

Introduced by: Councilmember Sneed, *Young Dorsey, John Bullock, Brett, Henry*

Date: July 30, 2018

Prepared by: Department of Legislative Reference

Referred to: LABOR Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 18-0276

A BILL ENTITLED

AN ORDINANCE concerning

Lactation Accommodations in the Workplace

FOR the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees.

BY repealing and reordaining, without amendments
Article 4 - Community Relations
Section 1-101(a) and (f)(1)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments
Article 11 - Community Relations
Section 1-101(f)(3)
Baltimore City Code
(Edition 2000)

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

_____	Baltimore City Public School System
_____	Baltimore Development Corporation
_____	City Solicitor
_____	Comptroller's Office
_____	Department of Audits
_____	Department of Finance
_____	Department of General Services
_____	Department of Housing and Community Development
_____	Department of Human Resources
_____	Department of Planning
_____	Other: <i>Office of Civil Rights and Wage Enforcement</i>
_____	Other: _____
_____	Other: _____
_____	Board of Estimates
_____	Board of Ethics
_____	Board of Municipal and Zoning Appeals
_____	Comm. for Historical and Architectural Preservation
_____	Commission on Sustainability
_____	Employees' Retirement System
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Environmental Control Board
_____	Fire & Police Employees' Retirement System
_____	Labor Commissioner
_____	Parking Authority Board
_____	Planning Commission
_____	Wage Commission
_____	Other: _____
_____	Other: _____
_____	Other: _____
_____	Department of Public Works
_____	Department of Real Estate
_____	Department of Recreation and Parks
_____	Department of Transportation
_____	Fire Department
_____	Health Department
_____	Mayor's Office of Employment Development
_____	Mayor's Office of Human Services
_____	Mayor's Office of Information Technology
_____	Office of the Mayor
_____	Police Department
_____	Other: _____
_____	Other: _____
_____	Boards and Commissions

ENROLLED

**CITY OF BALTIMORE
ORDINANCE 18-213
Council Bill 18-0276**

Introduced by: Councilmember Sneed, President Young, Councilmembers Dorsey, Scott, Bullock, Burnett, Henry, Schleifer, Pinkett, Cohen, Costello, Stokes, Reisinger, Middleton, Clarke

Introduced and read first time: August 6, 2018

Assigned to: Labor Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: October 29, 2018

AN ORDINANCE CONCERNING

Lactation Accommodations in the Workplace

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

FOR the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees.

BY repealing and reordaining, without amendments

Article 4 - Community Relations
Section 1-101(a) and (f)(1)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 11 - Community Relations
Section 1-101(f)(3)
Baltimore City Code
(Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.
Underlined italics indicate matter added to the bill by amendment after printing for third reading.

Council Bill 18-0276

1 BY adding
2 Article 11 - Labor and Employment
3 Sections 16-1 through 16-30, to be under the new subtitle designation,
4 "Lactation Accommodation in the Workplace"
5 Baltimore City Code
6 (Edition 2000)

7 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
8 Laws of Baltimore City read as follows:

9 **Baltimore City Code**

10 **Article 4. Community Relations**

11 **Subtitle 1. Definitions; General Provisions**

12 **§ 1-1. Definitions.**

13 (a) *In general.*

14 In this article, the following terms have the meanings indicated.

15 (f) *Discrimination.*

16 (1) "Discrimination" means any difference in the treatment of an individual or person
17 because of race, color, religion, national origin, ancestry, sex, marital status, physical
18 or mental disability, sexual orientation, or gender identity or expression.
19 ...

20 (3) However, it is not discrimination for:

21 ...

22 (v) any person to provide:

23 (A) separate toilet facilities for males and females; OR

24 (B) LACTATION ACCOMMODATIONS FOR FEMALES IN ACCORD WITH CITY
25 CODE ARTICLE 11, SUBTITLE 16 {"LACTATION ACCOMMODATION IN
26 THE WORKPLACE"}.

27 **Article 11. Labor and Employment**

28 **SUBTITLE 16. LACTATION ACCOMMODATION IN THE WORKPLACE**

29 ***PART 1. DEFINITIONS; GENERAL PROVISIONS***

Council Bill 18-0276

1 § 16-1. DEFINITIONS.

2 (A) *IN GENERAL.*

3 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

4 (B) *COMMUNITY RELATIONS COMMISSION; COMMISSION.*

5 "COMMUNITY RELATIONS COMMISSION" OR "COMMISSION" MEANS THE BALTIMORE
6 COMMUNITY RELATIONS COMMISSION ESTABLISHED BY CITY CODE ARTICLE 4
7 {"COMMUNITY RELATIONS"}, SUBTITLE 2 {"COMMUNITY RELATIONS COMMISSION"}.

