

26:4B-4

LEGISLATIVE HISTORY CHECKLIST

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(Breast feeding- public)

NJSA: 26:4B-4

LAWS OF: 1997 CHAPTER: 101

BILL NO: S1212

SPONSOR(S): Bennett and Sinagra

DATE INTRODUCED: May 30, 1996

COMMITTEE: ASSEMBLY: Community Service

SENATE: Womens Issues

AMENDED DURING PASSAGE: Yes Senate substitute S1212/
A548 (1R) enacted

DATE OF PASSAGE: ASSEMBLY: January 29, 1997 Re-enacted 5-8-97

SENATE: December 19, 1996 Re-enacted 4-21-97

DATE OF APPROVAL: May 19, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

RECEIVED
OFFICE OF THE
CLERK OF THE
LEGISLATURE
MAY 19 1997

[First Reprint]

SENATE SUBSTITUTE FOR
SENATE, No. 1212 and ASSEMBLY, No. 548

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored by Senators BENNETT, SINAGRA, LaRossa,
Assemblywoman Turner, Senators Casey, Matheussen,
McGreevey and Scott

1 AN ACT concerning breast feeding ¹[,] and¹ supplementing Title 26
2 of the Revised Statutes ¹[and amending N.J.S.2B:20-10]¹.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that: the Surgeon General
8 of the United States recommends that babies from birth to one year of
9 age should be breast fed, unless medically contraindicated, in order to
10 achieve a healthy start on life; breast milk strengthens the immune
11 system of babies, improves digestion and is of better nutritional value
12 than regular milk; other benefits include the establishment of a strong
13 mother-baby bond and a potential increase in a baby's IQ level; despite
14 the Surgeon General's recommendation, statistics reveal a declining
15 number of women are choosing to breast feed their children, and
16 nearly half of all new mothers are now choosing formula over breast
17 milk even before they leave the hospital; the social constraints of
18 modern society impede a woman's choice to breast feed due to
19 embarrassment, fear of criminal prosecution and the lack of public
20 acceptance; therefore, it is in the best interest of the State to recognize
21 breast feeding in places of public accommodation as an important right
22 which must be encouraged in order to promote child health.

23

24 2. Notwithstanding any provision of law to the contrary, a mother
25 shall be entitled to breast feed her baby in any location of a place of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

**¹ Senate amendments adopted in accordance with Governor's recommendations
March 24, 1997.**

1 public accommodation, resort or amusement wherein the mother is
2 otherwise permitted.

3

4 3. a. The ¹【State Department of Health and Senior Services or
5 the】¹ local board of health or such board, body or officers exercising
6 the functions of the local board of health according to law, upon
7 written complaint and having reason to suspect a violation of this act
8 has occurred shall, by written notification, advise the owner, manager
9 or other person having control of the public accommodation, resort or
10 amusement of the initial complaint and of the penalties for any
11 subsequent complaints. Thereupon, any owner, manager or other
12 person having control of the public accommodation, resort or
13 amusement receiving such notice who knowingly fails or refuses to
14 comply with the provisions of this act is subject to a fine not to exceed
15 \$25.00 for the first offense following initial notification and not to
16 exceed \$100.00 for the second offense and not to exceed \$200.00 for
17 each offense thereafter. ¹When there exists no local board of health or
18 such board, body or officers having the authority to exercise the
19 functions of the local board of health according to law in the
20 municipality in which a violation of this act has allegedly occurred, the
21 State Department of Health and Senior Services shall exercise the
22 functions of the local boards of health for purposes of this act.¹

23 b. Any penalty recovered under the provisions of this act shall be
24 recovered by and in the name of the Commissioner of Health and
25 Senior Services or by and in the name of the local board of health.
26 When the plaintiff is the Commissioner of Health and Senior Services,
27 the penalty recovered shall be paid by the commissioner into the
28 treasury of the State. When the plaintiff is a local board of health, the
29 penalty recovered shall be paid by the local board into the treasury of
30 the municipality where the violation occurred.

