

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1576 (Committee on Judiciary)

Version: June 25, 2021

Hearing Date: July 6, 2021

Fiscal: Yes

Urgency: No

TSG

SUBJECT

Superior court: lactation rooms

DIGEST

This bill requires superior courts to allow attorneys and other officers of the court to utilize the courthouse employees' legally compliant lactation facilities or another legally compliant lactation facility within the courthouse.

EXECUTIVE SUMMARY

Courts, in their role as employers, are legally required to provide lactation facilities for their employees. These lactation facilities have to meet certain standards, which include being private, clean and offering a safe place to sit, among other things. Meanwhile, attorneys and other officers of the court who are breast-feeding parents face logistical challenges. While they are spending long hours at the courthouse, they must pump breast milk at regular intervals and store it for later use. This bill takes advantage of the lactation facilities that courthouses must provide for their employees in order to help ensure that these attorneys and other officers of the court have access to safe, clean, and private facilities in which to attend to their lactation needs.

The bill is authored by the Assembly Judiciary Committee. Support comes from organizations of attorneys and advocates for parents. There is no opposition on file.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires an employer to provide employees with the use of a lactation room or other location for employees to express milk in private. (Lab. Code § 1031(a).)
- 2) Provides that an employer's lactation room or location must:
 - a) be safe, clean, and free of hazardous materials, as defined;
 - b) contain a surface to place a breast pump and personal items;
 - c) contain a place to sit;
 - d) have access to electricity or alternative devices needed to operate an electric or battery-powered breast pump; and
 - e) have easy access to a nearby sink with running water and a refrigerated storage device. (Lab. Code § 1031(c) and (d).)

This bill:

- 1) Requires superior courts to allow an attorney or other officer of the superior court to utilize a legally compliant lactation room that the court provides to court employees or to utilize another compliant location within the court facility.
- 2) Specifies that an employee of the superior court shall have priority to use a lactation room before an attorney or other officer of the superior court.

COMMENTS

1. Logistical challenges for lactating attorneys

Attorneys often spend much of their workday at the courthouse. For attorneys who are raising young children on breast milk, this can present significant logistical challenges. Typically, the lactating parent will need to pump breast milk at regular intervals throughout the day and store it for later feedings. If there are no facilities available for pumping in the courthouse, lactating attorneys have to resort to things like using restrooms stalls or their car. Not only is this uncomfortable, unpleasant, and unfair to the parenting attorneys, it has negative public health repercussions as well, since it is likely to discourage parenting attorneys from breast-feeding, which studies have repeatedly found to have significant health benefits.¹

2. Existing requirements for employers to provide lactation facilities

In their capacity as employers, the superior courts are already obligated to accommodate the lactation needs of their employees. Specifically, California law

¹ *The Surgeon General's Call to Action to Support Breastfeeding* (2011) U.S. Dept. of Health and Human Services <https://www.ncbi.nlm.nih.gov/books/NBK52687/> (as of Jun. 30, 2021).

requires employers to provide a private room or space – other than a bathroom –where employees can express milk. (Lab. Code § 1031(a).) The space has to be safe, clean, and free of hazardous materials. (Lab. Code § 1031(c)(1).) It must contain a place to sit and a surface to place a breast pump and personal items. (Lab. Code § 1031(c)(2) and (3).) It must also have access to electricity or alternative power devices so that employees can operate their breast pumps. (Lab. Code § 1031(c)(4).)

In addition to these requirements for the lactation room or space itself, existing law requires employers to provide easy access to a sink with running water and a refrigerator or another cooling device that employees can use to store breast milk once they are done pumping.

Under this bill, the superior courts would have to provide access to these same facilities to attorneys and other officers of the court, though the court would have to give first priority for use to its employees. Other officers of the court may include interpreters and court marshals, among others, who are central to court administration, but are not necessarily employees of the court.

3. Arguments in support of the bill

According to the author:

This bill simply requires the superior court to allow an attorney, or other officer of the court, to have access to a lactation rooms that the court must already provide for its employees. While attorneys may not be employees of the court, they spend a considerable amount of their day in the courthouse, and there is no reason that they should be denied access to such facilities when they need them.

In support, Pinay Powerhouse writes:

Inability to express breastmilk in a safe, clean space has forced officers of the court to pump on the bathroom floor, in hallways, in their cars, or elsewhere – or worse, go without expressing breastmilk, resulting in pain and possible infection. Having access to already-existing lactation spaces in courthouses would allow female attorneys to fully participate in their chosen profession.

SUPPORT

California Employment Lawyers Association
California Work & Family Coalition
Consumer Attorneys of California
Contra Costa Bar Association Women Section's

East Bay La Raza Lawyers Association
Equal Rights Advocates
Legal Aid at Work
Pinay Powerhouse

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 142 (Wiener, Ch. 720, Stats. 2019) expanded lactation accommodation protections for employees and added detail to the minimum standards for lactation rooms or spaces.

SB 937 (Wiener, 2018) was nearly identical to SB 142. In his message vetoing SB 937, Governor Brown wrote that SB 937 was “not necessary” because he signed AB 1976. (Limón, Ch. 940, Stats. 2018. *See* below.)

AB 1976 (Limón, Ch. 940, Stats. 2018) provided that the room or other location that employers must make available for lactation purposes cannot be a bathroom.

AB 514 (De León, 2009) would have required employers to provide nursing mothers with a paid, 20-minute rest period for lactation purposes during each 4-hour work period. The 20-minute rest period for lactation would have been in addition to all other legally required breaks during each 4-hour work period. AB 514 died in the Senate Appropriations Committee.

AB 1025 (Frommer, Ch. 821, Stats 2001) enacted current California Labor Code Sections 1030-1033, which require employers, with specified exceptions, to provide nursing employees with the use of a private location and a reasonable amount of break time to express milk for the employee’s infant child.

PRIOR VOTES:

Assembly Floor (Ayes 78, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)
