

Breastfeeding + The Law

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No conflicts of interest to disclose.

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Breastfeeding in Public

Right to Breastfeed in Public

- Federal: "Notwithstanding any other provision of law, a woman may breastfeed her child **at any location in a Federal building or on Federal property**, if the woman and her child are otherwise authorized to be present at the location."
- California: "Notwithstanding any other provision of law, a mother may breastfeed her child **in any location, public or private**, except the private home or residence of another, where the mother and the child are otherwise authorized to be present."

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- All 50 states, DC, and US Virgin Islands
- No privacy cover required
- Applies to all breastfeeding persons

Refusal = Sex Discrimination

AB 2386 - Breastfeeding Included in Definition of Sex (2012)

- (r) (1) "Sex" includes, but is not limited to, the following:
- (A) Pregnancy or medical conditions related to pregnancy.
 - (B) Childbirth or medical conditions related to childbirth.
 - (C) Breastfeeding or medical conditions related to breastfeeding.

'Could you not do that? Keeping babies alive public makes me uncomfortable.'

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Right to Lactation Accommodations

- Fairness for Breastfeeding Mothers Act (H.R. 866/S. 528)
 - Passed the House!
 - Introduced in the Senate by Senators Steve Daines (R-MT), Tammy Duckworth (D-IL), Elizabeth Warren (D-MA), Chris Coons (D-CT), and Jeff Merkley (D-OR)
 - In Senate Committee on Environment and Public Works
- City of Alameda
- Use employee lactation room

Breastfeeding during Jury Duty

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Option 1: Defer Jury Duty

- Defer for one year (California Rules of Court, Rule 2.1006)
- Can extend if still breastfeeding

Option 2: Pump in the Courthouse

- No specific law on lactation accoms in courthouses
 - Can ask court clerk where employees go to express milk
- No specific law on pumping breaks during jury duty
- BUT: Unruh Civil Rights Act
- COMING (hopefully): Fairness for Breastfeeding Mothers Act (HR 1174)

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Option 3: Breastfeeding in the Courthouse

- Can breastfeed in public (Cal. Civ. Code 43.3)



Breastfeeding at Airports

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Why?

- Provides comfort
- Keeps hydrated



Getting through TSA

- Expressed milk, formula, juice, and baby food are EXEMPT from liquid and gel regulations
 - Ice packs, freezer packs, frozen gel packs, and other accessories
- DO NOT need to be traveling with a baby to carry milk and supplies
- Process: at the beginning of the screening, tell the TSA agent that you have expressed milk and baby food

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Lactation Accommodations in the Airport

- Friendly Airports for Mothers (FAM) Act
 - Clean, private lactation space
 - Not a bathroom
 - Accessible to people with disabilities
 - At least one/terminal
 - Place to sit
 - Flat surface or table
 - Electrical outlet
- Passed on October 5, 2018
- Medium and large hub airports = “more than 0.25% of the total number of passenger boardings for airports in the US”

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Lactation Accommodations: REQUIRED

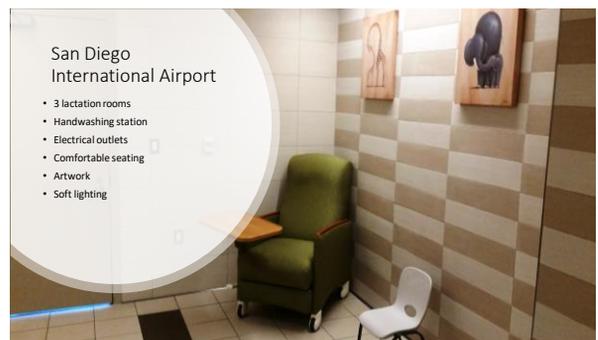
- Burbank
- Los Angeles
- Oakland
- Ontario
- Sacramento
- San Francisco
- San Jose
- San Diego
- Santa Ana

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Lactation Accommodations: NOT REQUIRED