31 c. Every municipal court shall have jurisdiction over proceedings
32 to enforce and collect any penalty imposed because of a violation of
33 any provision of this act, if the violation has occurred within the
34 territorial jurisdiction of the court. The proceedings shall be summary
35 and in accordance with the "the penalty enforcement law,"
36 N.J.S.2A:58-1 et seq. Process shall be in the nature of a summons or
37 warrant and shall issue only at the suit of the Commissioner of Health
38 and Senior Services, or the local board of health, as the case may be,
39 as plaintiff.

40

41 ¹【4. N.J.S.2B:20-10 is amended to read as follows:

42 2B:20-10. Grounds for excuse from jury service.

43 An excuse from jury service shall be granted only if:

44 a. The prospective juror is 75 years of age or older;

45 b. The prospective juror has served as a juror within the last three
46 years in the county to which the juror is being summoned;

1 c. Jury service will impose a severe hardship due to circumstances
2 which are not likely to change within the following year. Severe
3 hardship includes the following circumstances:

4 (1) The prospective juror has a medical inability to serve which is
5 verified by a licensed physician.

6 (2) The prospective juror will suffer a severe financial hardship
7 which will compromise the juror's ability to support himself, herself,
8 or dependents. In determining whether to excuse the prospective
9 juror, the Assignment Judge shall consider:

10 (a) the sources of the prospective juror's household income; and

11 (b) the availability and extent of income reimbursement; and

12 (c) the expected length of service.

13 (3) The prospective juror has a personal obligation to care for
14 another, including a sick, aged or infirm dependent or a minor child,
15 who requires the prospective juror's personal care and attention, and
16 no alternative care is available without severe financial hardship on the
17 prospective juror or the person requiring care.

18 (4) The prospective juror provides highly specialized technical
19 health care services for which replacement cannot reasonably be
20 obtained.

21 (5) The prospective juror is a health care worker directly involved
22 in the care of a mentally or physically handicapped person, and the
23 prospective juror's continued presence is essential to the regular and
24 personal treatment of that person.

25 (6) The prospective juror is a member of the full-time instructional
26 staff of a grammar school or high school, the scheduled jury service is
27 during the school term, and a replacement cannot reasonably be
28 obtained. In determining whether to excuse the prospective juror or
29 grant a deferral of service, the Assignment Judge shall consider:

30 (a) the impact on the school considering the number and function
31 of teachers called for jury service during the current academic year;
32 and

33 (b) the special role of certified special education teachers in
34 providing continuity of instruction to handicapped students;

35 d. The prospective juror is a member of a volunteer fire
36 department or fire patrol; **[or]**

37 e. The prospective juror is a volunteer member of a first aid or
38 rescue squad; or

39 f. The prospective juror is a mother who is breast feeding her
40 baby.

41 (cf: P.L.1995,c.44,s.1)¹

42

43 ¹**[5.] 4.**¹ This act shall take effect immediately.

1 _____
2
3 Permits mothers to breast feed babies in public places; provides for
4 fines.

ASSEMBLY, No. 548

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman TURNER

1 AN ACT concerning breast feeding and supplementing chapter 1 of
2 Title 10 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that: the Surgeon General of
8 the United States recommends that babies from birth to one year of
9 age should be breast fed, unless medically contraindicated, in order to
10 achieve a healthy start on life; breast milk strengthens the immune
11 system of babies, improves digestion and is of better nutritional value
12 than regular milk; other benefits include the establishment of a strong
13 mother-baby bond and a potential increase in a baby's IQ level; despite
14 the Surgeon General's recommendation, statistics reveal a declining
15 number of women are choosing to breast feed their children, and
16 nearly half of all new mothers are now choosing formula over breast
17 milk even before they leave the hospital; the social constraints of
18 modern society impede a woman's choice to breast feed due to
19 embarrassment, fear of criminal prosecution and the lack of public
20 acceptance; therefore, it is in the best interest of the State to
21 recognize breast feeding in places of public accomodation as an
22 important right which must be encouraged in order to promote child
23 health.

