constraints hindering breastfeeding and call for society to encourage public acceptance of breastfeeding in order to promote family values. This encouragement gives the breastfeeding mother a sense of validation and comfort in knowing that her choice to breastfeed will be supported by the state. Because of the inclusion of helpful

and supportive information in lengthy preambles, detailed sections—as opposed to short clauses—are the best practice for this type of legislation.

LEGISLATIVE RECOGNITION	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
Detailed legislative recognition section (usually in the preamble)	AK, CO, DE, FL, LA, MT, NH, NJ, NV, NY

2) Breastfeeding in Public

The most frequently enacted state-level legislation is that which declares and/or clarifies a woman’s right to breastfeed in public. This type of legislation has been enacted by 34 states (AK, CA, CO, CT, DE, FL, GA, HI, IL, IN, IA, LA, ME, MI, MD, MN, MO, MT, NV, NH, NJ, NM, NY, NC, OK, OR, RI, SD, TX, UT, VT, VA, WA) of the 36 states with breastfeeding provisions, as well as by the city of Philadelphia. Although breastfeeding is a woman’s intrinsic right and as such should not have to be declared, in our bottle-feeding society it becomes protective for state legislation to assert that the act of breastfeeding is both permissible and the entitlement of a mother. In its most complete and ideal form, as is achieved in four states (FL, NV, NY, NC), such legislation states that: “A mother may breastfeed her child in any public or private location where she is authorized to be, irrespective of whether the nipple of the mother’s breast is uncovered during or incidental to the breastfeeding.” Within this complete statement, there are three critical areas that are either omitted or changed in the incomplete and less-than-ideal legislations of this type.

The first of these critical areas is the delineation of the locations where the mother is allowed to feed. Eleven states (AK, CA, FL, ME, MD, MN, MT, NV, NM, NY, NC) declare that women are allowed to breastfeed not only in public places, but in private locations as well. The failure to extend protective law to private locations in addition to public occurs in the legislation of eight states and one city (CT, DE, HI, IA, LA, ME, NJ, VA, and Philadelphia). This creates a barrier for women to breastfeed in private commercial locations, as well as accommodations and recreational areas. Although California’s legislation states that a woman may breastfeed in both public *and* private locations, it includes a restricting provision excluding this right from “the private home or residence of another.” Eight states (CO, GA, IN, MI, OK, OR, TX, UT) do not specify whether a mother has the right to breastfeed in public or private places, using the term “any location” where the “mother (and child) is (are) authorized to be.”

Secondly, for the legislation to be effective, it should state that the mother may breastfeed in any location where she is authorized to be without the requirement of authorization for both herself *and her child*, as is the case for 16 states and one city (CO, DE, FL, IN, IA, ME, MO, NV, NJ, NM, NY, NC, OK, TX, UT, VA and Philadelphia). The additional requirement of permission for her child restricts the types of places where she can breastfeed, such as in some offices where she must run errands or in restaurants with “no children” policies. This limiting factor occurs in the laws of five states (AK, CA, MD, MN, MT). Five other states’ (CT, HI, LA, MI, OR) laws simply do not include a condition for who needs authorization.

Finally, it is important for the legislation to include the provision that breastfeeding is a woman’s right even if the nipple of the breast becomes uncovered during or incidental to the feeding. This occurrence is likely and often unavoidable given the nature of breastfeeding. The inclusion of this section combats the predominant cultural association of the breast only with sexual purposes. Of the 35 states with “breastfeeding in public” laws, only nine states (FL, MI, MN, MT, NV, NY, NC, PA, UT) include this clause in their provisions.

Although Missouri has enacted a law declaring that a woman has the right to breastfeed her child in public, the added caveat “with as much discretion as possible” reduces the strength of this legislation. This language suggests that breastfeeding needs to be discreet, or is something to hide, and perpetuates

the stereotype that the only function of the breast is for sex. Most of all, it instills a sense of shame in women who choose to practice the act of breastfeeding, and undermines the protection that breastfeeding legislation should provide.

With breastfeeding declared as a right, this type of legislation is especially strong if it is stated in conjunction with a provision clarifying that the act of breastfeeding does not constitute a criminal offense under titles such as “indecent exposure,” “lewd touching,” “immoral conduct,” and/or other such labels of misdemeanors. This powerful combination is achieved by 12 states (AK, FL, LA, MI, MN, MT, NV, NY, NC, OK, UT, VA). The form of such a law is either an amendment to a preexisting criminal law or a statute introduced as independent breastfeeding legislation. It is unfortunate that this type of law—which does not declare breastfeeding as a right or go further in promoting it, yet merely states that breastfeeding is not bad enough to constitute a criminal violation—should have to exist. Nevertheless, in a society where bottle feeding is the cultural norm, this type of legislation is protective and definitively establishes the legality of breastfeeding in public.

Among the first states to establish a law exempting breastfeeding from its criminal statutes was New York in 1984 (17). New York has been especially proactive in its “right-to-breastfeed” legislation and, in 1994, amended its Civil Rights Act to include the absolute right to breastfeed as a powerful civil right (17). Henceforth, if this right were violated, mothers would be afforded the same proceedings and remedies as anyone whose civil rights had been violated (17).

When legislation declaring that breastfeeding is not a criminal violation is stated by itself, without a complementary provision stating that breastfeeding is a right of the mother, the law is weakened. In this situation, the legislation does not assert the legitimacy and worth of the act of breastfeeding beyond merely exempting it from those certain misdemeanor titles, as is the case for six states (IL, NH, RI, SD, WA, WI).

To enforce the provisions of breastfeeding in public legislation, and to further protect a mother’s right to breastfeed, seven states (CT, HI, LA, ME, MD, NH, NJ) and the city of Philadelphia have included a provision stating that discrimination against a woman’s right to breastfeed is unlawful, and will be dealt with accordingly. Three of these seven states (CT, HI, NJ) have clearly delineated fines and penalties for discrimination. One state (HI) even allows discriminated parties to bring their proceedings to the district court with the potential of being awarded attorney’s fees, cost of suit, and \$100 compensation. Philadelphia’s City Ordinance prohibits the act of segregation, or of telling a breastfeeding mother to go somewhere else at public accommodations, within the city. In addition to prohibiting discrimination against a mother breastfeeding her child in public, Louisiana’s legislation also specifies that discrimination against breastfed babies in both childcare facilities and by child-placing agencies is prohibited.

Besides exempting breastfeeding from existing criminal statutes, three states have also prohibited the state and municipal governmental bodies from enacting any laws restricting or limiting a woman from breastfeeding her child (AK, MT, UT). This provision prevents the legality of any future laws that may harm a woman’s right to breastfeed.

Of the available breastfeeding in public legislation, the following components in combination would create the most effective legislation:

BREASTFEEDING IN PUBLIC	
Ideal Provisions	Exemplary States with These Provisions
1. Right to breastfeed – civil right status	NY
a. In public <i>and</i> private places	AK, CA, FL, ME, MD, MN, MT, NV, NM, NY, NC
b. Where the mother is authorized to be	CO, DE, FL, IN, IA, ME, MO, NV, NJ, NM, NY, NC, OK, TX, UT, VA

c. Irrespective of whether the nipple of the breast is showing during or incidental to the feeding	FL, MI, MN, MT, NV, NY, NC, PA, UT
2. Breastfeeding is not a criminal offense (*coupled with right-to-breastfeed legislation)	AK, FL, LA, MI, MN, MT, NV, NY, NC, OK, UT, VA
3. Discrimination against breastfeeding mothers prohibited, with penalties	CT, HI, NJ
4. Enactment of future legislation limiting, restricting, or preventing breastfeeding is prohibited	AK, MT, UT

3) Employment

The 2002 Ross Laboratories data reveals that, although women who are employed full time initiate breastfeeding at the same rate as non-working women, by six months postpartum the proportion of working women who are still breastfeeding lags behind that of non-working women by 25 percentage points (1). This significant decrease reflects the workplace barriers faced by employed women, such as company culture, environment, and policies, which must be overcome to protect a working woman’s right to breastfeed. Employers are hesitant to grant maternity benefits, believing that these will encourage women to spend less time working. A woman often believes and experiences that breastfeeding while working is an extreme burden and that she can only choose one or the other—not both. Women who have brought their grievances to federal courts have been met with unsatisfactory decisions. In the historic cases of *Fortier v. Steel Group* (2002), *Martinez v. N.B.C. Inc.* (1999), *Bond v. Sterling* (1998), *Wallace v. Pyro Mining* (1990), *Pendrix-Wang v. Director, Employment Security Department* (1993), and *Barrash v. Bowen* (1988), the courts found that discrimination against breastfeeding women was not severe enough for action to be taken (17). This employment barrier poses a significant problem, and nine states (CA, CT, GA, HI, IL, MN, TN, TX, WA) have enacted some form of legislation to address it.

The most basic model of breastfeeding legislation regarding employment contains two main subsections, and appears in the legislation of six of these nine states (CA, CT, GA, IL, MN, TN). All of these use the imperative verb “shall” in mandating the observation of these provisions by employers, except for the state of Georgia. Georgia’s legislation uses the verb “may,” which makes the provisions only a suggestion for employers, thus weakening the law considerably.

The first subsection of such legislation states that the employer is to allow for reasonable unpaid break time each day for the nursing mother to express milk. Four of the above states (CT, IL, MN, TN) delineate that the break time must run concurrently with already established break times, such as designated meal times. First of all, this provision should be expanded to accommodate mothers who choose to travel to a nearby childcare facility to breastfeed their child during the day. This would be necessary for women who have trouble expressing milk manually or with a breast pump. This provision can also become contradictory since the amount of time required for breastfeeding or milk expression is not “reasonable.” According to the AAP, “newborns should be nursed approximately 8 to 12 times each day until satiety, usually 10 to 15 minutes on each breast (2).” Thus, if a woman is breastfeeding her child during her breaks, at least 30 minutes would be needed for one sitting, with additional travel time. As reported by the Lactation Institute and Breastfeeding Clinic, manual milk expression also requires “20 to 30 minutes of manual stimulation” for “total emptying of the breast (11).” This does not factor in the additional time needed for the woman to become comfortable enough in a non-home environment for the milk let-down reflex to be activated in the absence of her infant’s suckling, even if a breast pump were used in place of manual expression. Therefore, a woman who breastfeeds or expresses milk sufficiently in one session will have already used up the majority of her designated break time for the day. This does not leave sufficient time for other necessary actions to which she is entitled, such as bathroom breaks and meals. This arguably becomes a form of discrimination against the woman for exercising her right to feed human milk to her child. Hence, this provision should be altered to mandate break time for nursing mothers *in addition to* already established break time. The length of this “breastfeeding/milk expression

break time” should concur with the AAP and Lactation Institute and Breastfeeding Clinic recommendations.

The breastfeeding time mandated by California’s legislation allows for more flexibility, implying that a woman may utilize break time that does not run concurrently with authorized rest times. This additional time spent breastfeeding, however, is unpaid. This caveat is stated in the provision to protect employers from employee abuse of paid breaks by claiming more time than actually used breastfeeding. While protecting employers, this condition also discourages nursing employees and threatens their right to breastfeed without repercussions (such as a loss of income in this case). As a solution to this conflict of interest, a designated length of time needed for breastfeeding and milk expression, as suggested by the above health authorities, should be established as *paid* break time. Any time spent expressing milk beyond this “paid breastfeeding/milk expression break time” should be unpaid.

The second subsection of the general employment provision states that the employer is to make reasonable efforts to provide a non-toilet room or location in close proximity to the work area where the employee can privately express her breast milk. In the cases of the above six states (CA, CT, GA, IL, MN, TN), there is an additional clause to these provisions, written with the employer’s interests in mind. The additional clause may be one (CA, GA, IL include only the first and CT includes only the second) or both (MN, TN) of the following statements: 1) “The employer is not required to provide break time if this disrupts the operations of the employer;” or 2) “The employer is to be held harmless if reasonable effort has been made in complying with this subsection.” In the first of these statements, the language weakens and contradicts the law, as the employer’s testimony that a woman’s breastfeeding “disrupts the (business) operations” is enough to invalidate her right to express milk. The second statement is more reasonable and should be used to give the employer a means for defending his/her efforts given the condition that, as in California, there is a Labor Commissioner or other government official responsible for investigating the case of “reasonable effort” on the part of the employer. California is the only state that specifies such enforcement, also establishing a civil penalty of \$100 for each violation committed by an employer, as determined by the Labor Commission. These violations are not to be considered misdemeanors, however. Even so, inclusion of such a penalty is effective in reinforcing the importance of protecting breastfeeding in the workplace.