8 (C) *EMPLOYEE.*

9 (1) *IN GENERAL.*

10 "EMPLOYEE" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
11 INDIVIDUAL WHO WORKS IN BALTIMORE CITY FOR AN EMPLOYER.

12 (2) *EXCLUSIONS.*

13 "EMPLOYEE" DOES NOT INCLUDE:

14 (I) AN INDIVIDUAL ENGAGED IN THE ACTIVITIES OF AN EDUCATIONAL,
15 CHARITABLE, RELIGIOUS, OR OTHER NONPROFIT ORGANIZATION WHERE THE
16 SERVICES RENDERED TO THAT ORGANIZATION ARE ON A VOLUNTARY BASIS OR
17 IN RETURN FOR CHARITABLE AID CONFERRED ON THE INDIVIDUAL;

18 (II) AN INDIVIDUAL WHO IS EMPLOYED BY HIS OR HER PARENT, SPOUSE, OR CHILD;
19 OR

20 (III) AN INDIVIDUAL WHO IS EMPLOYED AS A DOMESTIC WITHIN A PRIVATE
21 RESIDENCE.

22 (D) *EMPLOYER.*

23 (1) *EMPLOYER.*

24 "EMPLOYER" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
25 PERSON WHO EMPLOYS 2 OR MORE FULL-TIME EQUIVALENT EMPLOYEES WORKING IN
26 THE CITY OF BALTIMORE.

27 (2) *EXCLUSIONS.*

28 "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE
29 GOVERNMENT, OR ANY INSTRUMENTALITY OR UNIT OF EITHER.

Council Bill 18-0276

1 (E) *LACTATION ACCOMMODATION.*

2 "LACTATION ACCOMMODATION" MEANS BOTH LACTATION BREAK AND LACTATION
3 LOCATION.

4 (F) *LACTATION BREAK.*

5 "LACTATION BREAK" MEANS THE BREAK TIME THAT AN EMPLOYER IS REQUIRED BY THIS
6 SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING BREAST MILK.

7 (G) *LACTATION LOCATION.*

8 "LACTATION LOCATION" MEANS THE SPACE, ROOM, OR LOCATION THAT AN EMPLOYER IS
9 REQUIRED BY THIS SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING
10 BREAST MILK.

11 (H) *PERSON.*

12 (1) *IN GENERAL.*

13 "PERSON" MEANS:

14 (I) AN INDIVIDUAL;

15 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
16 KIND; OR

17 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
18 OR REPRESENTATIVE OF ANY KIND.

19 (2) *INCLUSIONS.*

20 "PERSON" INCLUDES, EXCEPT AS USED IN § 16-30 {"CRIMINAL PENALTIES"} OF THIS
21 SUBTITLE, ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,
22 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

23 **§ 16-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

24 (A) *MANDATORY TERMS.*

25 "MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
26 OR TO IMPOSE A DUTY.

27 (B) *PROHIBITORY TERMS.*

28 "MAY NOT" AND "NO ... MAY" ARE EACH MANDATORY NEGATIVE TERMS USED TO
29 ESTABLISH A PROHIBITION.

Council Bill 18-0276

1 (C) *PERMISSIVE TERMS.*

2 "MAY" IS PERMISSIVE.

3 § 16-3. *{RESERVED}*

4 § 16-4. **RULES AND REGULATIONS.**

5 (A) *IN GENERAL.*

6 THE COMMUNITY RELATIONS COMMISSION MUST ADOPT RULES AND REGULATIONS TO
7 CARRY OUT THIS SUBTITLE.

8 (B) *FILING WITH LEGISLATIVE REFERENCE.*

9 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED
10 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

11 §§ 16-5 TO 16-9. *{RESERVED}*

12 ***PART 2. REQUIRED ACCOMMODATIONS***

13 § 16-10. **LACTATION BREAKS.**

14 (A) *IN GENERAL.*

15 AN EMPLOYER MUST PROVIDE A REASONABLE AMOUNT OF BREAK TIME TO
16 ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK.

17 (B) *WHEN AND HOW PROVIDED.*

18 (1) IF POSSIBLE, THE BREAK TIME REQUIRED BY THIS SECTION MUST RUN CONCURRENTLY
19 WITH ANY PAID REST OR BREAK TIME ALREADY REQUIRED BY LAW OR OTHERWISE
20 AUTHORIZED FOR THE EMPLOYEE.

21 (2) BREAK TIME REQUIRED BY THIS SECTION THAT DOES NOT RUN CONCURRENTLY WITH
22 PAID REST OR BREAK TIME REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE
23 EMPLOYEE MAY BE UNPAID.