- | | |
|--|-------------------|
| • Arcata | • Palm Springs |
| • Bakersfield | • Redding |
| • Fresno | • San Luis Obispo |
| • Long Beach (1.3 million passengers/year) | • Santa Barbara |
| • Mammoth Lakes | • Santa Maria |
| • Monterey | • Santa Rosa |
| | • Stockton |

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<http://airportbreastfeeding.com/>

Airport Code	Airport Name	Location	Breastfeeding Locations	Airport Website
ATL	Hartsfield-Jackson Atlanta International Airport	Atlanta, GA	Lactation pods for babies 1 to 36 months	atl.com
LAX	Los Angeles International Airport	Los Angeles, CA	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	lax.com
CMH	Chicago Midway International Airport	Chicago, IL	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	cmh.com
DFW	Dallas Fort Worth International Airport	Dallas, TX	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	dfw.com
JFK	John F. Kennedy International Airport	New York City, NY	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	jfk.com
DCA	Ronald Reagan Washington National Airport	Washington, DC	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	dca.com
SFO	San Francisco International Airport	San Francisco, CA	Breastfeeding is permitted in the gates as permitted in Sections 20600 and 20601. There are also designated lactation rooms in the terminals. There are also designated lactation rooms in the gates as permitted in Sections 20600 and 20601.	sfo.com

Breastfeeding in Schools

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Lactation Accommodations: K-12

- Lactation Room
 - Private, secure room
 - Not a restroom
 - Electrical outlet
 - Refrigerator or cooler bag for storage
- Reasonable breaks
- Allow student to make up all work missed

Discrimination

- Cannot exclude from education program, sports, honor societies, or extracurricular activities
- Can have special program or classes
 - Must be voluntary
 - Must be comparable



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Violation of Rights

- File complaint with the local education agency
- File complaint with the Department of Education
- Contact Title IX coordinator

San Diego Unified SCHOOL DISTRICT

About Academics Schools

Title IX Educational Equity

Home

Policies & Procedures

- Overview
- Notifications
- Resources
- Contact Information

Title IX of the Education Acts of 1972 prohibits discrimination in the following areas:

Sex-Based Harassment/Sexual Harassment (i.e. Violence)

- unwelcome conduct of a sexual nature
- sexual violence
- gender-based harassment
- Student Sexual Harassment Policy and reporting procedures details

Recruitment, Admissions, and Counseling

- recruitment materials, admission forms, class or career selection mats
- counseling services, brochures, materials

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Lactation Accommodations: Community Colleges and CSUs

- Room
 - Private, secure room
 - Not a restroom
- Reasonable break time
- Opportunity to make up the work missed

Lactation Accommodations: Employees

California State University System
 • “encourages” supervisors to accommodate employees

- University of California System**
- Private, locked space
 - Appropriate temperature and ventilation
 - Table
 - Comfortable chair
 - Electrical outlet

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Breastfeeding in Jails

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▼ **Communicate the need for lactation support for incarcerated folks**

GOALS

▼ **Explain genesis and passage of AB 2507**

▼ **Unpack how a statewide coalition coalesced to influence a bill, and now to implement it**

▼ **Plug in to help with implementation**

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Reproductive Justice

- LGBTQ, Gender & Reproductive Justice Project
- Reproductive justice is achieved when every person can decide if, when, and how to have children, and to raise the children they have with dignity and respect.
- Reproductive health, rights, and justice operate cooperatively.

For more on RJ, visit: <http://www.coloratina.org/content/reproductive-justice>

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Reproductive Justice in Jails + Prisons

- 62% of women in state prisons have minor children
- 64% of those mothers lived with their children prior to incarceration
- 1.3 million children have mothers who are incarcerated in the US
- 5% of people in jails nationwide are pregnant at admission
- 85-90% of women report having survived sexual or domestic abuse prior to incarceration

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Reproductive Justice in Jails + Prisons

- CA jails and prisons must provide:
 - Necessary reproductive health care
 - Information and education on repro health topics
 - Protection from sexual assault
 - Pregnancy-related accommodations
- Currently, law is clearer on stronger about prisons than jails. (But -> current bill AB 732 proposed.)
- We know what is required is not often provided, per people's lived experiences.