Hawaii’s legislation deviates from the above examples of employment legislation because it does not mandate that employers provide private facilities to their employees. It does, however, require employers to allow women to breastfeed and/or express milk during usual break hours. Hawaii also possesses additional legislation declaring that treating a breastfeeding mother differently from other employees via adverse employment actions is considered discrimination. These actions include withholding pay, barring or discharging the employee from employment, or disciplining an employee. Connecticut law contains a similar anti-discrimination clause in its breastfeeding employment legislation. This legislation protects the breastfeeding mother from suffering discriminatory wrongs in the workplace, giving her more confidence to breastfeed knowing that her job and reputation at work are not in jeopardy.

Texas and Washington have a different approach for making changes in the workplace to protect and promote breastfeeding. Instead of mandating that employers provide amenities for their breastfeeding employees, they have legislation stating that businesses may utilize the designation of “mother-friendly” (TX) or “infant-friendly” (WA) in their promotional materials to benefit the company reputation, provided they develop a policy supporting a number of worksite practices. These include “work schedule flexibility” to provide for milk expression time, private and accessible breastfeeding locations, a sanitary water source and rinsing sink, and hygienic storage locations. Although based on a laissez-faire idea that allows a company to benefit itself while supporting its breastfeeding employees, the effectiveness of this legislation hinges on the assumption that companies care enough to create a socially conscious and progressive culture. If the employers are unable to provide any of the requirements, or if they simply do not wish to do so, then the law loses its impact and nothing is provided for the breastfeeding mothers. Therefore, it would be more valuable if these states were to mandate certain amenities and then offer the promotional title to companies that establish proactive breastfeeding support policies.

As an additional suggestion, state legislations should include a statement of recognition that employer support for breastfeeding has been found to increase employee commitment to work, prevent the loss of experienced employees who leave jobs when experiencing work/family conflict, and reduce absenteeism (6), and reduce insurance costs for employers who pay for dependent care coverage.

In reviewing employment legislation regarding breastfeeding, the following provisions used in combination would create the most powerful impact on reducing workplace barriers:

EMPLOYMENT	
Ideal Provisions	Exemplary States with These Provisions
1. Employers are mandated to provide amenities for their breastfeeding employees, including:	
a. "Reasonable" break time to both breastfeed or express milk that is: i) in addition to established break times (i.e., meal time), ii) of a sufficient time length concurrent with health agency recommendations, iii) paid up to the maximum time delineated in ii	(Recommended; not an existing provision)
b. A private, non-toilet facility near the employee's work location for the purpose of milk expression or breastfeeding	CA, CT, IL, MN, TN
c. Additional clause: "The employer is to be held harmless if reasonable effort has been made in complying with this subsection." *This clause should be added in conjunction with the following two conditions: <ul style="list-style-type: none"> • A third party governmental agency/official authorized to investigate the employer's "reasonable effort" is to be established and declared • The penalties and fines for determined violations are listed in the legislation 	CA
2. It is an act of workplace discrimination for employers to discipline or take adverse employment action against breastfeeding employees.	HI
3. If additional amenities and support (such as providing breastfeeding equipment or a sink for washing hands and equipment) are provided for their employees in the company's breastfeeding policy, the employer may use the promotional titles of "mother-friendly" or "infant-friendly." The businesses are to submit their policies to the state department of health, which will then determine status and maintain a list of all breastfeeding-friendly companies.	TX, WA
4. Statement of recognition of benefits to businesses who support their breastfeeding employees	(Recommended; not an existing provision)

4) Breastfeeding Promotion, Information, and Education

Six states (CA, FL, IL, MN, MO, TX) recognize that many pregnant women are unaware of the important benefits of breastfeeding, as formula marketing and our bottle-feeding culture have made breastfeeding just another alternative to the norm of bottle feeding. Their legislatures have mandated the promotion of breastfeeding by informing the public of these benefits at many point-of-care locations during pregnancy and delivery. There are differences in the amount of detail, the agency responsible for the campaign, and the approach of promotion in each state. Certain provisions are strong, but others

contain weakening clauses. In many cases, language and program alterations could enhance the efficacy of these laws.

Four of these six states (CA, IL, MO, TX) include the legislative provision that a public service campaign providing information about the benefits of breastfeeding shall be established. Two states (CA, IL) state that their state departments of health shall create and implement this program at hospitals providing maternal care. California also has an additional provision requiring that hospitals make a breastfeeding consultant available or give the mother information on where she can obtain further breastfeeding information. The legislation also states that the mother may decline the consultation and information if she chooses. This legislation protects a woman's autonomy, allowing for any one of three situations (the woman receives: no information or consultation, information only, or a consultation) based on the mother's decision. This system is also logical because breastfeeding consultations are expensive to provide and should be reserved for those mothers who are genuinely interested and request them.

The California legislation also states that "the consultant may be a registered nurse with maternal and newborn care experience, if available," which should be clarified to include all employees with lactation consultant certification by the International Lactation Consultant Association (ILCA). This certification ensures that the consultant has undergone a specific breastfeeding education program that is sufficient for the purposes of the initial consultation.

Illinois does not include a provision for information distribution by lactation consultants. Instead, it states that the breastfeeding information given to the public should be in the form of a brochure, which "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." This provision is problematic because the word "may" makes the distribution of information optional, and does not guarantee that each mother who desires information on breastfeeding will receive it. Hence, the "may" should be changed to "shall," with an additional clause protecting the woman's autonomy, stating that she may decline this brochure if she so chooses. Moreover, the specified time at which the mother is to receive the information, "upon discharge," renders the provision ineffective. By the time the mother receives the informational brochure, she may already have made the decision to formula feed. For this reason, it should be mandatory for a mother to be offered the information in the form of a brochure about the benefits and basics of breastfeeding *before* delivery. It is also important for such brochures to be translated into several languages, to reach those who do not speak English.

Missouri has comprehensive provisions declaring that all hospitals and ambulatory surgical centers providing obstetrical care shall provide new mothers with the following: 1) information on breastfeeding and its benefits to the child; 2) information on local breastfeeding support groups; or 3) breastfeeding consultations. These three sources of information are important, however, there is an added clause after each subsection that this information should only be given "where appropriate as determined by the attending physician." This statement—which gives the doctor, and not the mother, the authority to make decisions for the mother's life—should be stricken from the law, as it threatens the mother's autonomy. As suggested above for both the California and Illinois public education campaigns, it should be a mandatory standard procedure for breastfeeding information and/or consultations to be offered to maternity patients, giving them the authority to decide what type of information they want to receive, if any at all. As an additional suggestion, in the first option, information on the benefits of breastfeeding to the *mother* should be stated as well to provide further incentive to breastfeed.

The legislation of Texas is very general, simply placing the responsibility for distributing promotional breastfeeding information on any "state agency administering a program providing maternal or child health services."

Florida takes a different approach, establishing the international movement, the "Baby-Friendly Hospital Initiative," in its maternity and newborn infant care facilities. This initiative was established by the WHO and UNICEF in 1991 and adopted by the United States with the creation of "Baby-Friendly USA" by the United States Fund for UNICEF and the Healthy People 2000 Project, Inc. in 1997 (6). Florida's legislation authorizes the use of the initiative's "Baby-Friendly" title for facilities with policies and practices that encourage breastfeeding in accordance with the "Ten Steps to Successful

Breastfeeding,” originating from the 1990 Innocenti Declaration, and amended for use in the United States (3):

Ten Steps to Successful Breastfeeding (as amended for the United States) UNICEF and World Health Organization (1989)
Every facility providing maternity services and care for newborn infants should: <ul style="list-style-type: none">• Maintain a written breastfeeding policy that is routinely communicated to all health care staff.• Train all health care staff in skills necessary to implement this policy.• Inform all pregnant women about the benefits and management of breastfeeding.• Help mothers initiate breastfeeding within one hour of birth.• Show mothers how to breastfeed and how to maintain lactation, even if they are separated from their infants.• Give newborn infants no food or drink other than breastmilk, unless medically indicated.• Practice “rooming-in”—allow mothers and infants to remain together 24 hours a day.• Encourage unrestricted breastfeeding.• Give no pacifiers or artificial nipples to breastfeeding infants.• Foster the establishment of breastfeeding support groups and refer mothers to them on discharge from the hospital or clinic. <p>Source: <i>Baby-Friendly USA</i> (3)</p>

The “Baby-Friendly” initiative is intended to protect, promote, and support breastfeeding, and its authorization should be included in breastfeeding legislation to encourage hospitals to strive for this higher standard of breastfeeding facilitation. As of April 2004, there are currently 42 hospitals with “Baby-Friendly” status, and an additional 45 hospitals with declarations of intent for complying with the above steps (3). Moreover, United States hospitals fully implementing the Ten Steps to Successful Breastfeeding have had an increase in in-hospital breastfeeding initiation rates, as indicated in a 1999 study of the Boston Medical Center (7). Hence, the effectiveness of this initiative should be promoted by state legislation.

Two states (MN, IL) have legislation recommending that the state department of health include a lactation support service program as an additional benefit for pregnant and breastfeeding WIC participants. This is an important program to target because its policy of distributing formula is associated with a breastfeeding rate far below the national average. There has also been evidence that WIC mothers who breastfed at the first feeding and who received advice from WIC staff to breastfeed were “significantly less likely to be formula feeding at the time of hospital discharge (6).” Moreover, according to the 2002 Ross Laboratories mother’s survey data (1), breastfeeding rates of WIC participants continue to lag significantly behind non-WIC participants, even after accounting for demographic differences.

The Minnesota legislation mandates that the commissioner of health establish a “comprehensive state plan for delivery of nutritional supplements to pregnant and lactating women, infants, and children.” This includes the implementation of public education programs that include breastfeeding information at project sites providing individual or family education and/or counseling. The Illinois legislation recommends that the state department of health include a lactation support program for WIC mothers, including payment for breastfeeding equipment and consultations by properly trained lactation specialists.

The strongest provisions in this category used in combination would be the best strategy to bring breastfeeding education and support to the greatest number of women. This combination would include the following:

BREASTFEEDING PROMOTION, INFORMATION AND EDUCATION	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
1. The state department of health shall establish a public education campaign regarding breastfeeding including the following: i) information on breastfeeding and its benefits to the mother and child, ii) information on local breastfeeding support groups, or iii) breastfeeding consultations by a licensed lactation specialist. These may be declined by the mother.	(Recommended; not an existing provision)
2. Maternity care and infant childcare facilities shall be designated "Baby-Friendly" by Baby-Friendly USA if they comply with the necessary requirements.	FL
3. The state department of health shall establish a lactation support service program to encourage WIC mothers to breastfeed as well as provide a benefit to breastfeeding members.	MN, IL

5) Jury Duty

Jury duty is an obligation that citizens of the United States are required to fulfill. Spending an indefinite amount of time in court can, however, disrupt and threaten a woman's breastfeeding schedule, leading to the inconvenience of supplying milk in the mother's absence or even to the termination of breastfeeding and its replacement by formula feeding. Because of this, five states (CA, ID, IA, OK, OR) have enacted statutes or court rules to excuse nursing mothers from jury duty for a specified period of time while their child is being breastfed.

Of these five states, Idaho's and Oklahoma's statutes are the most straightforward and logical. Idaho's statute states that a mother nursing her child should have jury duty postponed until she is no longer nursing. Oklahoma's legislation states that a nursing mother's jury duty shall be postponed upon her request.

Iowa's statute allows for automatic excuse from jury service for a breastfeeding mother under two conditions: 1) she must be responsible for the daily care of the child; and 2) she must not be regularly employed at a location outside of the home. This second clause is a threat to the protection of breastfeeding because the court does not afford the same situation as one's workplace. The court does not have break times and private facilities for expressing and storing milk; the absence of these amenities could significantly inconvenience a breastfeeding woman.