24 § 16-11. **LACTATION LOCATION – IN GENERAL.**

25 (A) *"CLOSE PROXIMITY ... " DEFINED.*

26 IN THIS SECTION, "CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA" MEANS NO MORE
27 THAN 500 FEET AND TWO ADJACENT FLOORS FROM THE FURTHEST EMPLOYEE WORK AREA
28 BEING SERVED.

Council Bill 18-0276

1 (B) *IN GENERAL.*

2 (1) AN EMPLOYER MUST PROVIDE A LACTATION LOCATION, OTHER THAN A BATHROOM OR
3 A CLOSET, THAT:

4 (I) ~~(A)~~ IS IN CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA; ~~AND~~ AND

5 A. IS AVAILABLE ON 2 ADJACENT FLOORS; OR

6 B. IS ACCESSIBLE VIA A FUNCTIONAL ELEVATOR; AND

7 (II) ~~(B)~~ SHIELDS ITS OCCUPANTS FROM VIEW AND FROM INTRUSION BY COWORKERS
8 OR OTHERS.

9 (2) THE LACTATION LOCATION MAY INCLUDE THE PLACE WHERE THE EMPLOYEE
10 NORMALLY WORKS IF IT OTHERWISE MEETS THE REQUIREMENTS OF THIS PART 2.

11 (C) *SPECIFICATIONS.*

12 THE LACTATION LOCATION MUST:

13 (1) BE SAFE, CLEAN, AND FREE OF TOXIC OR HAZARDOUS MATERIALS;

14 (2) LIMIT ACCESS TO IT BY A DOOR THAT CAN BE LOCKED FROM THE INSIDE; AND

15 (3) CONTAIN:

16 (I) A SURFACE (E.G., A TABLE OR SHELF) ON WHICH TO PLACE A BREAST PUMP
17 AND OTHER PERSONAL ITEMS;

18 (II) A PLACE TO SIT;

19 (III) AT LEAST ONE ELECTRICAL OUTLET; AND

20 (IV) UNLESS ELSEWHERE PROVIDED BY THE EMPLOYER IN CLOSE PROXIMITY TO
21 THE EMPLOYEE'S WORK AREA:

22 (A) A SINK WITH RUNNING HOT AND COLD WATER; AND

23 (B) A REFRIGERATOR IN WHICH THE EMPLOYEE CAN STORE BREAST
24 MILK.

25 **§ 16-12. LACTATION LOCATION – MULTI-PURPOSE LOCATIONS.**

26 AN EMPLOYER MAY PROVIDE A LACTATION LOCATION THAT IS ALSO USED FOR OTHER
27 PURPOSES, BUT ONLY AS LONG AS:

28 (1) THROUGHOUT THE PERIOD OF ANY EMPLOYEE'S NEED TO EXPRESS MILK, THE PRIMARY
29 FUNCTION OF THE LOCATION IS ITS USE AS A LACTATION LOCATION;

Council Bill 18-0276

1 (2) DURING THAT PERIOD, THE LOCATION'S USE FOR LACTATION TAKES PRECEDENCE OVER
2 ALL OTHER FUNCTIONS AND USES; AND

3 (3) THE EMPLOYER PROVIDES NOTICE TO ALL EMPLOYEES WHO MIGHT OTHERWISE NEED
4 TO USE THAT LOCATION FOR OTHER PURPOSES, THAT:

5 (I) THE LOCATION'S PRIMARY FUNCTION IS ITS USE AS A "LACTATION LOCATION";
6 AND

7 (II) THIS PRIMARY FUNCTION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS
8 AND USES.

9 § 16-13. LACTATION LOCATION – MULTI-TENANT BUILDING.

10 IF AN EMPLOYER'S WORKSPACE IS INADEQUATE TO SATISFY THE REQUIREMENTS OF THIS PART
11 2 AND OTHER EMPLOYERS ARE LOCATED IN THE SAME BUILDING, THE EMPLOYER MAY FULFILL
12 THE REQUIREMENTS OF THIS PART 2 BY PROVIDING A LACTATION LOCATION THAT:

13 (1) IS SHARED BY 2 OR MORE EMPLOYERS IN THE BUILDING;

14 (2) COMPLIES WITH § 16-11 {"LACTATION LOCATION – IN GENERAL"} AND § 16-12
15 {"LACTATION LOCATION – MULTI-PURPOSE LOCATIONS"} OF THIS PART 2; AND

16 (3) IS SUFFICIENT TO ACCOMMODATE THE NUMBER OF EMPLOYEES WHO MIGHT DESIRE TO
17 USE IT AT ANY GIVEN TIME.

