

# HOUSE BILL REPORT

## HB 1194

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**As Reported By House Committee On:**  
Commerce & Labor

**Title:** An act relating to infant breast-feeding.

**Brief Description:** Requiring employers to allow mothers to breast-feed.

**Sponsors:** Representatives Cody, McMorris, Clements, Conway, Wood, Hatfield, Honeyford, Romero, Skinner, Dyer, Chopp, Murray, Morris, Keiser, Cooper and Mason.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/3/97, 3/5/97 [DPS].

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Cole; Hatfield and Lisk.

**Staff:** Chris Cordes (786-7103).

**Background:** Washington does not have statutes that address the right of a woman to breast-feed her child. Several other states have enacted laws specifically addressing this issue. For example, breast-feeding in New York is a civil right and a woman is entitled to breast-feed her child in any public or private location where she is authorized to be. Both Florida and Texas have statutes that similarly entitle a mother to breast-feed and that allow facilities or businesses to use "baby-friendly" or "mother-friendly" designations in promotional materials if the entity develops a qualified breast-feeding policy.

Several federal courts have addressed the issue of whether a mother's breast-feeding of her child is within the privacy or personal liberty rights protected from undue state interference under the U.S. Constitution. In a 1981 case the federal Court of Appeals for the Fifth Circuit held that the Constitution protects from excessive state interference a woman's decision to breast-feed her child. The decision was found to be part of the parents' interest in nurturing and rearing their children. However, the constitutional protection of the parents' interest is not absolute. It may be subordinate

to the state's interest in policies that interfere with a breast-feeding decision if the policies: (1) further state interests that are sufficiently important to justify the regulations; and (2) are narrowly drawn to effectuate only those interests.

**Summary of Substitute Bill:** The Legislature finds that infant breast-feeding is a basic act of nurture to be encouraged for health and family value reasons and recognizes that workplace policies protecting the right to breast-feed will further these goals.

An employer must provide a workplace location to allow a woman to express breast milk unless reasonable safety or security considerations require other options. This requirement is met by providing a clean women's lavatory or a clean lavatory with a locking door.

A public or private sector employer that wishes to use a "baby-friendly" designation in its promotional materials must develop a workplace policy on breast-feeding approved by the Department of Health. The policy must address flexible work scheduling, accessible private locations and clean water facilities, and hygienic milk storage alternatives.

**Substitute Bill Compared to Original Bill:** The substitute bill deletes the language stating that a woman has a right to breast-feed her infant child in any location where the woman is authorized to be at the workplace. It adds that an employer must provide a location for expressing breast milk, unless reasonable safety or security considerations require other options, and that a clean women's lavatory or a clean lavatory with a locking door meets this requirement.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 1997.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The goal of this bill is to encourage employment policies that support an employee's decision to breast-feed her child. This is a significant health issue and a significant economic issue to both employers and the government. Babies are much healthier when breast-fed, which reduces health care costs and time lost from work by employees because of sick children. The rate of breast-feeding is low in the U.S., partly because of discouraging workplace environments. It is a large sacrifice for a mother to continue breast-feeding after returning to work and this sacrifice is often met with hostility. The largest obstacle is the lack of a place to express milk. Flexibility in the workplace is the key, but this change will not occur if it depends only on the good faith of employers.

**Testimony Against:** Although there is general support for the concept, the bill is too broad and too inflexible. In many workplaces it raises significant safety and health issues to have babies present. The bill would attach a misdemeanor penalty for an employer's failure to comply.

**Testified:** (In support) Representative Eileen Cody, prime sponsor; Laura O'Donnell; Lloyd Sparks; Colleen Wurden; Temple McLean; Lisa Thatcher; and Cathy Franklin, Department of Health. (Opposed) Amber Balch and Clif Finch, Association of Washington Business; Carolyn Logue, National Federation of Independent Business; and Gary Smith, Independent Business Association.