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A Note on Language

- Our work and this presentation focus particularly on the needs of women (both cisgender and transgender), of transgender men, and of nonbinary folks.
 - Cisgender refers to people whose gender identity – one's inner sense of being male, female, or another gender – is the same as their sex assigned at birth.
 - Transgender refers to people whose gender identity differs from their assigned or presumed sex at birth.
- "Pregnant people," "people who lactate"

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Lactation in Jails

- Focus on reproductive justice in jails throughout the state
 - Reproductive Health Behind Bars
 - Tool to Assess and Reform Policies + Practices
- We had dozens of conversations with people at the LA County women's facility. We listened.
- Primary concerns:
 - Pregnant/ postpartum diet
 - Pre-natal care
 - Giving birth alone
 - Lactation accommodations
 - including pump + pick-up



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Pair Share

Instructions

▽ Turn to your neighbor

▽ Take 3 minutes to answer the question : **What are some issues incarcerated people may face regarding lactation?**

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UNDERSTANDING THE LAW

Before AB 2507

- Patchwork of laws
 - Required jails to allow expression of breastmilk, but not for delivery to the child.
- Common sense to connect the dots.
- Centering the voices of those most impacted -> strong desire to deliver milk.

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More + more policies at local level

- LA County
- SF County
- Santa Clara County
- Kern County 
 - Pump + pick up
 - No time limit
 - To relieve discomfort, maintain milk supply, and/or prevent infection
 - Arrangements for delivery to child
 - Pregnant people notified of this possibility and educated as to benefits of breastfeeding



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AB 2507

- Sponsored by Assemblyman Reggie Jones-Sawyer in 2018
 - Passed + signed into law!
- This law lives in California Penal Code § 4002.5
- Bill requires that by January 2020, jails:
 - "...develop and implement an infant and toddler breast milk feeding policy for lactating inmates detained in or sentenced to a county jail. The policy shall be based on currently accepted best practices."

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AB 2507

- The policy must include:
 - (1) Procedures for providing medically appropriate support and care related to the cessation of lactation or weaning.
 - (2) Procedures providing for human milk expression, disposal, and same-day storage for later retrieval and delivery to an infant or toddler by an approved person, at the option of the lactating inmate and with the approval of the facility administrator.
 - (3) Procedures for conditioning an inmate's participation in the program upon the inmate undergoing drug screening.

This law lives in the California Penal Code § 4002.5

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AB 2507

- The lactation policy must be posted in all locations in the jail where medical care is provided and the provisions of the policy shall be communicated to all staff persons who interact with or oversee pregnant or lactating inmates.
- This law applies without regard to whether the jail is operated pursuant to a contract with a private contractor and without regard to whether the inmate has been charged with or convicted of a crime.

This law lives in the California Penal Code § 4002.5

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Implementation process today

- The CA Breastfeeding Coalition has coalesced a group of advocates:
 - Breastfeeding/ lactation advocates
 - Legal and policy advocates
 - Medical professionals
 - Lactation professionals
- Drafting a model policy, with a focus on mitigating any harm due to the drug screening provision.
- Every county in CA (all 58!) will have to have a policy in place by 2020.
- If you're interested in helping make sure your local jails are implementing, this law, and well, contact us!

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Questions + Resources

- *Reproductive Health Behind Bars in California*, ACLU of California (2016)
 - Report
 - Tool to Assess and Reform Policies and Practices
 - Know Your Rights document for incarcerated people
- *Bias Behind Bars*, The Women's Foundation of California (2014)
- American College of Obstetricians and Gynecologists (ACOG)
 - Multiple policy statements
- *Standards for Health Services in Jails*, National Commission on Correctional Health Care (2014)
- *Standards for Health Services in Correctional Facilities*, American Public Health Association (2003)
- *Who Pays? The True Cost of Incarceration on Families*, Ella Baker Center for Human Rights and Forward Together (2015)

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Contact us!



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