



LEGAL PROTECTIONS FOR NURSING MOTHERS IN MINNESOTA

NURSING MOTHERS HAVE LEGAL PROTECTIONS IN THE WORK-
PLACE AND IN PUBLIC

May 2011

IN MINNESOTA, over 80% of women breastfeed their newborn infants and more than 50% still breastfeed six months after birth. This is higher than the national average, where 75% of women have ever breastfed and only 43% breastfeed at six months.¹ While many states have laws protecting nursing mothers in the workplace, Minnesota has some of the strongest laws in support of breastfeeding. In Minnesota, nursing mothers have legal protections in the workplace, as well as in public locations like parks, restaurants or stores.² This fact sheet provides an overview of the Minnesota and federal laws that protect nursing mothers in the workplace and in public.

QWhat laws protect nursing mothers in the workplace?

A Under both Minnesota law and the federal Patient Protection and

Affordable Care Act, employers are required to provide nursing mothers with reasonable time and appropriate space to express milk.³ The employer must follow whichever law offers nursing mothers the most protection.

“Minnesota has some of the strongest laws in support of breastfeeding”

QWhat sort of time and space must my employer provide me to express milk?

A When read together, the Minnesota law and federal law require an employer to provide a space (not a bathroom) shielded from view, near your work area (if reasonable), free from intrusion, and at the same time as other break times (if possible).

QWhich employees are covered?

A Under Minnesota law, employees who work for an employer with one or more employees are covered. Under federal law, only employees who are covered by the overtime pay requirements of the Fair Labor Standards Act are covered. The requirements under the federal law apply regardless of the mother's citizenship status and whether she is legally permitted to work in the United States.⁴ Undocumented workers should consult an attorney for information on their specific situation.

QAm I required to inform my employer in advance that I will need to take breaks during work to express milk?

A No. However, even though you are not required by law, it may be a good idea to give your employer advance

notice of your intent to take breaks at work to express milk. This way, your employer can take the necessary steps to plan for your absence during your break times.⁵

Q How many breaks will I be allowed to take, and will I get paid for break time taken to express milk?

A Neither the Minnesota law or federal law specifies the number of breaks a nursing mother can take to express milk. Both laws only state that the employer must provide a “reasonable break time”. Under federal law, the break time must be provided “each time” the employee has a need to express milk. The number of breaks will vary from woman to woman. Under both Minnesota and federal law, an employer is not required to compensate an employee who is receiving reasonable break time for the purpose of expressing milk, unless that break time occurs during a paid break.

Q What if I encounter difficulties in obtaining break time or space to express milk in the workplace?

A Understanding the law can be complicated for both you and your employer. Therefore, it may be helpful to contact someone for ideas on how to talk to your employer about arranging a time and space to express milk in the workplace. You can contact your local La Leche League group (<http://www.llli.org/> or (612) 922-4996) for individual questions. For more information on breastfeeding in the workplace, visit the Minnesota Breastfeeding Coalition’s website at <http://mnbreastfeedingcoalition.org/>.



Q What if I am unable to resolve the problem with my employer?

A To file a complaint or report a violation under Minnesota law, contact the Minnesota Department of Labor and Industry at (651) 284-5005, or toll-free at 1-800-342-5354. To file a complaint or report a violation under federal law, visit the U.S. Department of Labor’s Wage and Hour Division website at <http://www.dol.gov/wecanhelp/howtofilecomplaint.htm> or contact the local District Office at (612) 370-3341.

Q What additional resources are available to help me understand the break time requirement for nursing mothers?

A The federal government has a fact sheet⁶ and a list of frequently asked questions⁷ to assist nursing mothers in understanding the federal law, found at <http://www.dol.gov/whd/nursingmothers/>. The Public Health Law Center and Public Health Law Network also have useful resources.⁸

Q In addition to workplace protections, does Minnesota law allow breastfeeding in public?

A Yes. Minnesota law allows a mother to breastfeed in *any* location, public or private, where the mother and child are allowed to be.⁹ A mother may breastfeed her child anywhere even if the nipple or breast is uncovered while breastfeeding. This means you are allowed to breastfeed in restaurants, stores, parks, malls and other locations. Breastfeeding in public is not a violation of Minnesota’s indecent exposure laws.¹⁰

Q Are there any public benefits programs that assist nursing mothers?

A Yes. The Women, Infants and Children (WIC) program provides foods, health care referrals, and nutrition (including breastfeeding) education to eligible pregnant women, new mothers, babies, and young children.¹¹

Q Are there any tax benefits relating to breastfeeding?

A Yes. You can include the cost of breast pumps and supplies that assist lactation as medical expenses for flexible spending accounts and as a tax deduction in limited circumstances.¹²



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1 *Breastfeeding Report Card—United States 2010*, CTRS. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/breastfeeding/data/reportcard.htm> (last visited May 17, 2011).

2 MINN. STAT. § 145.905 (2010); MINN. STAT. § 181.939 (2010).

3 See Patient Protection and Affordable Care Act, H.R. 3590, 111th Cong. § 4207 (2010); MINN. STAT. § 181.939 (2010).

4 The Department of Labor enforces the FLSA “without regard to whether an employee is documented or undocumented.” See *Wage and Hour Division, Fact Sheet #48: Application of U.S. Labor Laws to Immigrant Workers: Effect of Hoffman Plastics decision on laws enforced by the Wage and Hour Division*, U.S. DEP’T OF LABOR, (2008), <http://www.dol.gov/whd/regs/compliance/whdfs48.htm> (last visited May 27, 2011); *Letter to United States Court of Appeals for the Eleventh Circuit RE: Josendis v. Wall to Wall Residence Repairs, Inc.*, U.S. DEP’T OF LABOR (Aug.26, 2010) [http://www.dol.gov/sol/media/briefs/josendis\(A\)-8-26-2010.htm](http://www.dol.gov/sol/media/briefs/josendis(A)-8-26-2010.htm) (reiterating the DOL’s position and citing cases in support).

5 *Reasonable Break Time for Nursing Mothers*, 75 Fed. Reg. 244 (Dec. 21, 2010), available at <http://webapps.dol.gov/federalregister/PdfDisplay.aspx?DocId=24540> (notice to request information from the public).

6 *Wage and Hour Division, Fact Sheet #73: Break Time for Nursing Mothers under the FLSA*, U.S. DEP’T OF LABOR, <http://www.dol.gov/whd/regs/compliance/whdfs73.htm> (last visited May 27, 2011).

7 *Wage and Hour Division, Frequently Asked Questions – Break Time for Nursing Mothers*, U.S. DEP’T OF LABOR available at <http://www.dol.gov/whd/nursing-mothers/faqBTNM.htm> (last visited May 27, 2011).

8 *Worksite Wellness and Working Mothers*, PUBLIC HEALTH LAW CENTER, (2010), <http://publichealthlawcenter.org/sites/default/files/resources/ship-fs-ww-nursingmothers-2010.pdf>; *Health Care Reform and Nursing Mothers*, PUBLIC HEALTH LAW NETWORK, <http://www.publichealthlawnetwork.org/wp-content/uploads/ACA-and-nursing-mothersFINAL.pdf> (last visited May 27, 2011).

9 MINN. STAT. § 145.905 (2010).

10 MINN. STAT. § 617.23, subd. 4 (2010).

11 To determine if you are eligible for WIC, visit <http://www.health.state.mn.us/divs/fh/wic/eligibility/step1.html> or contact 1-800-942-4030.

12 *Publication 502*, INTERNAL REVENUE SERV., http://www.irs.gov/publications/p502/ar02.html#en_US_2010_publink1000256742 (last visited May 27, 2011).