

Sub-Committee on Policy and Legislation

February 2018

Policy Brief:

Jury Duty exemption for women who are breastfeeding a child

Introduction, Background and Context:

In Alaska, there are 11,000 births annually. Approximately 91% of mothers start out breastfeeding their babies, and at six months 62% continue to breastfeed. Over 38% are breastfeeding at 12 months of age (CDC, DHHS, 2016). When a breastfeeding woman is called for jury duty she is required to report to one of our courthouses which have no clean, private spaces dedicated to the purpose of expressing milk, for either visitors or employees.

Section 4207 of the Patient Protection and Affordable Care Act (ACA) revises the Fair Labor Standards Act (FLSA) by requiring employers to provide nursing mothers with 1) reasonable break time to express milk for one year after her child's birth each time such employee has need to express breast milk; and 2) a private space, other than a bathroom, that is shielded from view and free from intrusion of others, to express breast milk (United States Office of Personnel Management, 2013).

Even if a space can be dedicated to expression of breastmilk, an undue burden is placed on the mother since she cannot be guaranteed regular breaks while serving jury duty. This places her in danger of leaking milk (which is embarrassing to her and impacts her ability to concentrate on the court proceedings), developing plugged ducts, mastitis, negatively impacting her milk production, and other potentially deleterious health outcomes, some of which could result in hospitalization for herself or her infant (Walker, 2017).

Current Alaska Policy on Jury Duty:

Current Alaska policy on jury duty states the following:

AS 09.20.035. Deferral of Jury Service.

A person may have jury service deferred if the person shows that jury service at the time for which the person is summoned will cause hardship to that person or another, that transportation problems make it temporarily impossible for the person to serve, or that the person summoned is employed as a full-time or temporary election official and the jury service is during the month in which a primary or general election is held. Jury service may be deferred under this section only if the person seeking the deferment agrees to a deferred date. Jury service may not be deferred for more than 10 months from the date the initial jury service was to begin (Alaska Legal Resource Center, 2015).

The above does not explicitly allow a breastfeeding mother to become exempt for the cycle when called for jury duty. Therefore, deferment of up to ten months must be argued by the mother in person and is left to the discretion of the court. This is a decidedly unbalanced system given individual judges may be more or less supportive of the breastfeeding relationship. There are both national and state foci to increase the health of families by increasing the incidence and duration of breastfeeding, supported by the highest medical authority in the country, the US

Surgeon General (U.S. Department of Health and Human Services, 2011). Despite the widely- acknowledged benefits of breastfeeding for both mother and infant, the U.S. government, as well as state and local governments, have been reluctant to create or enforce legislation in this area (Spatz & Lessen, 2011; Walker, 2017).

Summary of Policy Recommendation:

We are proposing that a breastfeeding woman be excused from jury duty for as long as she is breastfeeding her child, not limited to a ten-month deferment. A ten-month deferment, *with requirement to report in person* after this period has passed, as previously stated, places an undue burden on a woman and her breastfeeding child.

Policy Alternatives:

If exempting mothers who are breastfeeding from jury duty is not considered feasible, alternatives include the following:

- Provide dedicated spaces which meet criteria as set forth by the Office of Personnel Management (2013, January). That is; 1) reasonable break time to express milk; and 2) a private space, other than a bathroom, that is shielded from view and free from intrusion of others, to express breast milk (United States Office of Personnel Management, 2013).
- Provide regularly scheduled breaks to accommodate breastfeeding and breast pumping mothers, including access to their infant for those who nurse directly from the breast and do not use delivery devices such as cups or bottles.
- On-site child care should be provided in order to give women access to their children who are breastfeeding.

Final Conclusions:

Current State of Alaska policy which fails to explicitly excuse a breastfeeding mother from jury duty is inadequate. Seventeen states already have an explicit policy excusing a breastfeeding mother. Seventeen states and Puerto Rico exempt breastfeeding mothers from jury duty or allow jury service to be postponed, including: California, Connecticut, Idaho, Illinois, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Oregon, South Dakota, Utah and Virginia (U.S. Department of Health and Human Services, Maternal and Child Health Bureau, 2017). The Alaska Breastfeeding Coalition urges the State of Alaska to address this issue and support the health and welfare of families in Alaska.

References

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