24

25 2. Notwithstanding any provision of law to the contrary, a mother
26 shall be entitled to breast feed her baby in any location of a place of
27 public accommodation, resort or amusement wherein the mother is
28 otherwise permitted.

29

30 3. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill amends New Jersey's civil rights law, chapter 1 of Title 10

1 of the Revised Statutes (C.10:1-1 et seq.) to allow a mother the right
2 to breast feed her child in any location of a place of public
3 accommodation, resort or amusement where the mother is otherwise
4 permitted. Breast feeding has been recommended by the Surgeon
5 General as an important way to give babies a healthy start on life. Its
6 benefits include improved digestion, a strengthened immune system,
7 a potential increase in a baby's IQ level and the creation of a strong
8 mother-baby bond.

9

10

11

12

13 _____
Permits mothers to breast feed babies in public places.

ASSEMBLY COMMUNITY SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 548

STATE OF NEW JERSEY

DATED: OCTOBER 10, 1996

The Assembly Community Services Committee reports favorably Assembly Bill No. 548.

This bill amends New Jersey's civil rights law, chapter 1 of Title 10 of the Revised Statutes (C.10:1-1 et seq.), to allow a mother the right to breast feed her child in any location of a place of public accommodation, resort or amusement where the mother is otherwise permitted. Breast feeding has been recommended by the Surgeon General as an important way to give babies a healthy start on life. Its benefits include improved digestion, a strengthened immune system, a potential increase in a baby's IQ level and the creation of a strong mother-baby bond.

This bill was prefiled for introduction in the 1996-97 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 548

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 1996

The Senate Women's Issues, Children and Family Services Committee favorably reports Assembly Bill No. 548(1R) with committee amendments.

As amended, this bill amends New Jersey's civil rights law, chapter 1 of Title 10 of the Revised Statutes (C.10:1-1 et seq.) to allow a mother the right to breast feed her child in any location of a place of public accommodation, resort or amusement where the mother is otherwise permitted. Breast feeding has been recommended by the Surgeon General as an important way to give babies a healthy start on life. Its benefits include improved digestion, a strengthened immune system, a potential increase in a baby's IQ level and the creation of a strong mother-baby bond.

The committee amended the bill to clarify that a mother is allowed to breast her child in any location or place of public accommodation, resort or amusement where the mother is otherwise permitted.

This bill is identical to Senate Bill No. 1212, sponsored by Senators Bennett and Sinagra, which was also released by this committee on November 18, 1996.

STATEMENT TO
ASSEMBLY, No. 548

with Assembly Floor Amendments
(Proposed By Assemblyman GREGG)

ADOPTED: NOVEMBER 14, 1996

These floor amendments clarify that the mother is entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement if there is no separate area designated for breastfeeding.

[Second Reprint]
ASSEMBLY, No. 548

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywomen TURNER, Buono and Assemblyman Gusciora

1 AN ACT concerning breast feeding and supplementing chapter 1 of
2 Title 10 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that: the Surgeon General of
8 the United States recommends that babies from birth to one year of
9 age should be breast fed, unless medically contraindicated, in order to
10 achieve a healthy start on life; breast milk strengthens the immune
11 system of babies, improves digestion and is of better nutritional value
12 than regular milk; other benefits include the establishment of a strong
13 mother-baby bond and a potential increase in a baby's IQ level; despite
14 the Surgeon General's recommendation, statistics reveal a declining
15 number of women are choosing to breast feed their children, and
16 nearly half of all new mothers are now choosing formula over breast
17 milk even before they leave the hospital; the social constraints of
18 modern society impede a woman's choice to breast feed due to
19 embarrassment, fear of criminal prosecution and the lack of public
20 acceptance; therefore, it is in the best interest of the State to
21 recognize breast feeding in places of public accomodation as an
22 important right which must be encouraged in order to promote child
23 health.