Oregon's statute excuses breastfeeding mothers from serving jury duty if a request is made in writing and if three additional conditions are met. The mother must: 1) be the sole caregiver of the breastfed child "during the Court's normal hours of operation;" 2) "be unable to afford childcare or make other arrangements for the care of the dependent;" and 3) "personally attend to the dependent during the Court's normal hours of operation." Once again, these conditions are harmful to a woman's breastfeeding practice as the court does not provide time or facilities for nursing mothers to express milk or breastfeed. These three conditions are illogical and problematic. They imply that if a mother is not personally caring for and attending for her child during the day (i.e., if she works at a location outside of the home or places her child in a childcare facility), she is not eligible for exemption from jury duty. These conditions are also irrelevant since the bottom line is that women serving on jury duty would not be able to breastfeed or express milk during the day, which they would be able to do even if they were working full time and placed their child in a childcare facility. Moreover, the Oregon statute states that the nursing mother's request can be overturned in the situation that the public need for juries "outweighs the individual

circumstances of the person summoned.” This situation in which a lack of potential jurors supersedes the well-being of an infant is highly unlikely.

Although California does not have a statute allowing nursing mothers to postpone serving as jurors, it does have a rule of court that mandates that the jury commissioner grant a postponement of jury duty for a nursing mother who makes such a request in writing.

While Minnesota’s legislation does not include a law excusing nursing mothers from jury duty, it does have a provision requesting that the state’s Supreme Court Jury Reform Task Force pursue the possibility of taking nursing needs into account as it recommended in a 2001 report.

Laws excusing nursing mothers from jury duty are extremely important in protecting the act of undisrupted and exclusive breastfeeding. In this case, the most effective legislation would model that of Idaho and Oklahoma. This straightforward legislation, without restricting conditions, is the most beneficial to both mother and infant in the event that she is summoned for jury duty.

JURY DUTY	
Ideal Provisions	Exemplary States with These Provisions
A nursing mother should have jury duty postponed until she is no longer breastfeeding, as per her request	ID, OK

6) Family Law

When parental divorce and/or separation occur in a home with a nursing infant, court decisions on child custody and parental time can negatively impact the health of an infant who is separated from his/her source of nutrition—the mother. Therefore, it is important for courts to decide on parent entitlements based on the best interest of the nursing infant. Throughout history, numerous court decisions, such as *Faber v. Faber* (1990), *Presutti v. Presutti* (1990), *Ford v. Ford* (1985), and *Kestetter v. Kerstetter* (1993), have set a standard of respecting the importance of breastfeeding in deciding visitation and custodial matters (17). The judges in two court cases [*Norton v. Norton* (1981), and *Lester v. Lennane* (2000)] ruled that it is not discriminatory to consider breastfeeding in family law matters (17).

In keeping the best interest of the child in mind, three states (ME, MI, UT) have established provisions that mandate that the courts take breastfeeding into consideration when determining the type of custody and time granted to each parent. Maine considers the mother-infant breastfeeding relationship in determining residence and parent-child contact “if child is under one year old.” Michigan takes nursing into consideration if the nursing child is less than six months of age, and if less than one year of age, only if the infant “receives substantial nutrition through nursing.” The age requirement is stricter in this case, and should be changed to a broader requirement of “less than one year of age” as long as the child is nursing at all since a decrease in the time mother and child spend together means a decrease in breastfeeding frequency and health.

In Utah, the parent custody agreement and time schedule can be altered in favor of more parental time for the mother if she can prove “by a preponderance of evidence” a lack of reasonable alternatives to meet the needs of a nursing child. This provision is restrictive and should be eliminated because there are no “reasonable” or comparable alternatives to breast milk and the benefits that breastfeeding afford the child and mother. A mother should not have to prove the importance of breastfeeding.

It is important for this type of legislation to be enacted by each state so that infants under six months of age can receive uninterrupted, exclusive breastfeeding, and infants under one year of age can receive a substantial portion of nutrition from the mother’s breast milk, as recommended by the AAP (2). Therefore, in any case where the child is under one year of age, breastfeeding should be considered when deciding visitation and custody issues in divorce and separation law.

FAMILY LAW	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
The mother-infant breastfeeding relationship shall be considered in determining residence and parent-child contact if the child is under one year of age.	ME

7) Milk Banks

Legislation about milk banking is currently unique to the state of Texas. It is important, however, because it allows infants who have lost their mothers, or whose mothers are unable to breastfeed, to reap the health benefits of breast milk and receive the best form of infant nutrition. In fact, the WHO and UNICEF have deemed donor milk the “first alternative” when a mother’s milk is unavailable, as stated in a joint 1980 resolution (6). Breast milk banks match the infant in need with the available supply from screened donors. The Texas legislation requires that the department of health establish sufficient guidelines for the “procurement, processing, distribution, or use of human milk by donor milk banks.” These guidelines are important for quality control purposes, and to ensure efficient and safe processes from milk donation to distribution.

MILK BANKS	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
Guidelines for establishing and running milk banks shall be established by the state department of health	TX

8) Nursing in Prison

The state of New York has one statute allowing a nursing infant of less than one year of age to accompany its mother in jail provided that the medical officer of the correctional institution deems her physically fit to care for the child. This statute protects the act of breastfeeding, which would help the child obtain the best source of nutrition and the healthiest start to life, despite the hostile situation of his/her mother’s jail sentence. In fact, it is often these children who can benefit the most from the protective effects of breastfeeding.

NURSING IN PRISON	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
A nursing infant of less than one year of age may accompany its mother in jail provided that the medical officer of the correctional institution deems her physically fit to care for the child	NY

9) Breastfeeding Equipment/Assistance Privileges

Maryland’s legislation contains a statute exempting breastfeeding equipment from the state sales tax. This equipment includes “breast pumps, breast pump kits, nipple enhancers, breast shields, breast shells, supplemental nursing systems, softcup feeders, feeding tubes, breast milk storage bags, periodontal syringes, finger feeders, haberman feeders, and purified lanolin (4),” which help a mother initiate and maintain breastfeeding. This reduction in cost is an incentive for women to breastfeed. By eliminating the sales tax for these products, a breastfeeding woman will also feel positive about buying such products and can feel a sense of community support for her decision to breastfeed.

Reimbursement for breastfeeding equipment and, in some cases, lactation counseling costs has also been a strategic way to promote breastfeeding. This has been provided by maternal and infant care programs such as WIC and by certain health insurance companies. It has been suggested that states alter their health insurance codes to induce third-party payment for breastfeeding equipment and services. In its Insurance Code legislation, the state of Texas requires that the “health insurer of a maternity patient discharged before the statutory minimum stay” must compensate the insured with coverage of post-delivery services, including breastfeeding assistance, training, and consultations.

BREASTFEEDING EQUIPMENT/ASSISTANCE PRIVILEGES	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
1. Breastfeeding equipment shall be exempted from the state sales tax.	MD
2. Maternity patients discharged before the statutory minimum stay must be compensated with coverage of post-delivery services, including breastfeeding assistance, training, and consultations.	TX

10) International Code of Marketing of Breast-milk Substitutes

After a longstanding opposition to the International Code of Marketing of Breast-milk Substitutes, the United States finally complied with the Code when President Clinton signed the joint resolution at the World Health Assembly in Geneva in 1994 (5). By adopting the Code, the United States agrees with a set of international recommendations and standards which aim to protect and promote breastfeeding by regulating the marketing and distribution of infant formula as well as all products endorsing formula feeding (5). The Code’s provisions urge elimination of: advertising of breast-milk substitutes in general and their promotion in health facilities through company nurses sent to advise mothers, personal gifts and samples given to health workers, and free samples (or reduced price products) given to new mothers (5). Information given to health workers is also to be factual with product labels explaining the benefits of breastfeeding over formula feeding (5). Moreover, the Code urges its signatory countries to “take action appropriate to [its] social and legislative framework and [its] overall development objectives to give effect to the principles and aim of this Code, including the enactment of legislation, regulations, or other suitable measures (5).”

There is great potential for states to develop legislation enforcing all, or at least some, of the recommendations in the Code. California is the only state that has attempted to enforce the Code through a 2001 bill, stating that manufacturers of infant formula are prohibited from participating in marketing and distribution activities that violate the Code (17). Although there are no state laws that directly relate to the Code, two states (MA, NY) have a provision in their perinatal guidelines regarding the distribution of discharge packs. In these two states, the pack may only be distributed when requested by the mother or prescribed by a physician (17). This is a powerful provision because one study by Howard, et al. (2000) found that exposure of maternity patients to formula advertisement and promotion leads to a significant rate of termination of breastfeeding within the first two weeks of the infant’s life (6). Each state should include such a provision in their department of health guidelines to counter infant formula marketing.

INTERNATIONAL CODE OF MARKETING OF BREAST-MILK SUBSTITUTES	
<u>Ideal Provisions</u>	<u>Exemplary States with These Provisions</u>
1. Manufacturers of infant formula are prohibited from participating in marketing and distribution activities that violate the International Code of Marketing of Breast-milk Substitutes.	(Attempted by CA, 2001)
2. Formula discharge packs may only be distributed when requested by the mother or prescribed by a physician.	MA, NY (perinatal law)

Conclusion

Currently, 36 states and one city have breastfeeding legislation. Oklahoma and Colorado’s enactment of breastfeeding legislation in 2004 indicates that states are still actively establishing breastfeeding legislation. Nevertheless, all 50 states should enact sufficient breastfeeding legislation for a national breastfeeding culture to be established.

Great variance in the types, quality, and comprehensiveness of laws exists among the states. Some states have enacted useful legislation while other states have none at all. No state, however, currently has comprehensive legislation consisting of all of the possible types of state laws regarding breastfeeding either currently in existence or recommended as the “best practice” combination of provisions. It is extremely important that states with no breastfeeding legislation begin establishing protective legislation. States with breastfeeding provisions should work on increasing the strength of their legislative language in weak places through amendments, and expand their legislation to include realms not currently covered by their laws. Only when these standards are met can all women in the United States enjoy the same protection.

PART II: STATE MATERNITY LEAVE LEGISLATION

Introduction

Although the breastfeeding legislation discussed in Part I of this report directly relates to breastfeeding, state legislation regarding the nature of maternity leave also affects breastfeeding for nursing mothers who are employed. This is significant because there has been a dramatic increase in the number of married women with children in the workforce, especially mothers of young children (6). Thus, there is a large population of pregnant, married or single working women whose infant feeding decisions will be affected by the length and nature of maternity leave that they can receive.

State Maternity Leave Initiatives

To understand what types of maternity leave are available and how family leave has evolved over time, it is useful to examine a brief history of family leave policy. In the early 1980s, President Reagan terminated the prior movement of national family policy, and instead declared that the states, and not the federal government, would address such issues (19). This devolution of Reagan’s “New Federalism” explains why Pat Schroeder’s 1985 attempt to endorse the first family leave bill to the House of Representatives failed, as well as why by the time President Clinton signed the Family Medical Leave Act (FMLA) into law in 1993, 31 states already had some form of state-level family leave legislation: 19 for both private and state employees, and 12 for state employees only (19). The first four states to create family leave legislation were Connecticut, Minnesota, Oregon, and Rhode Island (19).

After the FMLA became federal law in 1993 and thus applied to all 50 states, some states still had their own family leave policies. Many of these state family leave policies had provisions that exceeded the FMLA provisions, which allow employees 12 weeks of unpaid leave and job reinstatement upon return (6). However, it is estimated that the FMLA only applies to half of the population of working women because it contains the conditions that the employee work for a company with 50 or more employees, be employed full time, and have a history of at least one year with the company (6). The states with provisions exceeding the federal family leave provisions differ based on five different dimensions: 1) *Company size*: The legislation applies to companies of smaller sizes; 2) *Length of leave*: The length of leave is longer than 12 weeks; 3) *Special medical needs*: Extra leave time is allowed for medical appointments; 4) *School activity time*: Extra leave time is allowed for child school activities; and 5) *Broader definition of “family”*: Members outside of the immediate family, such as in-laws and/or grandparents are included (19). We will, however, only be examining those dimensions related to pregnancy and postpartum leave, for which 1) company size and 2) length of leave are relevant. Details involving family, elderly care, and medical leaves unrelated to pregnancy and birth will not be discussed. The chart below was compiled from data made available by the National Partnership for Women and Families (13, 14).

