



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 351 (as passed by the Senate)
Sponsor: Senator Jeff Irwin
Committee: Health Policy

Date Completed: 12-26-23

RATIONALE

Expressing milk is the process of removing milk from a breast at a time other than when a baby is feeding. There are two methods of expressing milk: 1) using a manual or electric device known as a pump (referred to as 'pumping'); and 2) using hands (referred to as 'hand expression'). According to testimony before the Senate Committee on Health Policy, 90% of families that have an infant express milk. Some people believe that prohibiting discrimination against an individual expressing milk in public would further afford that individual opportunities to maintain consistent work hours and save money by providing food for the baby, among other benefits.

CONTENT

The bill would amend the Breastfeeding Antidiscrimination Act to prohibit discrimination in places of public accommodation or public service against an individual because the individual was expressing human milk.

Generally, the Breastfeeding Antidiscrimination Act prohibits discriminatory practices, policies, and customs against an individual who breastfeeds. The Act prohibits a person with control over a public accommodation or public service from doing any of the following:

- Denying the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service to a woman because she is breastfeeding a child.
- Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign that indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied a woman because she is breastfeeding a child, or that a woman's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because she is breastfeeding a child.

The bill would prohibit a person from discriminating as described above against an individual because the individual was expressing human milk.

MCL 37.232

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Breastmilk can be an important part of an infant's nourishment. According to testimony before the Senate Committee on Health Policy, health experts recommend that parents exclusively

feed their infants human milk for six months and then continue feeding them human milk until they are roughly two years old; however, only about 75% of infants have ever been breastfed, and the rate of breastfeeding notably declines over time, especially between two and six months of age, with rates dropping from 59% to 30%, respectively.¹ In recent years, there have been multiple health and economic crises that could increase parents' willingness or financial need to feed their infants human milk. Any barrier denying access to expressing milk should be removed to support infants' nourishment and health because parents may not have time to breastfeed their children, and so the law should prohibit discrimination against the expression of human milk in public.

Supporting Argument

According to testimony before the Senate Committee on Health Policy, many low wage workers in under-resourced areas are not provided with protections required by the Federal PUMP for Nursing Mothers Act and are being denied space to express human milk as required by the Act;² this then leads to individuals pumping in their cars or in a public space. Codifying the bill could make up for existing shortcomings in the enforcement of Federal law by allowing individuals without access to a private space to express human milk safely and legally.

Supporting Argument

Many individuals must express human milk because they are unable to breastfeed. According to testimony before the Senate Committee on Health Policy, developmental deformities in an infant's mouth, such as tongue tie or a cleft palate, can make latching for breastfeeding difficult or impossible. This may require individuals to express human milk. Additionally, parents and infants are often kept apart for long periods of time because of neonatal intensive care unit admission for special care or because of life decisions, such as the decision to return to school. Reportedly, it's oftentimes the most fragile infants that receive expressed milk. Denying access to public expression of human milk could make infants in the situations listed above more vulnerable.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Cory Savino, PhD
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¹ Michigan Department of Health and Human Services, *November 2023 Breastfeeding Report*, November 15, 2023.

² Wage and Hour Division, United States Department of Labor, *FLSA Protections to Pump at Work*, 2023.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.