

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 571 (Delegate Kelly, *et al.*)
Rules and Executive Nominations

General Assembly - Lactation Room - Required

This bill requires the General Assembly to maintain a private lactation room on its premises that may be used by General Assembly members, employees, and members of the public to nurse and express breast milk. The lactation room must include (1) a chair with a table and electrical outlet nearby to accommodate placement of a breast pump device; (2) a door that may be locked from the inside; (3) a sink; and (4) a refrigerator.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$20,000 in FY 2019 only for one-time renovation costs. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: There is no requirement in State law for lactation areas in public buildings. However, State law allows a mother to breastfeed her child in any public or private location in which the mother and child are authorized to be, and a person may not restrict or limit that right. Increasingly, organizations voluntarily provide lactation facilities for employees and/or the public. For instance, according to the University of Maryland, Baltimore Campus, the university provides lactation rooms on campus for all women affiliated with the university, as well as visitors.

The Fair Labor Standards Act (FLSA) requires employers to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time she has the need to express the milk. It also requires employers to provide a private space, other than a bathroom, that is shielded from view and free from intrusion of others, to express breast milk. However, only covered employees who are not exempt from FLSA's overtime pay requirements are entitled to breaks to express milk. Employees who are exempt from FLSA's overtime pay requirements include executive, administrative, professional, computer, and outside sales employees, among others. Therefore, members and most staff of the General Assembly are not eligible for break time under FLSA.

Background: When FLSA was amended in 2010 to require employers to provide reasonable break time and a place for nursing mothers to express breast milk, the U.S. Department of Labor (DOL) consulted with public health officials from the U.S. Department of Health and Human Services, including the Centers for Disease Control and Prevention and the Health Resources and Services Administration. DOL found that the frequency of breaks needed to express breast milk varies depending on factors such as the age of the baby, the number of breast feedings in the baby's normal daily schedule, whether the baby is eating solid food, and other factors. In the early months of life, a baby may need as many as 8 to 12 feedings per day. This means that a nursing baby needs food every two to three hours.

A nursing mother produces milk on a constant basis. If the baby does not take the milk directly from the mother, it must be removed by a pump about as frequently as the baby usually nurses. If a mother is unable to express breast milk while she is away from her baby, she may experience a drop in her milk supply, which could result in her being unable to continue nursing her child. The inability to express milk may also lead to an infection. Depending on the nursing mother's work schedule, it may be that the frequency of breaks needed tracks regular breaks and lunch periods, but this is not always the case. As the child grows and begins to consume solid foods, typically around six months of age, the frequency of nursing often decreases, and the need for a nursing mother to take breaks to express breast milk may also gradually diminish.

State Expenditures: The Department of General Services (DGS) is responsible for the maintenance, security, and upkeep of General Assembly buildings and grounds. General fund expenditures for DGS increase by approximately \$20,000 in fiscal 2019 for the one-time cost of constructing a lactation room in the State House. This estimate is based on the renovation of an existing women's restroom on the basement level of the State House. If it is determined that construction of a lactation room must be consistent with the requirements of FLSA (which prohibits the use of a bathroom for a lactation room), costs may be substantially higher to construct a new room. The renovation cost could also be

higher if additional modifications are required by the State House Trust. The trust, which was created in 1969 to oversee the area inside State Circle in Annapolis, is responsible for:

- the restoration and preservation of the State House; and
- the approval and supervision of any proposed repair, improvement, or other change to the State House or to any other building within State Circle, including any change to the furnishings or fixtures of those buildings or proposed landscaping of the grounds of those buildings.

However, the cost may be slightly less if the room is erected in the more recently constructed portion of the House Office Building rather than the State House.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services; University of Maryland, Baltimore; U.S. Department of Labor; Department of Legislative Services

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nb/mcr

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