

1 **STATE AND LOCAL GOVERNMENT EMPLOYEE POLICIES**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Justin J. Miller**

5 Senate Sponsor: Jani Iwamoto

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts language related to the accommodation of public employees who are
10 breastfeeding.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ requires a public employer to:
- 15 • provide reasonable breaks for a public employee who is breastfeeding;
 - 16 • provide a public employee access to a room with privacy and a refrigerator for
- 17 breastfeeding purposes; and
- 18 • adopt policies to support breastfeeding; and
- 19 ▶ prohibits a public employer from discriminating against an employee who is
- 20 breastfeeding in the workplace.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **34-49-101**, Utah Code Annotated 1953



- 28 [34-49-102](#), Utah Code Annotated 1953
- 29 [34-49-201](#), Utah Code Annotated 1953
- 30 [34-49-202](#), Utah Code Annotated 1953
- 31 [34-49-203](#), Utah Code Annotated 1953
- 32 [34-49-204](#), Utah Code Annotated 1953

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section [34-49-101](#) is enacted to read:

36 **CHAPTER 49. NURSING MOTHERS IN THE WORKPLACE**

37 **Part 1. General Provisions**

38 **34-49-101. Title.**

39 (1) This chapter is known as "Nursing Mothers in the Workplace."

40 (2) This part is known as "General Provisions."

41 Section 2. Section [34-49-102](#) is enacted to read:

42 **34-49-102. Definitions.**

43 As used in this chapter:

44 (1) "Public employee" means a person:

45 (a) employed by a public employer; and

46 (b) who is breastfeeding.

47 (2) "Public employer" means the following entities:

48 (a) a department, division, board, council, committee, institution, office, bureau, or
49 other similar administrative unit of the executive branch of state government;

50 (b) a municipality;

51 (c) a county;

52 (d) a school district; or

53 (e) an institution of higher education as described in Section [53B-2-101](#).

54 Section 3. Section [34-49-201](#) is enacted to read:

55 **Part 2. Breastfeeding in the Workplace**

56 **34-49-201. Title.**

57 This part is known as "Breastfeeding in the Workplace."

58 Section 4. Section [34-49-202](#) is enacted to read:

59 **34-49-202. Reasonable breaks and private room required.**

60 (1) (a) A public employer shall:

61 (i) provide for at least one year after the birth of a public employee's child reasonable
62 breaks for each time the public employee needs to breast feed or express milk; and

63 (ii) consult with the public employee to determine the frequency and duration of the
64 breaks.

65 (b) A break required under Subsection (1)(a) shall, to the extent possible, run
66 concurrent with any other break period otherwise provided to the public employee.

67 (2) (a) A public employer shall provide for a public employee a room or other location
68 in close proximity to the public employee's work area.

69 (b) The room described in Subsection (2)(a):

70 (i) may not be a bathroom or toilet stall; and

71 (ii) shall:

72 (A) be maintained in a clean and sanitary condition;

73 (B) provide privacy shielded from the view of and intrusion from coworkers or the
74 public;

75 (C) be available at the times and for a duration required by the public employee as
76 determined in consultation with the public employee under Subsection (1)(a)(ii); and

77 (D) have an electrical outlet.

77a **Ĥ→ (c) (i) Notwithstanding Subsection (2)(a), an employer is not required to comply with**
77b **the requirements of Subsections (2)(a) and (b) if compliance would create an undue hardship**
77c **on the operations of the employer.**

77d **(ii) For purposes of Subsection (2)(c)(i), an undue hardship is a requirement that would**
77e **cause the employer significant difficulty or expense when considered in relation to the size,**
77f **financial resources, nature, or structure of the employer's operations.** ←Ĥ

78 (3) A public employer shall provide access to a clean and well-maintained refrigerator
79 or freezer for the temporary storage of the public employee's breast milk.

80 Section 5. Section **34-49-203** is enacted to read:

81 **34-49-203. Policies.**

82 A public employer shall adopt written policies that:

83 (1) support breastfeeding; and

84 (2) identify the means by which the public employer will comply with Section
85 34-49-202.

86 Section 6. Section **34-49-204** is enacted to read:

87 **34-49-204. Discrimination prohibited.**

88 A public employer may not refuse to hire, promote, discharge, demote, or terminate a
89 person, or may not retaliate against, harass, or discriminate in matters of compensation or in

90 terms, privileges, and conditions of employment against a person otherwise qualified because
91 the person breastfeeds or expresses milk in the workplace.

Legislative Review Note
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Office of Legislative Research and General Counsel