24

25 2. Notwithstanding any provision of law to the contrary, a mother
26 shall be entitled to breast feed her baby in any location of a place of
27 public accommodation, resort or amusement wherein the mother is
28 otherwise permitted ²**[if the public accommodation, resort or**
29 **amusement does not have a separate area designated for**
30 **breastfeeding**¹].².

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted November 14, 1996.

² Senate SWF committee amendments adopted November 18, 1996.

1 3. This act shall take effect immediately.

2

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6 Permits mothers to breast feed babies in public places.

SENATE, No. 1212

STATE OF NEW JERSEY

INTRODUCED MAY 30, 1996

By Senators BENNETT and SINAGRA

1 AN ACT concerning breast feeding and supplementing chapter 1 of
2 Title 10 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that: the Surgeon General of
8 the United States recommends that babies from birth to one year of
9 age should be breast fed, unless medically contraindicated, in order to
10 achieve a healthy start on life; breast milk strengthens the immune
11 system of babies, improves digestion and is of better nutritional value
12 than regular milk; other benefits include the establishment of a strong
13 mother-baby bond and a potential increase in a baby's IQ level; despite
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15 number of women are choosing to breast feed their children, and
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19 embarrassment, fear of criminal prosecution and the lack of public
20 acceptance; therefore, it is in the best interest of the State to
21 recognize breast feeding in places of public accomodation as an
22 important right which must be encouraged in order to promote child
23 health.

24

25 2. Notwithstanding any provision of law to the contrary, a mother
26 shall be entitled to breast feed her baby in any location of a place of
27 public accommodation, resort or amusement wherein the mother is
28 otherwise permitted.

29

30 3. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill amends New Jersey's civil rights law, chapter 1 of Title 10
36 of the Revised Statutes (C.10:1-1 et seq.) to allow a mother the right
37 to breast feed her child in any location of a place of public

1 accommodation, resort or amusement where the mother is otherwise
2 permitted. Breast feeding has been recommended by the Surgeon
3 General as an important way to give babies a healthy start on life. Its
4 benefits include improved digestion, a strengthened immune system,
5 a potential increase in a baby's IQ level and the creation of a strong
6 mother-baby bond.

7

8

9

10

11 _____
Permits mothers to breast feed babies in public places.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1212

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 1996

The Senate Women's Issues, Children and Family Services Committee favorably reports Senate Bill No. 1212.

This bill amends New Jersey's civil rights law, chapter 1 of Title 10 of the Revised Statutes (C.10:1-1 et seq.) to allow a mother the right to breast feed her child in any location of a place of public accommodation, resort or amusement where the mother is otherwise permitted. Breast feeding has been recommended by the Surgeon General as an important way to give babies a healthy start on life. Its benefits include improved digestion, a strengthened immune system, a potential increase in a baby's IQ level and the creation of a strong mother-baby bond.

This bill is identical to Assembly Bill No. 548 (1R), sponsored by Assemblywoman Turner, which was amended and released by this committee on November 18, 1996.

March 20, 1997

**SENATE SUBSTITUTE FOR
SENATE BILL NO. 1212 and ASSEMBLY BILL NO. 548**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Substitute for Senate Bill No. 1212 and Assembly Bill No. 548 with my recommendations for reconsideration.

A. Summary of the Bill

This bill provides that, notwithstanding any law to the contrary, a mother shall be entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement where the mother is otherwise permitted access. Existing statutory law is silent on the issue of breast feeding. The bill provides a specific exemption from jury service for mothers who are breast feeding. The bill places the authority to enforce its provisions in either the State Department of Health and Senior Services or the local boards of health or any such bodies which exercise the functions of the local boards of health. Penalties of up to \$25 for a first offense following initial notification of violation, up to \$100 for a second offense and up to \$200 for each offense thereafter may be assessed against the owner, manager or other person in control of the public place where a violation of this bill occurs.