State Family (Specifically Maternity) Leave Laws That Are More Expansive Than FMLA Provisions

(Current to August 2002)

State	Company Size	Length of Leave (with reference to statute)
California	5+ employees (maternity disability)	12 weeks family + 4 months maternity CA Govt §12945
Connecticut	3+ employees (maternity disability)	Discriminatory violation to not provide “reasonable leave” for pregnancy disability CT St §46a-60

State	Company Size	Length of Leave (with reference to statute)
District of Columbia	20+ employees	16 weeks in 2 years family or birth or adoption leave + 16 weeks personal medical leave in 2 years Total: 32 weeks in 2 years DC ST §32-501-503
Hawaii	1+ employees (maternity disability)	
Iowa	4+ employees (maternity disability)	Disability length or 8 weeks for pregnancy disability – whichever is less IA ST § 216:6:2
Louisiana	25+ employees (maternity disability)	Unlawful to not allow leave for pregnancy disability for a “reasonable period of time”: 6 weeks (normal childbirth) up to 4 months LA RS 23:341-342
Maine	15+ employees (family and medical leave)	10 weeks in 2 years ME ST T.26 §843-845
Massachusetts	6+ employees (maternity leave)	8 weeks maternity leave with job protection MA ST 149 §105D
Minnesota	21+ employees (birth, adoption)	6 weeks (birth or adoption) MN ST §181.940-.942
Montana	1+ employees (maternity disability)	Unlawful to refuse grant of “reasonable leave” for pregnancy MT ST 49-2-310—2; MT ADC 24.9 1203
Oregon	25+ employees	12 weeks family + 12 weeks pregnancy + 12 weeks child illness; max: 36 weeks for women O.R.S. §659A.150-.171; OR ADC 839-009-0240
Puerto Rico	Any number of employees (maternity disability)	20 weeks for complicated pregnancies
Rhode Island		13 weeks in 2 years (birth or adoption) RI ST § 28-48-1—10
Tennessee		4 months maternity disability (job protection with 3 months notice) TN 4-21-408
Vermont	10+ employees (birth or adoption)	12 weeks in 12 months (birth or adoption)
Washington	8+ employees (maternity disability)	12 weeks in 24 months (care for a newborn)

Fourteen states (CA, CT, HI, IA, LA, ME, MA, MN, MT, OR, RI, TN, VT, WA), the District of Columbia, and Puerto Rico have maternity leave statutes that are more generous than the FMLA. Twelve of these states (CA, CT, HI, IA, LA, ME, MA, MN, MT, OR, VT, WA) and the District of Columbia require fewer than 50 company employees for a certain length of maternity leave to be granted (requirement varies by state). In four states (LA, ME, MN, OR) and the District of Columbia the maternity disability applies if the company contains a specified number of employees between 11 and 25. Two states (VT, WA) grant maternity disability leave if the company employs a specified number of employees between six and ten. Four states (CA, CT, IA, MA) require some number of employees between two and five, and two states (HI and MT) require only one employee for the maternity leave to apply.

Six states (CA, CT, LA, OR, RI, TN), the District of Columbia, and Puerto Rico grant combined family and medical leaves that exceed the 12 week provision in the FMLA. With regard to maternity disability leave only, however, Puerto Rico offers the longest leave at 20 weeks per year. Three states

(CA, LA, TN) offer the next longest length of leave at four months, followed by two states (VT, OR) that offer 12 weeks of leave per year. Six other states (IA, ME, MA, MN, RI, WA) and the District of Columbia offer maternity leave of less than 12 weeks per year, which are designated apart from the FMLA provisions. Two states (CT, MT) do not specify the length of maternity leave allowable, but state in their statutes that it is discriminatory and unlawful for employers not to grant “reasonable leave” for pregnancy disability.

Besides the previous statutes, which expand upon the FMLA provisions for both state and private employees, 11 states (AK, AZ, CT, IL, IA, KS, NV, NJ, NC, ND, WV) also contain certain maternity leave laws that apply only to a certain segment of the employee population, such as state employees. These specialized statutes related to maternity leave for state employees are listed in the following chart summarizing information from the National Partnership for Women and Families (14).

State Unpaid, Job-Protected Maternity Leave for State Employees
(Current to August 2002)

<u>State</u>	<u>Applicable Statute</u>	<u>Employee Eligibility</u>	<u>Leave Type</u>
Alaska	AK St § 23.10.500-.550; AK ST § 39.20.305	State gov't employees (of a state facility with over 21 employees within 50 miles during 20 consecutive weeks) who have worked at least 35 hours/week for 6 months OR at least 17.5 hours/week for 12 months	Pregnancy and childbirth or adoption for both male and female employees (18 weeks in 1 year)
Arizona	A.A.C. R 2-5-411	All state gov't employees	Pregnancy, childbirth, miscarriage, abortion, or adoption of children (12 weeks in 1 year)
Connecticut	CT ST § 5-248a	Permanent state gov't employees	Birth or adoption or serious health condition of family member (maximum of 24 weeks in 2 years)
Illinois	2 IL ADC 600.686	State gov't employees	As in federal leave but can be extended up to 6 months at the discretion of the Auditor General
Iowa	Iowa ADC 581-14.14.5 (19A)	State gov't employees	Leave without pay at discretion of employer (up to 1 year)
Kansas	KS ADC 1-9-6	State employees with or without permanent status	Leave for a “reasonable period of time” (not to exceed 1 year) without pay, subject to approval based on whether the leave is “in the best interest of the service” for any sufficient reason (including care of a child)
Nevada	NV § 284.360	“classified and unclassified” state employees	Natural parents of a child less than 6 months old or parents who have recently adopted a child (not to exceed 12 weeks)
New Jersey	NJ ADC 4A:6-1.21A	State employees working for the past 12 consecutive months for not less than 1000 hours in the past 12 months	Leave to care for a family member with serious health condition, adoption, or birth of a child (12 weeks in 2 years)
North Carolina	25 NC ADC 1E.1402	Permanent public employees who have worked at least half time for the past 12 weeks	For birth of child, adoption, care for employee's own or family member's serious health condition (12 weeks in 1 year)

State	Applicable Statute	Employee Eligibility	Leave Type
North Dakota	ND § 54-52.4-02	State gov't employees	Leave to care for a family member with a serious health condition, adoption, or birth of a child (leave time based on formula: If average of 20 hrs/wk→2 months leave; if average of 40 hrs/wk→4 months leave)
West Virginia	WV ST § 21-5D-2—4	State gov't employees	Leave to care for birth of a child, placement for adoption, or to care for a family member with a serious health condition (12 weeks in 12 months)

Each of the above states allows state employees a certain length of maternity leave (often in combination with other family leave) ranging from the longest of one year in two states (IA, KS) or up to six months at the discretion of the Auditor General (IL), to two or four months depending on the amount of time worked (ND). The state of Alaska offers an 18 week maternity leave, while Connecticut offers 24 weeks in two years. Four states (AZ, NV, NC, WV) offer 12 weeks in one year, and New Jersey offers the shortest amount of maternity leave at 12 weeks every two years. Four states (AK, CT, NJ, NC) contain restrictions on which state employees may receive maternity leave. In Alaska, the state facility must employ over 21 workers, and one is only eligible when a certain number of hours per week are worked. New Jersey also requires that a certain length of time be worked by the employee before they may receive maternity leave, and Connecticut and North Carolina require employees to be “permanent,” with North Carolina requiring the extra condition that a certain length of time be worked by that employee prior to the leave.

Certain states go even further in offering full to partial income compensation for their employees while they are on maternity leave. This is usually given in the form of temporary disability insurance (TDI) or unemployment insurance (UI). Temporary disability insurance supplies partial wage and income replacement to employees who are on leave due to short-term medical illness or disability, including pregnancy and childbirth (18). Also covered is up to one year of bonding time between a mother and her newborn or adopted child (15). Unemployment insurance, on the other hand, is a joint federal-state program, which grants partial wage compensation in the event of involuntary unemployment (18). Because of the recent economic struggles faced by the United States, there has been less support for extending insurance for the unemployed through the UI program—originally intended as a “social safety net for single-earner families”—to care for a new child (9). This is why the five states (CA, HI, NJ, NY, RI) and Puerto Rico that currently offer partial wage compensation for women unable to work due to pregnancy, birth, or bonding with a new child, do so in the form of temporary disability insurance. Below is a chart of legislative state initiatives establishing partial wage replacement programs for pregnant and postpartum mothers (18).

State Partial Wage Replacement Programs for Maternity Leave
(Current to August 2002)

State	Temporary Disability Insurance (TDI)	Unemployment Insurance (UI)
Arizona		2001 bill introduced to extend UI to care for new child
California	Pregnancy disability leave (average of 11 weeks) Employee funded	
Georgia		2001 bill introduced to extend UI to care for new child
Hawaii	Universal disability and maternity leave Employee funded	

State	Temporary Disability Insurance (TDI)	Unemployment Insurance (UI)
Kansas		2001 bill introduced to extend UI to care for new child
Maryland		2000 and 2001 bills introduced to provide up to 12 weeks UI for care of new child
Massachusetts	2001 bill to provide paid family and medical leave through new TDI system	2001 bill introduced to extend UI to care for new child
Minnesota		Bill introduced to extend UI to care for new child
Nebraska		2001 bill introduced to extend UI to care for new child
New Jersey	Universal disability and maternity leave Employee/employer funded	2000 and 2001 bills introduced to extend UI to care for new child
New Mexico		2001 bill introduced to extend UI to care for new child
New York	Universal disability and maternity leave Employee/employer funded	
Oregon		2001 bill introduced to extend UI to care for new child
Puerto Rico	Universal disability and maternity leave	
Rhode Island	Universal disability and maternity leave Employee funded	
Texas		2001 bill introduced to extend UI to care for new child
Vermont		1999 and 2000 legislation introduced to provide up to 5 weeks UI for care of new child

TDI, also called State Disability Insurance (SDI) and specifically the Paid Family Leave (PFL) insurance program in California (9), is administered and enforced by a state Employment Development Department (EDD) or equivalent state agency (9). TDI is funded by employee (as well as employer in New York and New Jersey) contributions in the form of payroll deductions (9). In California, benefits average two-thirds of one's average weekly wage, with a capped ceiling at \$490 per week. In 2000, California's EDD estimated that the cost of extending TDI to family leave would be low, with employees contributing less than a dollar each week to pay for an average of six weeks' leave for one employee. In California, the majority of its employees (around 12 million of 15 million) are covered (9).

Other states should model their legislation on California's progressive program, which allows mothers to take time off from work to care for their infant and breastfeed sufficiently without suffering the consequences of lost wages. This is important since "many low- and middle-income workers do not take needed leave because they cannot afford to go without pay"—the reason stated by 78 percent of those who needed leave but did not take it (9). The population subgroups most likely to forego leave were "hourly workers, African Americans, workers with children, low-income workers, and those with limited education (9)." Unsurprisingly, these groups also coincide with some of the nation's groups with the lowest breastfeeding rates (11). Hence, mothers and infants in these groups would benefit most from partial wage compensation as well as from the breastfeeding that becomes a possibility when mothers are able to take the leave they need. As an example of the impact of maternity leave on breastfeeding rates, Scandinavian countries providing near full pay for over one year (10)—480 days in Sweden and 52 weeks in Denmark (8)—have achieved nearly 90% breastfeeding rates since the 1980s (5).

Conclusion

With regard to state maternity leave laws, there is great potential for growth in three areas. First, laws should be established decreasing the required number of employees in a workplace for maternity leave benefits to be activated. Second, the length of maternity leave should be increased to at least six months, which is the amount of time the AAP recommends that a mother exclusively breastfeed her infant (2). Finally, states should establish their own partial wage replacement programs for maternity leave in the form of temporary disability insurance. The five pioneer states (CA, HI, NJ, NY, RI) that already have implemented TDI will provide excellent examples in the years to come. Moreover, state Employment Development Departments should be aware of the benefits of generous maternity leave policies and the breastfeeding they promote for employers and employees alike. Greater strides in maternity leave benefits should be made by all states with room to expand in any of the above areas. Indeed, maternity leave legislation and breastfeeding rates are linked, and progress in this arena further protects a mother's breastfeeding prerogative.

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Appendix I

State by State Listing of Enacted Breastfeeding Legislation (summarized) as of 5/25/04

Alabama

No breastfeeding legislation enacted.

Alaska

AK Stat. §01.10.060 (b)

(It is not considered indecent conduct for a woman to breastfeed a child in a public or private location where she and her child are authorized to be.),

§29.25.080

(Enacting of laws restricting breastfeeding by municipalities is prohibited.)

