

New York Breastfeeding Laws

N.Y. Civil Rights Law § 79-e (1994) permits a mother to breastfeed her child in any public or private location. (SB 3999)

Language:

§ 79-e. Right to breast feed. Notwithstanding any other provision of law, a mother may breast feed her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether or not the nipple of the mother's breast is covered during or incidental to the breast feeding.

N.Y. Correction Law § 611 allows a mother of a nursing child to be accompanied by her child if she is committed to a correctional facility at the time she is breastfeeding. This law also permits a child born to a committed mother to return with the mother to the correctional facility. The child may remain with the mother until one year of age if the woman is physically capable for caring for the child. (2009 N.Y. Laws, Chap. 411; SB 1290)

Language:

§ 611. Births to inmates of correctional institutions and care of children of inmates of correctional institutions. 1. If a woman confined in any institution as defined in paragraph c of subdivision four of section two of the correction law or local correctional facility as defined in paragraph (a) of subdivision sixteen of section two of the correction law, be pregnant and about to give birth to a child, the superintendent as defined in subdivision twelve of section two of the correction law or sheriff as defined in paragraph c of subdivision sixteen of section two of the correction law in charge of such institution or facility, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from such institution or facility and provided with comfortable accommodations, maintenance and medical care elsewhere, under such supervision and safeguards to prevent her escape from custody as the superintendent or sheriff or his or her designee may determine. No restraints of any kind shall be used during transport to or from the hospital, institution or clinic where such woman receives care; provided, however, in extraordinary circumstances, where restraints are necessary to prevent such woman from injuring herself or medical or correctional personnel, such woman may be cuffed by one wrist. In cases where restraints are used, the superintendent or sheriff shall make and maintain written findings as to the reasons for such use. No restraints of any kind shall be used when such woman is in labor, admitted to a hospital, institution or clinic for delivery, or recovering after giving birth. Any such personnel as may be

necessary to supervise the woman during transport to and from and during her stay at the hospital, institution or clinic shall be provided to ensure adequate care, custody and control of the woman. The superintendent or sheriff or his or her designee shall cause such woman to be subject to return to such institution or local correctional facility as soon after the birth of her child as the state of her health will permit as determined by the medical professional responsible for the care of such woman. If such woman is confined in a local correctional facility, the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives or from any available funds of the local correctional facility and if not available from such sources, shall be a charge upon the county, city or town in which is located the court from which such inmate was committed to such local correctional facility. If such woman is confined in any institution under the control of the department, the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives and if not available from such sources, such maintenance and medical care shall be paid by the state. In cases where payment of such accommodations, maintenance and medical care is assumed by the county, city or town from which such inmate was committed the payor shall make payment by issuing payment instrument in favor of the agency or individual that provided such accommodations and services, after certification has been made by the head of the institution to which the inmate was legally confined, that the charges for such accommodations, maintenance and medical care were necessary and are just, and that the institution has no available funds for such purpose.

2. A child so born may be returned with its mother to the correctional institution in which the mother is confined unless the chief medical officer of the correctional institution shall certify that the mother is physically unfit to care for the child, in which case the statement of the said medical officer shall be final. A child may remain in the correctional institution with its mother for such period as seems desirable for the welfare of such child, but not after it is one year of age, provided, however, if the mother is in a state reformatory and is to be paroled shortly after the child becomes one year of age, such child may remain at the state reformatory until its mother is paroled, but in no case after the child is eighteen months old. The officer in charge of such institution may cause a child cared for therein with its mother to be removed from the institution at any time before the child is one year of age. He shall make provision for a child removed from the institution without its mother or a child born to a woman inmate who is not returned to the institution with its mother as hereinafter provided. He may, upon proof being furnished by the father or other relatives of their ability to properly care for and maintain such child, give the child into the care and custody of such father or other relatives, who shall thereafter maintain the same at their own expense. If it shall appear that such father or other relatives are unable to properly care for and maintain such child, such officer shall place the child in the care of the commissioner of public welfare or other officer or board exercising in relation to children the power of a commissioner of public welfare of the county from which such inmate was committed as a charge upon such county. The officer in charge of the correctional institution shall send to such commissioner, officer or board a report of all information available in regard to the mother and the child. Such commissioner of public welfare or other officer or board shall care for

or place out such child as provided by law in the case of a child becoming dependent upon the county.

3. If any woman, committed to any such correctional institution at the time of such commitment is the mother of a nursing child in her care under one year of age, such child may accompany her to such institution if she is physically fit to have the care of such child, subject to the provisions of subdivision two of this section. If any woman committed to any such institution at the time of such commitment is the mother of and has under her exclusive care a child more than one year of age the justice or magistrate committing such woman shall refer such child to the commissioner of public welfare or other officer or board exercising in relation to children the power of a commissioner of public welfare of the county from which the woman is committed to be cared for as provided by law in the case of a child becoming dependent upon the county.

N.Y. Labor Law § 206-c (2007) states that employers must allow breastfeeding mothers reasonable, unpaid break times to express milk and make a reasonable attempt to provide a private location for her to do so. Prohibits discrimination against breastfeeding mothers.

Language:

§ 206-c. *Right of nursing mothers to express breast milk.* An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place.

N.Y. Penal Law § 245.01 et seq. excludes breastfeeding of infants from exposure offenses.

N.Y. Public Health Law § 2505 provides that the Maternal and Child Health commissioner has the power to adopt regulations and guidelines including, but not limited to donor standards, methods of collection, and standards for storage and distribution of human breast milk.

Language:

§ 245.01 *Exposure of a person.* A person is guilty of exposure if he appears in a public place in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment. Exposure of a person is a violation. Nothing in this section shall prevent the adoption by a city, town or village of a local law

prohibiting exposure of a person as herein defined in a public place, at any time, whether or not such person is entertaining or performing in a play, exhibition, show or entertainment.

N.Y. Public Health Law § 2505-a creates the Breastfeeding Mothers Bill of Rights and requires it to be posted in a public place in each maternal health care facility. The commissioner must also make the Breastfeeding Mothers Bill of Rights available on the health department's website so that health care facilities and providers may include such rights in a maternity information leaflet. (2009 N.Y. Laws, Chap. 292; AB 789)

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