B. Recommended Action

I support the bill's objectives to encourage mothers to breast feed their babies. As the Legislature recognized, the United States Surgeon General recommends breast feeding, unless medically contraindicated, as breast milk strengthens babies' immune systems and improves their digestion and as breast feeding helps establish a strong mother-baby bond. I applaud the bill's intent to end discrimination against women who choose to breast feed their babies in places of public accommodation.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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In its present form, however, the bill is contradictory. While stating that breast feeding in public is socially acceptable and that mothers who breast feed should not be subject to discrimination, the bill singles out women who breast feed and confers upon them a specific exemption from jury service. Current law provides a hardship exemption from jury service to anyone who "has a personal obligation to care for another, including a sick, aged or infirm dependent or a minor child, who requires the prospective juror's personal care and attention, and [where] no alternative care is available without severe financial hardship on the prospective juror or the person requiring care." Mothers who breast feed their babies, as well as mothers who choose not to or cannot breast feed, would be exempted from jury service under this existing law. Thus, I recommend that the specific exemption from jury service be removed.

I further recommend that the bill's provisions vesting enforcement authority in the State Department of Health and Senior Services or the local boards of health be changed. As the local boards of health are better positioned to enforce this law in the public establishments in their municipalities, I recommend that the local boards of health have primary enforcement authority and that the State Department of Health and Senior Services have enforcement authority only in those instances where there exists no local board of health or other such board which can enforce the provisions of this bill.

Therefore, I herewith return Senate Substitute for Senate Bill No. 1212 and Assembly Bill No. 548 and recommend that it be amended as follows:

- | | |
|--|--|
| <u>Page 1, Title, Lines 1-2:</u> | Delete "," insert "and";
delete "and amending N.J.S.2B:
20-10" |
| <u>Page 1, Section 3, Lines 30-31:</u> | Delete "State Department of
Health and Senior Services or
the" |
| <u>Page 2, Section 3, Line 12:</u> | After "thereafter." insert
"When there exists no local
board of health or such board,
body or officers having the |

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

authority to exercise the functions of the local board of health according to law in the municipality in which a violation of this act has allegedly occurred, the State Department of Health and Senior Services shall exercise the functions of the local boards of health for purposes of this act."

Page 2, Section 4, Lines 31-46:

Delete section 4 in its entirety

Page 3, Section 4, Lines 1-31:

Delete in entirety

Page 3, Section 5, Line 33:

Delete "5." and insert "4."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor

174 201
361.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-004

CONTACT: PETE MCDONOUGH
609 777 - 2600

TRENTON, NJ 08625

RELEASE: MONDAY,
May 19, 1997

Gov. Christie Whitman today signed legislation that affirmed the right of mothers to breast feed their babies in public places. The Governor also signed a bill that changes the definition used to describe non-emergency health care transportation vehicles under the Medicaid program..

"I am confident that the breast-feeding law will bring an end to the discrimination nursing mothers often were forced to endure while attempting to breast feed their infant children in public places," Whitman said.

The bill was conditionally vetoed by Whitman on March 20 for technical corrections. The Governor recommended that primary enforcement of the law be given to local health boards. The original bill would have given the authority to the state Department of Health and Senior Services. The Governor stated that local boards of health would be better positioned to enforce the law in the public establishments of their municipalities.

The Governor also recommended the removal of a provision in the bill that would have allowed mothers who breast feed a specific exemption from jury duty. Mothers who breast feed their babies, or even mothers who choose not to or cannot breast feed their babies, can already receive an exemption from jury duty under the current law's hardship provisions.

The bill, which incorporated the Governor's recommendations, was approved by the Senate on April 21 and passed the Assembly on May 8.

S-1212/A-548 was sponsored by Senators John O. Bennett (R-Monmouth) and Jack Sinagra (R-Middlesex) and Assembly Member Shirley K. Turner (D-Mercer).

The Governor also signed legislation that changes the term "invalid coach service" to "mobility assistance vehicle service" under the Medicaid Program, which covers this form of non-emergency health care provided to Medicaid recipients.

The new term provides a better description of the nature of the transportation service and deletes any reference to a person's disability.

A-2113 was sponsored by Assembly Members Joan M. Quigley (D-Bergen/Hudson) and LeRoy J. Jones, Jr. (D-Essex).