1998 AK. ALS 78;

1998 AK. Sess. Laws 78;

1998 AK. Ch. 78;

1997 AK. SB 297

Arizona

No breastfeeding legislation enacted.

Arkansas

No breastfeeding legislation enacted.

California

Cal Health & Saf Code §123360

(The State Dept Health Services shall establish a breastfeeding promotion campaign.),

§123365(a-d)

(All hospitals providing maternity care shall make available a breastfeeding consultant or information to new mothers; the patient may decline such services.)

1995 Cal ALS 463;

1995 Cal AB 977;

Stats 1995 ch 463

Cal. Civ. Code §43.3

(A mother is authorized to breastfeed her child in any public or private location, except for the private home or residence of another, where she and her child are allowed to be present.)

1997 Cal ALS 59;

1997 Cal AB 157;

Stats 1997 ch 59

Cal Code Civ. Proc. §210.5

(An optional standardized jury summons for breastfeeding mothers with specific rules shall be established.)

2000 Cal AB 1814;

2000 Cal ALS 266;

Stats 2000 ch 266

2004 California Rules of Court-Rule #859 (*not a statute)

(A breastfeeding mother may defer jury service for up to one year as long as she is breastfeeding; this must be granted without requiring the juror to appear in court under penalty of perjury.)

2001 Cal. Lab. Code §1030

(Every employer shall provide reasonable and adequate break time for employee to express breast milk for her child; break time exceeding existing time allowed by employer is unpaid.),

§1031

(The employer shall provide the breastfeeding employee use of a non-toilet location close to the employee's work area to express milk privately.),

§1032

(An employer is not required to provide break time if it disrupts work operations.),

§1033(a-c)

(An employer who violates this section's provisions is subject to a \$100 civil penalty for each violation; violations are investigated and issued by the Labor Commissioner and may be contested; these violations are not misdemeanors.)

Colorado

C.R.S.25-6-302

(A mother may breastfeed in any place she has the right to be.)

C.R.S. 25-6-301

((1) The Colorado general assembly finds and declares that a) the AAP recommends exclusive breastfeeding for the first six months of the infant's life and breastfeeding with introduction of new foods for at least the first 12 months, b-i) the AAP endorses breastfeeding as the best form of infant nutrition, and extensive research shows numerous advantages to infants (health and

cognitive), mothers (health and bonding), families and societies.

(2) The state of Colorado will become involved in the national movement to recognize the importance of breastfeeding and to encourage removal of societal barriers to breastfeeding in public.)

Connecticut

Conn. Gen. Stat. §46a-64, §53-34b

(Discriminatory public accommodations practices are prohibited and violation of this section shall lead to fines of \$25-\$200 and or imprisonment of no more than 30 days.)

1997 Ct. ALS 210;

1997 Ct. P.A. 210;

1997 Ct. SB 260

Conn. Gen. Stat. §31-40w (a-d)

(Any employee may express breast milk or breastfeed on site at her workplace during designated meal and break periods; employers must not discriminate against an employee for breastfeeding activity.)

2001 Ct. ALS 182;

2001 Ct. P.A. 182;

2001 Ct. HB 5656

Delaware

31 Del. C. §310

(A mother has the right to breastfeed in any public location where she and her baby are permitted.)

1997 Del. ALS 10;

71 Del. Laws 10;

1997 Del. HB 31

Florida

Fla. Stat. Ann. §383.015

(The breastfeeding of a baby is an act of nurture that must be encouraged for maternal and child health interests as well as family values; breastfeeding is allowed in any public or private location where mother and baby are authorized to be.)

1993 Fl. ALS 4;

1993 Fla. Laws ch. 4;

1993 Fla. HB 231

Fla. Stat. 800.02, 800.03, 800.04

(Breastfeeding is excluded from sexual offenses according to the definition of an unnatural and lascivious act.)

Fla. Stat. §827.071(g) (Child abuse statute)

(A mother breastfeeding her baby does not, under any circumstances, constitute "sexual conduct.")

Fla. Stat. §383.016, 383.311, 363.318

(Breastfeeding encouragement policy for facilities providing maternity and newborn infant services, and authorizes use of "baby-friendly" designation.)

Georgia

Ga. Code An. §31-1-9

(The breastfeeding of a baby is an important act of nurture that should be encouraged in the interests of maternal and child health; a mother is allowed to breastfeed her baby in any location where they are authorized to be.)

Ga. Code An. §34-1-6 (a-b)

(An employer may provide reasonable unpaid break time to an employee needing to express milk for her infant child; the employer may make reasonable efforts to provide a room or other location close to the workplace which is not a toilet stall where the employee may express her milk in privacy; an employer is not required to provide break time if it disrupts work operations.)

Hawaii

HRS §489-21

(To deny or attempt to deny full and equal enjoyment of public accommodations to a breastfeeding woman is a discriminatory act.),

§489-22

(Anyone injured by the above discrimination may bring proceedings to small claims divisions of district courts for an award of attorney's fees, cost of suit and \$100),

§489-23

(Hawaii civil rights commission does not have jurisdiction to enforce this breastfeeding law.)

HRS §378-2(7)

(It shall be an unlawful practice:...(7) for any employer or organization to refuse to employ, or to bar or discharge from employment, or withhold pay, demote or penalize a

lactating employee because she directly breastfeeds or expresses milk at the workplace.)

§378-10.2

(No employer shall prohibit an employee for expressing milk during designated meal or break periods required by law or collective bargaining.)

Idaho

Idaho Code §2-209

(A mother nursing her child shall have jury duty postponed until she is no longer doing so.)

§2-212

(A person not disqualified for jury duty under section 2-209 may have jury service postponed by the court or jury commissioner upon showing of need for postponement or of breastfeeding a child.)

1996 Ida. ALS 189;

1996 Idaho Sess. 189;

1996 Ida. Ch. 189;

1996 Ida. SB 1468

Illinois

720 ILCS 5/11-9

(Public indecency. Breastfeeding of infants is not an act of public indecency as defined.)

1995 ILL. ALS 59;

1995 Ill. Laws 59;

1995 ILL. P.A. 59;

1995 ILL. SB 190

20 ILCS 2310/2310-442

(Permits the state department of health to conduct a public breastfeeding campaign including an information brochure distributed free of charge to parents or legal custodians of each newborn upon discharge of an infant.)

1997 ILL. ALS 24;

1997 Ill. Laws 244;

1997 ILL. P.A. 244;

1997 ILL. SB 404

20 ILCS 1305/10-25

(Women, infants, and children nutrition program...(e) A program of lactation support services may be established by the Department of Health as part of the benefits for WIC participants; includes equipment and professionals completing a lactation management training program.)

1997 ILL. ALS 290;

1997 Ill. Laws 290;

1997 ILL. P.A. 290;

1997 ILL. HB 619

820 ILCS 260/1 et seq.

(Nursing Mothers in the Workplace Act. Section 10. Break time for nursing mothers is to be provided by the employer for mothers needing to express milk, concurrent with existing break time; employer is not required to provide break time if it disrupts work operations.

Section 15. A private non-toilet location close to the work area is to be provided by an employer for the nursing employee to express milk.)

2001 ILL. ALS 68;

2001 Ill. Laws 68;

2001 ILL. P.A. 68;

2001 ILL. SB 542

Indiana

Ind. Code IC §16-35-6-1

(A woman may breastfeed her child anywhere she has the right to be.)

Added by P.L. 125-2003, SEC. 1.

Iowa

Iowa Code §607A.5, 2002

Iowa House File #2350, 1994

(A mother of a breastfed child responsible for the daily care of the child shall be excused from jury service if verifying written documentation is submitted to the court.)

1994 Ia. ALS 1196;

1994 Ia. Ch. 1196;

1994 Ia. LAWS 1196;

1994 Ia. HF 2350

Iowa Code § 135.30A, 2002

(A woman may breastfeed her own child in any public place where her presence is authorized.)

2000 Ia. ALS 1140;

2000 Ia. Ch. 1140;

2000 Ia. LAWS 1140;

1999 Ia. SF 2302

Kansas

No breastfeeding legislation enacted.

Kentucky

No breastfeeding legislation enacted.

Louisiana

L.R.S. 46 §1409 (B)(5)

(Childcare facilities and child placement agencies are prohibited to discriminate on the basis of whether the child is being breastfed.)

46 §1413(E) related.
2003 La. Acts. 369

L.R.S. 51 § 2247.1

(A. The LA legislature recognizes the Surgeon General's recommendation that breastfeeding of an infant from birth to one year of age results in an optimal start in life, and that statistics show a decline in breastfeeding. Although breastfeeding is recognized as superior, LA also recognizes the barriers that women face socially and professionally. A promotion of family values through a more breastfeeding-friendly environment is called for, and barriers to such an environment are denounced.
B. A woman has the right to breastfeed in any public place notwithstanding any other law provision.

C-D. "Discriminatory Practice in Connection with Public Accommodations" includes a discriminatory practice against a mother breastfeeding her baby.
E. A mother breastfeeding her baby in any location she is authorized to be shall not be deemed in violation of law.)

2001 La. ALS 576;
2001 La. ACT 576;
2001 La. HB 377

Maine

19 M.R.S. §1653(P)

(Best Interest of Child: In deciding parental responsibility issues in divorce and separation cases, if the child is under one year of age, whether the child is being breastfed is considered.)

1999 Me. ALS 702;
1999 Me. Laws 702;
1999 Me. Ch. 702;
1999 Me. SP 888

5 M.R.S. §4634

(A mother may breastfeed her baby in any public or private location where she is otherwise authorized to be.)

2001 Me. ALS 206;

2001 Me. Laws 206;
2001 Me. Ch. 206;
2001 Me. HP 1039

Maryland

Md. Code §20-801

(A mother may breastfeed her child in any private or public location in which she and her child are authorized to be; no person may restrict this right.)

S.B. 223, Chap 369 (signed 5/22/03)

Md. Code Ann §11-211

(Sales tax does not apply to the sale of breastfeeding-related equipment)

2001 Md. ALS 137;
2001 Md. Laws 137;
2001 Md. Chap. 137;
2001 Md. SB 252

Massachusetts

M.G.L-Ch. 111, Sect. 70E Patients' and residents' rights

(Maternity patients have the right to know the annual percentage of women breastfeeding upon discharge from hospitals.)

Michigan

MCLS §41.181, §67.1 §117.4i, §117.5h

(Amends Mi criminal code to state that public nudity does not include breastfeeding whether or not the nipple or areola is exposed during or incidental to nursing.)

1994 Mi. ALS 313-315;
1994 Mi. P.A. 313-315;
1994 Mi. SB 107-109

MCLS §722.27a, Child Custody Act of 1970

(Whether the child is nursed and for how long is a factor of consideration for child custody.)

Minnesota

Minn. Stat. §145.894, 2002

(The commissioner of health shall: (a) develop a comprehensive state plan for nutritional supplements to pregnant and lactating women (c) develop and implement a public education program and provide for delivery of individual and family nutrition education and counseling involving breastfeeding information at project sites.)

1990 Minn. ALS 568;

1990 Minn. Ch Law 568;
1990 Minn. S.F. No. 262 1

Minn. Stat §181.939

(Break time for nursing mothers is to be provided by the employer for mothers needing to express milk, concurrent with existing break time; employer is not required to provide break time if it disrupts work operations.)

A private non-toilet location close to the work area is to be provided by an employer for the nursing employee to express milk.)

1998 Minn. ALS 369;
1998 Minn. Ch Law 369;
1997 Minn. S.F. No. 2751

Minn. Stat. § 617.23

(To breastfeed is not an act of indecent exposure.)

Minn. Stat. §145.905

(A mother may breastfeed in any location where the mother and child are otherwise authorized to be.)

1998 Minn. ALS 407;
1998 Minn. Ch Law 407;
1997 Minn. S.F. No. 3346

2002 Minn. Laws Ch. 269

(Requests that the Minn. Supreme Court Jury Reform Task Force look at the issue of nursing mothers and jury duty.)

Minn. Stat. §145.894

(The commissioner of health shall: (a) develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women as well as (c) an education promotion providing counseling and breastfeeding promotion at project sites.)

1990 Minn. ALS 568;
1990 Minn. Chapter Law 568;
1990 Minn. S.F. No. 262 1

Mississippi

No breastfeeding legislation enacted.

Missouri

R.S. Mo. §191.915,

(Every hospital and ambulatory surgical center providing obstetrical care shall provide new mothers with information on breastfeeding, its benefits to the child, and local breastfeeding support groups or

offer breastfeeding consultations— all when determined appropriate by the attending physician.)

§191.918

(A mother may breastfeed her child in any public or private location where she is authorized to be.)

Montana

Mont. Code Anno. §50-19-501

(1) The Montana legislature recognizes the importance of breastfeeding to a baby and its promotion of health and family values. A mother has the right to breastfeed her child in any location where she and her child are authorized to be, regardless of whether the breast is or is not covered incidental to breastfeeding.

(2) Local ordinances may not prohibit breastfeeding.

(3) The act of breastfeeding may not be considered a nuisance, indecent exposure, sexual conduct, or an obscenity.)

1999 Mt. ALS 299;

1999 Mt. Laws 299;

1999 Mt. Ch. 299;

1999 Mt. SB 398

Nebraska

No breastfeeding legislation enacted.

Nevada

Nev. Rev. Stat. Ann. §201.210(2),

(A mother's breastfeeding of her child does not constitute an act of open or gross lewdness.)

§201.220(2)

(A mother's breastfeeding of her child does not constitute an act of indecent exposure.)

§201.232

(1. (a)The legislature finds and declares that the U.S. medical profession recommends that children breastfeed from birth to the age of one, (b-c) statistics reveal a decline in breastfeeding of babies with many choosing to use formula instead, (d-e) breastfeeding has numerous benefits to both the baby and the mother, (f) the WHO and UN Children's Fund have established the encouragement of breastfeeding as one of their major goals, (g) the social constraints of modern society

are a barrier to breastfeeding, (h) no mother should be made to feel incriminated or socially ostracized for breastfeeding her child.

2. A mother may breastfeed her child in any private or public location where she and her child are authorized to be.)

1995 Nev. ALS 105;

1995 Nev. Stat. 105;

1995 Nev. Ch. 105;

1995 Nev. SB 317

New Hampshire

N.H. Rev. Stat. Ann. §132:10-d

(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 Hampshire House Bill #441, 1999

New Jersey

N.J.S.A. 26:4B-4 (2)

(A mother shall be entitled to breastfeed her baby in any public location where she is otherwise permitted.)

26:4B-5 (3 a-c)

(a. The local board of health, upon written complaint of a violation of the above section, shall, by written notification, advise the owner or person in control of the public accommodation of the initial complaint and of penalties for subsequent complaints, for which fines will be issued.

b. Penalties recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health or local board of health. The penalties shall be paid into either the treasury of the State or municipality where the violation occurred.

c. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed.)

New Mexico

N.M. Stat. Ann. §28-20-1

(A mother may breastfeed her child in any public or private location where she is otherwise authorized to be.)

1999 N.M. ALS 117;

1999 N.M. Laws 117;

1999 N.M. Ch. 117;

1999 N.M. SB 545

New York

NY Penal Laws §245.01

(Exposure of a person. This section shall not apply to the breastfeeding of infants.)

§245.02

(Promoting the exposure of a person. This section shall not apply to the breastfeeding of infants.)

NY CLS Civ R §79-e (Article 7 Miscellaneous Provisions)

(Right to breastfeed. A mother may breastfeed her baby in any location where she is otherwise authorized to be, regardless of whether or not the nipple of the mother's breast is covered during or incidental to the breastfeeding.)

1994 N.Y. ALS 98;

1994 N.Y. LAWS 98;

1994 N.Y. S. N. 3999

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

(Births to inmates of correctional institutions and care of inmates of correctional institutions. If any woman at the time of commitment to a correctional institution is the mother of a nursing child in her care under one year of age, such a child may accompany her to such an institution if she is physically fit to have the care of such child.)

North Carolina

N.C. Gen. Stat. Sec. 14-190.9

(Indecent exposure. A woman may breastfeed in any public or private location where she is authorized to be regardless of whether or not the nipple of the breast is covered during or incidental to breastfeeding.)

1993 N.C. ALS 301;

1993 N.C. Sess. Laws 301;

1993 N.C. Ch. 301;

1993 N.C. HB 1143

North Dakota

No breastfeeding legislation enacted.

Ohio

No breastfeeding legislation enacted.

Oklahoma

HB 2101

(The legislature declares breastfeeding a basic act of nurture to which every baby has a right and which should be encouraged in the interests of maternal and child health; a mother may breastfeed her baby in any location where the mother is authorized to be; breastfeeding is not a violation of any provision.)

Title 63, Section 1-234.1

38 O.S. 2001, Section 28

(Mothers who are breastfeeding a baby shall be exempt from jury duty upon their request.)

Oregon

ORS §109.001

(A woman may breastfeed her child in a public place.)
1999 Ore. ALS 306;
1999 Ore. Laws 306;
1999 Ore. SB 744

ORS §10.050

(A Judge or Clerk of the Court shall excuse a breastfeeding woman from jury duty if she requests this in writing unless the need for a jury outweighs the individual circumstances. This, however, may be overridden if the mother is the sole caregiver of the child and does not have the resources to arrange for childcare.)
1999 Ore. ALS 1085;
1999 Ore. ALS 1085;
1999 Ore. SB 1304

Pennsylvania:

City of Philadelphia Only

Pennsylvania: City of Philadelphia City Ordinance 9-1105

((1996 Amendment) A mother may breastfeed in any public accommodation where she is otherwise authorized to be irrespective of whether or not her nipple is showing during or incidental to the breastfeeding.)

Rhode Island

R.I. Gen. Laws § 11-45-1

(Breastfeeding in public is not considered disorderly conduct.)
1997 R.I. SB 2319

South Carolina

No breastfeeding legislation enacted.

South Dakota

Law §22-22-24.1,2002

(Breastfeeding does not apply to the definitions of the following terms: harmful to minor, nudity, obscene, or sexual battery.)
2002 S.D. ALS 109;
2002 S.D. Laws 109;
2002 S.D. CH 109;
2002 S.D. SB 184;

Tennessee

Tenn. Code Ann. §50-1-305

(Break time for nursing mothers is to be provided by the employer for mothers needing to express milk, concurrent with existing break time; employer is not required to provide break time if it disrupts work operations.

A private non-toilet location close to the work area is to be provided by an employer for the nursing employee to express milk.)
1999 Tn. ALS 161;
1999 Tenn. Pub. Acts 161;
1999 Tn. Pub. Ch. 161;
1999 Tn. SB 1856

Texas

Tex. Health & Safety Code

§161.071

(The department of health shall establish minimum guidelines for human donor milk banks.)
Added by Acts 2001, 77th Leg., ch. 379, §1, eff. Sept. 1, 2001

Tex. Health & Safety Code

§165.001

(The legislature finds that breastfeeding a baby is an important act of nurture that must be encouraged in the interests of maternal and child health and family values. The Legislature recognizes breastfeeding as the best method of infant nutrition.)

§165.002

(A mother has the right to breastfeed her child in any location where she is authorized to be.)

§165.003

(A business may be designated "Mother-Friendly" (by the state

department of health) in its promotional materials if the business develops a policy supporting the practice of worksite breastfeeding that addresses the following: 1) work schedule flexibility, 2) accessible and private locations, 3) access to a nearby, safe water source and sink, 4) access to hygienic storage alternatives in the workplace for breast milk.)

§165.004

(Any state agency administering a program providing maternal or child health services shall provide information encouraging breastfeeding to program participants who are pregnant women or mothers with infants.)

Subchapter B. §165.031

(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 breastfeed benefits the family, the employer, and society.)

§165.032

(Demonstration Project. The Department shall establish a demonstration project in Travis County to provide access to worksite breastfeeding for department employees who are mothers with infants in order to determine the benefits of, barriers to, and costs of implementing worksite breastfeeding support to employees.)

§165.033

(The Department shall make recommendations supporting the practice of worksite breastfeeding addressing the following: 1) work schedule flexibility, 2) accessible and private locations, 3) access to a nearby, safe water source and sink, 4) access to hygienic storage alternatives in the workplace for breast milk.)

1995 Tex. ALS 600;

1995 Tex. Gen. Laws 600;

1995 Tex. Ch. 600;

1995 Tex. HB 359

Utah

Utah Code Ann. §10-8-41, §10-8-50

(A woman's breastfeeding in any place where she may rightfully be does not constitute an obscene or lewd act irrespective of whether or not the breast is covered during or incidental to the feeding.)

§17-15-25

(County legislative bodies may not prohibit a woman's breastfeeding in any location where she is authorized to be regardless of whether the breast is covered during or incidental to the feeding.)

§76-9-702, §76-10-1229.5

(A woman's breastfeeding of her child in a place where she is authorized to be in no way constitutes a lewd act irrespective of whether the breast is covered during or incidental to breastfeeding.)

Utah Code Ann. §30-3-34

(Best interests—Rebuttable presumption; The parent time schedule determined should be awarded based upon any of the following criteria...(n) the lack of reasonable alternatives to the needs of a nursing child.)
1997 Ut. ALS 80;
1997 Utah Laws 80;
1997 Ut. Ch. 80;
1997 Ut. SB 33

Vermont

Vermont Senate Bill # 156, 2001Sec. 2. 9 V.S.A. §4502 (j)

(A mother may breastfeed her child in any place of public accommodation where she and her child are authorized to be.)
2002 VT. ALS 117;
2002 VT Laws 117;
2002 VT. Act 117;
2001 VT. SB 156

Virginia

Va. Code Ann. §18.2-387

(No mother shall be deemed to be indecently exposed (a misdemeanor) for breastfeeding a child in any public place or in the presence of others.)
1994 Va. ALS 398;
1994 Va. Acts 398;
1994 Ch. 398;
1994 Va. HB 1188

Va. Code Ann. §2.2-1147.1, 2002

(Notwithstanding any other provision of law, a woman may breastfeed her child at any location where she is otherwise allowed.)
VA House Bill #1264, 2002

Washington

RCW 9A.88.010

(The act of breastfeeding or expressing milk is not indecent exposure.)
2001 Wa. ALS 88;
2001 Wa. Ch. 88;
2001 Wa. HB 1590

RCW 43.70.640

(A business may be designated "Mother-Friendly" (by the state department of health) in its promotional materials if the business develops a policy supporting the practice of worksite breastfeeding that addresses the following: 1) work schedule flexibility, 2) accessible and private locations, 3) access to a nearby, safe water source and sink, 4) access to hygienic storage alternatives in the workplace for breast milk.)
2001 Wa. ALS 88;
2001 Wa. Ch. 88;
2001 Wa. HB 1590

West Virginia

No breastfeeding legislation enacted.

Wisconsin

Wis. Stat. §944.17, §944.20, §948.10

(The criminal statutes do not apply to a mother's breastfeeding of her child.)
1995 Wis. ALS 165;
1995 Wis. Act 165;
1995 Wis. Laws 165;
1995 Wis. AB 154

Wyoming

HJER 0001 signed by Governor 2/21/2003

This resolution does not have the force of law. It "supports" breastfeeding, encourages reasonable accommodation of breastfeeding mothers and encourages state agencies providing maternal care to provide

breastfeeding information. *The portion supporting the right of mothers to breastfeed in any location has been deleted.)

Appendix II

State by State Listing of Enacted Breastfeeding Legislation (by category) as of 5/25/04

Alabama

No breastfeeding legislation enacted.

Alaska

AK Stat. §01.10.060 (b)
(Breastfeeding in public-Breastfeeding not a criminal offense)
§29.25.080

(Breastfeeding in public-Restrictive laws prohibited)
1998 AK. ALS 78;
1998 AK. Sess. Laws 78;
1998 AK. Ch. 78;
1997 AK. SB 297

Arizona

No breastfeeding legislation enacted.

Arkansas

No breastfeeding legislation enacted.

California

Cal Health & Saf Code §123360 §123365(a-d)

(Breastfeeding promotion, information, and education)
1995 Cal ALS 463;
1995 Cal AB 977;
Stats 1995 ch 463

Cal. Civ. Code §43.3

(Breastfeeding in public-Right)
1997 Cal ALS 59;
1997 Cal AB 157;
Stats 1997 ch 59

Cal Code Civ. Proc. §210.5

(Jury duty)
2000 Cal AB 1814;
2000 Cal ALS 266;
Stats 2000 ch 266

2004 California Rules of Court-Rule #859 (*not a statute)
(Jury duty)

2001 Cal. Lab. Code §1030

(Employment-Break time),
§1031
(Employment-Breastfeeding facility),

§1032

(Employment-Employer interest),
§1033(a-c)
(Employment-Employer penalties)

Colorado

C.R.S. 25-6-302
(Breastfeeding in public-Right)

C.R.S. 25-6-301
(Legislative recognition of breastfeeding)

Connecticut

Conn. Gen. Stat. §46a-64 §53-34b

(Breastfeeding in public-Discrimination prohibited)
1997 Ct. ALS 210;
1997 Ct. P.A. 210;
1997 Ct. SB 260

Conn. Gen. Stat. §31-40w (a-d)

(Employment-Break time, Breastfeeding facility, Employer interest)
2001 Ct. ALS 182; 2001 Ct. P.A. 182; 2001 Ct. HB 5656

Delaware

31 Del. C. §310
(Breastfeeding in public-Right)
1997 Del. ALS 10;
71 Del. Laws 10;
1997 Del. HB 31

Florida

Fla. Stat. Ann. §383.015
(Legislative recognition of breastfeeding;
Breastfeeding in public-Right)
1993 Fl. ALS 4;
1993 Fla. Laws ch. 4;
1993 Fla. HB 231

Fla. Stat. 800.02, 800.03, 800.04
(Breastfeeding not a criminal offense)

Fla. Stat. §827.071(g) (Child abuse statute)
(Breastfeeding not a criminal offense)

Fla. Stat. §383.016, 383.311, 363.318
(Breastfeeding promotion, information, and education-Facility "Baby-friendly" designation.)

Georgia

Ga. Code An. §31-19
(Legislative recognition of breastfeeding;
Breastfeeding in public-Right)

Ga. Code An. §34-1-6 (a-b)
(Employment-Break time, Breastfeeding facility, Employer interest)

Hawaii

HRS §489-21
(Employment-Discrimination prohibited),
§489-22
(Employment-Discrimination penalties),
§489-23
(Employment-Discrimination jurisdiction)

HRS §378-2(7)
(Employment-Discrimination prohibited)
§378-10.2
(Employment-Discrimination prohibited)

Idaho

Idaho Code §2-209
(Jury duty)
§2-212
(Jury duty)
1996 Ida. ALS 189;
1996 Idaho Sess. 189;
Ida. Ch. 189;
1996 Ida. SB 1468

Illinois

720 ILCS 5/11-9
(Breastfeeding in public-Breastfeeding not a criminal offense)
1995 ILL. ALS 59;
1995 Ill. Laws 59;
1995 ILL. P.A. 59;
1995 ILL. SB 190

20 ILCS 2310/2310-442
(Breastfeeding promotion, information, and education-Public campaign)
1997 ILL. ALS 24;
1997 Ill. Laws 244;
1997 ILL. P.A. 244;
1997 ILL. SB 404

20 ILCS 1305/10-25
(Breastfeeding promotion,
information, and education-WIC)
1997 ILL. ALS 290;
1997 Ill. Laws 290;
1997 ILL. P.A. 290;
1997 ILL. HB 619

820 ILCS 260/1 et seq.
(Employment-Break time,
Breastfeeding facility, Employer
interest)
2001 ILL. ALS 68;
2001 Ill. Laws 68;
2001 ILL. P.A. 68;
2001 ILL. SB 542

Indiana

Ind. Code IC §16-35-6-1
(Breastfeeding in public-Right)
Added by P.L. 125-2003, SEC. 1.

Iowa

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

Iowa Code § 135.30A, 2002
(Breastfeeding in public-Right)
2000 Ia. ALS 1140;
2000 Ia. Ch. 1140;
2000 Ia. LAWS 1140;
1999 Ia. SF 2302

Kansas

No breastfeeding legislation
enacted.

Kentucky

No breastfeeding legislation
enacted.

Louisiana

L.R.S. 46 §1409 (B)(5)
(Childcare facilities, Child placement
agencies-discrimination of non-
breastfed children prohibited.)
46 §1413(E) related.
2003 La. Acts. 369

L.R.S. 51 § 2247.1
(Legislative recognition;
Breastfeeding in public-Right,
Discrimination prohibited;
Breastfeeding not a criminal offense)

2001 La. ALS 576;
2001 La. ACT 576;
2001 La. HB 377

Maine

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

5 M.R.S. §4634
(Breastfeeding in public-Right)
2001 Me. ALS 206;
2001 Me. Laws 206;
2001 Me. Ch. 206;
2001 Me. HP 1039

Maryland

Md. Code §20-801
(Breastfeeding in public-Right;
Discrimination prohibited)
S.B. 223, Chap 369 (signed 5/22/03)

Md. Code Ann §11-211
(Breastfeeding
equipment/assistance privileges)
2001 Md. ALS 137;
2001 Md. Laws 137;
2001 Md. Chap. 137;
2001 Md. SB 252

Massachusetts

**M.G.L-Ch. 111, Sect. 70E Patients'
and residents' rights**
(Disclosure of hospital breastfeeding
demographics to maternity patients)

Michigan

MCLS §41.181, §67.1
§117.4i,
§117.5h
(Breastfeeding in public-
Breastfeeding not a criminal offense)
1994 Mi. ALS 313-315;
1994 Mi. P.A. 313-315;
1994 Mi. SB 107-109

**MCLS §722.27a, Child Custody
Act of 1970**
(Family law)

Minnesota

Minn. Stat. §145.894, 2002
(Breastfeeding promotion,
information, and education-WIC)
1990 Minn. ALS 568;
1990 Minn. Ch Law 568;

1990 Minn. S.F. No. 2521

Minn. Stat §181.939
(Employment-Break time,
Breastfeeding facility, Employer
interest)
1998 Minn. ALS 369;
1998 Minn. Ch Law 369;
1997 Minn. S.F. No. 2751

Minn. Stat. § 617.23
(Breastfeeding in public-
Breastfeeding not a criminal offense)

Minn. Stat. §145.905
(Breastfeeding in public-Right)
1998 Minn. ALS 407;
1998 Minn. Ch Law 407;
1997 Minn. S.F. No. 3346

2002 Minn. Laws Ch. 269
(Jury duty)

Mississippi

No breastfeeding legislation
enacted.

Missouri

R.S. Mo. §1991.915,
(Breastfeeding promotion,
information, and education)
§191.918
(Breastfeeding in public-Right)

Montana

Mont. Code Anno., §50-19-501
(1) (Legislative recognition of
breastfeeding
(2) Breastfeeding in public-
Restrictive laws prohibited
(3) Breastfeeding in public-
Breastfeeding not a criminal offense)
1999 Mt. ALS 299;
1999 Mt. Laws 299;
1999 Mt. Ch. 299;
1999 Mt. SB 398

Nebraska

No breastfeeding legislation
enacted.

Nevada

**Nev. Rev. Stat. Ann. §201.210(2),
§201.220(2)**
(Breastfeeding in public-
Breastfeeding not a criminal offense)

§201.232

(Legislative recognition of breastfeeding; Breastfeeding in public-Right.)
1995 Nev. ALS 105;
1995 Nev. Stat. 105;
1995 Nev. Ch. 105;
1995 Nev. SB 317

New Hampshire

N.H. Rev. Stat. Ann. §132:10-d
(Breastfeeding in public-Breastfeeding not a criminal offense)
New Hampshire House Bill #441, 1999

New Jersey

N.J.S.A. 26:4B-4 (2)
(Breastfeeding in public-Right)
26:4B-5 (3 a-c)
(Discrimination prohibited-enforcement, proceedings and penalties)

New Mexico

N.M. Stat. Ann. §28-20-1
(Breastfeeding in public-Right)
1999 N.M. ALS 117;
1999 N.M. Laws 117;
1999 N.M. Ch. 117;
1999 N.M. SB 545

New York

NY Penal Laws §245.01, §245.02
(Breastfeeding in public-Breastfeeding not a criminal offense)

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

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

North Carolina

N.C. Gen. Stat. Sec. 14-190.9
(Breastfeeding in public-Right)
1993 N.C. ALS 301;
1993 N.C. Sess. Laws 301;
1993 N.C. Ch. 301;
1993 N.C. HB 1143

North Dakota

No breastfeeding legislation enacted.

Ohio

No breastfeeding legislation enacted.

Oklahoma

HB 2101
(Legislative recognition; Breastfeeding in public-Right, Breastfeeding not a criminal offense)
Title 63, Section 1-234.1

38 O.S. 2001, Section 28
(Jury duty)

HB 2101
(Legislative declaration; Breastfeeding in public-Right to breastfeed, Breastfeeding not a criminal offense)
Title 63, Section 1-234.1

38 O.S. 2001, Section 28
(Jury duty)

Oregon

ORS §109.001
(Breastfeeding in public-Right)
1999 Ore. ALS 306;
1999 Ore. Laws 306;
1999 Ore. SB 744

ORS §10.050
(Jury duty)
1999 Ore. ALS 1085;
1999 Ore. ALS 1085;
1999 Ore. SB 1304

Pennsylvania: City of Philadelphia Only

Pennsylvania: City of Philadelphia City Ordinance 9-1105
(Breastfeeding in public-Right, Discrimination prohibited)

Rhode Island

R.I. Gen. Laws § 11-45-1
(Breastfeeding in public-Breastfeeding not a criminal offense)
1997 R.I. SB 2319

South Carolina

No breastfeeding legislation enacted.

South Dakota

Law §22-22-24.1,2002
(Breastfeeding in public-Breastfeeding not a criminal offense)
2002 S.D. ALS 109;
2002 S.D. Laws 109;
2002 S.D. CH 109;
2002 S.D. SB 184;

Tennessee

Tenn. Code Ann. §50-1-305
(Employment-Break time, Breastfeeding facility)
1999 Tn. ALS 161;
1999 Tenn. Pub. Acts 161;
1999 Tn. Pub. Ch. 161;
1999 Tn. SB 1856

Texas

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

Tex. Health & Safety Code §165.001
(Legislative recognition)
§165.002
(Breastfeeding in public-Right.)
§165.003
(Employment-"Baby-friendly" designation)
§165.004
(Breastfeeding promotion, information, and education)
Subchapter B. §165.031
(Legislative recognition-employment situation)
§165.032
(Employment-Demonstration project)
§165.033
(Employment-Demonstration project)
1995 Tex. ALS 600;
1995 Tex. Gen. Laws 600;
1995 Tex. Ch. 600;
1995 Tex. HB 359

Texas Insurance Code §1366.051 et seq.
(Breastfeeding equipment/assistance privileges)

Utah

Utah Code Ann. §10-8-41, §10-8-50

*(Breastfeeding in public-
Breastfeeding not a criminal offense)*

§17-15-25

*(Breastfeeding in public-Right,
Restrictive laws prohibited)*

§76-9-702, §76-10-1229.5

*(Breastfeeding in public-
Breastfeeding not a criminal
violation)*

Utah Code Ann. §30-3-34

(Family law)

1997 Ut. ALS 80;
1997 Utah Laws 80;
1997 Ut. Ch. 80;
1997 Ut. SB 33

Vermont

**Vermont Senate Bill # 156,
2001Sec. 2. 9 V.S.A. §4502 (j)**

(Breastfeeding in public-Right)

2002 VT. ALS 117;
2002 VT Laws 117;
2002 VT. Act 117;
2001 VT. SB 156

Virginia

Va. Code Ann. §18.2-387

*(Breastfeeding in public-
Breastfeeding not a criminal offense)*

1994 Va. ALS 398;
1994 Va. Acts 398;
1994 Ch. 398;
1994 Va. HB 1188

Va. Code Ann. §2.2-1147.1, 2002

(Breastfeeding in public-Right)

1994 Va. ALS 398;
1994 Va. Acts 398;
1994 Ch. 398;
1994 Va. HB 1188

Washington

RCW 9A.88.010

*(Breastfeeding in public-
Breastfeeding not a criminal offense)*

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

RCW 43.70.640

*(Employment-"Infant-friendly"
designation)*

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

West Virginia

No breastfeeding legislation
enacted.

Wisconsin

**Wis. Stat. §944.17, §944.20,
§948.10**

*(Breastfeeding in public-
Breastfeeding not a criminal offense)*

1995 Wis. ALS 165;
1995 Wis. Act 165;
1995 Wis. Laws 165;
1995 Wis. AB 154

Wyoming

**HJER 0001 signed by Governor
2/21/2003**

This resolution does not have the
force of law.

(Breastfeeding support)

Appendix III- Preface

In the chart labeled Appendix III, each state is analyzed according to the following dimensions:

State Breastfeeding Legislation Dimensions for Analysis

I. Breastfeeding Legislation

I-1. Legislative Recognition

- Presence
 - Detailed

I-2. Breastfeeding in Public

- Presence
 - I-2-a. Declared “right” to breastfeed
 - Civil right status
 - I-2-b. Breastfeeding not a criminal violation
 - If not coupled with breastfeeding declared as a “right”
 - I-2-c. Discrimination prohibited
 - With specification of penalties/proceedings
 - I-2-d. Restrictive laws prohibited

General rules (regarding this category—irrespective of whether or not it relates to the “right to breastfeed”):

- Designation of “public *and* private” location
- Designation of “any location”
- Designation of location where the “mother,” only is authorized to be
- Clarification of right even if “nipple of the mother’s breast is uncovered during or incidental to the feeding”

I-3. Employment

- Presence
 - I-3-a. Unpaid break time to be provided
 - I-3-b. Milk expression/breastfeeding facility to be provided
 - I-3-c. Employer interest clause (one or both, related to I-3-a, b)
 - Not applicable if procedures in determining employer interest and “reasonable effort” are included in provision
 - Penalty for employer failure to provide amenities
 - Optional language (“may” instead of “shall”)
 - I-3-d. Anti-discrimination provision
 - I-3-e. “Mother-friendly” or “Infant-friendly” business designation

I-4. Breastfeeding Promotion, Information, and Education

- Presence
 - I-4-a. Public service campaign
 - Detailed
 - I-4-b. “Baby-friendly” designation of maternity/childcare facilities
 - I-4-c. WIC lactation support program

I-5. Jury Duty

- Presence (includes rule of court)
 - Conditional
 - Recommendation of task force to investigate jury duty legislation only

I-6. Family Law

- Presence
 - Conditional (i.e., age of child stricter than just “under one year of age”)

I-7. Milk Banks

- Presence

I-8. Nursing in Prison

- Presence

I-9. Breastfeeding Equipment/Assistance Privileges

- Presence

I-10. International Code of Marketing of Breast-milk Substitutes

- Presence (regardless of whether is statute or not)

II. Maternity Disability Leave Legislation

II-1. Maternity Leave Provisions

- Presence
 - II-1-a. Company size (<50)
 - Company size 6-10
 - Company size less than or equal to 5
 - II-1-b. Specified maternity leave length
 - Length greater than or equal to 12 weeks in one year

II-2. State Employee Provisions

- Presence
 - With restrictions

II-3. Partial Wage Replacement (Compensation)

- Established TDI system

Appendix III (a)

I. Breastfeeding Legislation: I-1. Legislative Recognition and I-2. Breastfeeding in Public

STATE	I-1. Legis. Recog.	detailed	I-2. BF in Public	I-2-a. "Right" to breastfeed	civil right status	I-2-b. BF not criminal violation	not coupled with "right" to BF.	I-2-c. Discrimination prohibited	penalties/proceedings
Alabama									
Alaska	X	X	X			X			
Arizona									
Arkansas									
California			X	X					
Colorado	X	X	X	X					
Connecticut			X					X	X
Delaware	X	X	X	X					
Florida	X	X	X			X			
Georgia	X		X	X					
Hawaii			X					X	X
Idaho									
Illinois			X			X	X		
Indiana			X	X					
Iowa			X	X					
Kansas									
Kentucky									
Louisiana	X	X	X	X		X		X	
Maine			X	X				X	
Maryland			X	X				X	
Massachusetts									
Michigan			X			X			
Minnesota			X	X		X			
Mississippi									
Missouri			X	X					
Montana	X	X	X	X		X			

STATE	I-1. Legis. Recog.	detailed	I-2. BF in Public	I-2-a. "Right" to breastfeed	civil right status	I-2-b. BF not criminal violation	not coupled with "right" to BF.	I-2-c. Discrimination prohibited	penalties/proceedings
Nebraska									
Nevada	X	X	X	X		X			
New Hampshire	X	X	X			X	X	X	
New Jersey	X	X	X	X				X	X
New Mexico			X	X					
New York	X	X	X	X	X	X			
North Carolina			X			X			
North Dakota									
Ohio									
Oklahoma	X		X	X		X			
Oregon			X	X					
Pennsylvania (Philadelphia only)			X					X	
Rhode Island			X			X	X		
South Carolina									
South Dakota			X			X	X		
Tennessee									
Texas	X		X	X					
Utah			X	X		X			
Vermont			X	X					
Virginia			X	X		X			
Washington			X			X	X		
West Virginia									
Wisconsin			X			X	X		
Wyoming									

<u>STATE</u>	I-2-d. Restrictive laws prohibited	"public <i>and</i> private"	"any location"	mother authorized only	nipple /breast exposure
Alabama					
Alaska	X	X			
Arizona					
Arkansas					
California		X			
Colorado			X	X	
Connecticut					
Delaware				X	
Florida		X		X	X
Georgia			X		
Hawaii					
Idaho					
Illinois					
Indiana			X	X	
Iowa				X	
Kansas					
Kentucky					
Louisiana					
Maine		X		X	
Maryland		X			
Massachusetts					
Michigan			X		X
Minnesota		X			X
Mississippi					
Missouri				X	
Montana	X	X			X
Nebraska					

<u>STATE</u>	I-2-d. Restrictive laws prohibited	"public <i>and</i> private"	"any location"	mother authorized only	nipple /breast exposure
Nevada		X		X	X
New Hampshire					
New Jersey				X	
New Mexico		X		X	
New York		X		X	X
North Carolina		X		X	X
North Dakota					
Ohio					
Oklahoma			X	X	
Oregon			X		
Pennsylvania (Philadelphia only)				X	X
Rhode Island					
South Carolina					
South Dakota					
Tennessee					
Texas			X	X	
Utah	X		X	X	X
Vermont					
Virginia				X	
Washington					
West Virginia					
Wisconsin					
Wyoming					

Appendix III (b)

I. Breastfeeding Legislation: I-3. Employment

STATE	I-3. Employment	I-3-a. Break time	1-3-b. Facility	1-3-c. Employer interest	penalty for employer failure to provide amenities	optional language "may"	1-3-d. Anti-discrimination provision	1-3-e. Mother- or Infant- friendly designation
Alabama								
Alaska								
Arizona								
Arkansas								
California	X	X	X	X	X			
Colorado								
Connecticut	X	X	X	X			X	
Delaware								
Florida								
Georgia	X	X	X	X		X		
Hawaii	X	X					X	
Idaho								
Illinois	X	X	X	X				
Indiana								
Iowa								
Kansas								
Kentucky								
Louisiana								
Maine								
Maryland								
Massachusetts								
Michigan								
Minnesota	X	X	X	X				
Mississippi								
Missouri								

<u>STATE</u>	1-3. Employment	1-3-a. Break time	1-3-b. Facility	1-3-c. Employer interest	penalty for employer failure to provide amenities	optional language "may"	1-3-d. Anti-discrimination provision	1-3-e. Mother- or Infant- friendly designation
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	X	X	X	X				
Texas	X							X
Utah								
Vermont								
Virginia								
Washington	X							X
West Virginia								
Wisconsin								
Wyoming								

Appendix III (c)

I. Breastfeeding Legislation: I-4. Breastfeeding Promotion, Information, and Education

STATE	I-4. Promotion, Info, and Education	I-4-a. Public service campaign	detailed	I-4-b. Baby-friendly facilities	I-4-c. WIC lactation program
Alabama					
Alaska					
Arizona					
Arkansas					
California	X	X	X		
Colorado					
Connecticut					
Delaware					
Florida	X			X	
Georgia					
Hawaii					
Idaho					
Illinois	X	X	X		X
Indiana					
Iowa					
Kansas					
Kentucky					
Louisiana					
Maine					
Maryland					
Massachusetts					
Michigan					
Minnesota	X				X
Mississippi					
Missouri	X	X	X		
Montana					

<u>STATE</u>	I-4. Promotion, Info, and Education	I-4-a. Public service campaign	detailed	I-4-b. Baby-friendly facilities	I-4-c. WIC lactation program
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	X	X			
Utah					
Vermont					
Virginia					
Washington					
West Virginia					
Wisconsin					
Wyoming					

Appendix III (d)

I. Breastfeeding Legislation: I-5. Jury Duty, I-6. Family Law, I-7. Milk Banks, I-8: Nursing in Prison, I-9. Breastfeeding Equipment/Assistance Privileges, I-10. Marketing of Breast-milk Substitutes

STATE	I-4. Jury Duty	conditional	recommendation only	I-5. Family Law	conditional	I-6. Milk Banks	I-7. Nursing in Prison	I-8. BF Equipment / Assistance Privileges	I-9. Marketing of Breast-milk Substitutes
Alabama									
Alaska									
Arizona									
Arkansas									
California	X								
Colorado									
Connecticut									
Delaware									
Florida									
Georgia									
Hawaii									
Idaho	X								
Illinois									
Indiana									
Iowa	X	X							
Kansas									
Kentucky									
Louisiana									
Maine				X					
Maryland								X	
Massachusetts									X
Michigan				X	X				
Minnesota	X		X						
Mississippi									
Missouri									

STATE	I-4. Jury Duty	conditional	recommendation only	I-5. Family Law	conditional	I-6. Milk Banks	I-7. Nursing in Prison	I-8. BF Equipment / Assistance Privileges	I-9. Marketing of Breast-milk Substitutes
Montana									
Nebraska									
Nevada									
New Hampshire									
New Jersey									
New Mexico									
New York							X		X
North Carolina									
North Dakota									
Ohio									
Oklahoma	X								
Oregon	X	X							
Pennsylvania									
Rhode Island									
South Carolina									
South Dakota									
Tennessee									
Texas						X		X	
Utah				X	X				
Vermont									
Virginia									
Washington									
West Virginia									
Wisconsin									
Wyoming									

Appendix III (e)

II. Maternity Disability Legislation: II-1. Maternity Leave Provisions, II-2. State Employee Provisions, II-3. Partial Wage Replacement (Compensation)

STATE	II-1. Maternity Leave Provisions	II-1-a. Company size (< 50)	6-10 employees	less than or equal to 5 employees	II-1-b. Maternity leave length	greater than or equal to 12 weeks in one year	II-2. State Employee Provisions	restrictions	II-3. Partial Wage Replacement (TDI)
Alabama									
Alaska							X	X	
Arizona							X		
Arkansas									
California	X	X		X	X	X			X
Colorado									
Connecticut	X	X		X	X		X	X	
Delaware									
Florida									
Georgia									
Hawaii	X	X		X					X
Idaho									
Illinois							X		
Indiana									
Iowa	X	X		X	X		X		
Kansas							X		
Kentucky									
Louisiana	X	X			X	X			
Maine	X	X							
Maryland									
Massachusetts	X	X		X	X				
Michigan									
Minnesota	X	X							
Mississippi									
Missouri									

<u>STATE</u>	II-1. Maternity Leave Provisions	II-1-a. Company size (< 50)	6-10 employees	less than or equal to 5 employees	II-1-b. Maternity leave length	greater than or equal to 12 weeks in one year	II-2. State Employee Provisions	restrictions	II-3. Partial Wage Replacement (TDI)
Montana	X	X		X	X				
Nebraska									
Nevada							X		
New Hampshire									
New Jersey							X	X	X
New Mexico									
New York									X
North Carolina							X	X	
North Dakota							X		
Ohio									
Oklahoma									
Oregon	X	X			X	X			
Pennsylvania									
Rhode Island	X								X
South Carolina									
South Dakota									
Tennessee	X					X			
Texas									
Utah									
Vermont	X	X	X		X	X			
Virginia									
Washington	X	X	X		X				
West Virginia							X		
Wisconsin									
Wyoming									

Appendix IV

Updates to State Breastfeeding Legislation since 5/25/04

California

Cal. Health & 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)]

Illinois

III. P.A. 93-942 (2004) creates the Right to Breastfeed Act, which 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)

Oklahoma

2004 OK Laws, Chap. 332 allows a mother to breastfeed her child in any location where 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)

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)