18 § 16-14. WAIVER OR VARIANCE FOR UNDUE HARDSHIP.

19 (A) *IN GENERAL.*

20 IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED UNDER § 16-4 {"RULES
21 AND REGULATIONS"} OF THIS SUBTITLE, AN EMPLOYER MAY APPLY TO THE COMMUNITY
22 RELATIONS COMMISSION FOR A WAIVER OR VARIANCE OF ANY REQUIREMENT OF THIS
23 PART 2 THAT THE EMPLOYER CAN DEMONSTRATE WOULD IMPOSE AN UNDUE HARDSHIP BY
24 CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY WHEN CONSIDERED IN
25 RELATION TO THE SIZE, FINANCIAL RESOURCES, NATURE, OR STRUCTURE OF THE
26 EMPLOYER'S BUSINESS.

27 (B) TEMPORARY LACTATION LOCATION AS A VARIANCE.

28 AN EMPLOYER MAY APPLY TO THE COMMUNITY RELATIONS COMMISSION TO DESIGNATE
29 A SPACE WITHIN A ROOM AS A TEMPORARY LACTATION LOCATION, IN PLACE OF A
30 PERMANENT LACTATION LOCATION, OR A ROOM THAT IS A MULTIPURPOSE LACTATION
31 LOCATION IF AN EMPLOYER CAN DEMONSTRATE THAT A PERMANENT LACTATION
32 LOCATION OR A ROOM THAT IS A MULTIPURPOSE LACTATION LOCATION WOULD IMPOSE AN
33 UNDUE HARDSHIP BY CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY FOR
34 THE EMPLOYER. A TEMPORARY LACTATION LOCATION COULD BE CREATED USING
35 SCREENING OR CURTAINS.

Council Bill 18-0276

1 THE MEANS BY WHICH THE TEMPORARY LACTATION LOCATION IS CREATED (E.G., THE
2 CURTAIN), AND THE ITEMS CONTAINED THEREIN (E.G., THE CHAIR, TABLE OR SHELF, ETC.)
3 SHOULD NOT BE MODIFIED DURING THE DURATION OF AN EMPLOYEE'S NEED TO EXPRESS
4 MILK. WHILE AN EMPLOYEE EXPRESSES MILK, THE LACTATION LOCATION SHOULD BE FREE
5 FROM INTRUSION BY OTHER PERSONS BY MEANS OF A LATCH OR OTHER CLOSURE
6 MECHANISM. THE TEMPORARY LACTATION SPACE SHOULD HAVE SIGNAGE VISIBLE TO
7 OTHER EMPLOYEES DESIGNATING THE AREA AS A LACTATION LOCATION FOR THE
8 DURATION OF AN EMPLOYEE'S NEED TO EXPRESS MILK. THE EMPLOYER SHOULD PROVIDE
9 NOTICE TO EMPLOYEES OF THE EXISTENCE AND PURPOSE OF THE TEMPORARY LACTATION
10 LOCATION AND THAT IT SHOULD NOT BE DISTURBED.

11 (C) (B) RULES AND REGULATIONS.

12 THE COMMISSION'S RULES AND REGULATIONS MUST INCLUDE:

- 13 (1) THE CRITERIA FOR ESTABLISHING AN UNDUE HARDSHIP AS DESCRIBED IN
14 SUBSECTION (A) OF THIS SECTION;
- 15 (2) THE PROCEDURES, FORMS, AND DOCUMENTATION REQUIRED TO APPLY FOR THE
16 WAIVER OR VARIANCE; AND
- 17 (3) THE PROCEDURES FOR THE COMMISSION'S HEARING ON AND CONSIDERATION OF
18 THE APPLICATION.

19 §§ 16-15 TO 16-19. {RESERVED}

20 *PART 3. EMPLOYER POLICY AND PROCESS; RECORDS*

21 § 16-20. EMPLOYER POLICY AND PROCESS.

22 (A) *IN GENERAL.*

23 EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST DEVELOP AND IMPLEMENT A WRITTEN
24 LACTATION ACCOMMODATION POLICY.

25 (B) *MINIMUM CONTENTS.*

26 THE WRITTEN POLICY MUST:

- 27 (1) CONTAIN A STATEMENT THAT EMPLOYEES HAVE A LEGAL RIGHT TO REQUEST A
28 LACTATION ACCOMMODATION;
- 29 (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A LACTATION
30 ACCOMMODATION, WHICH PROCESS MUST, AT A MINIMUM:
- 31 (i) SPECIFY THE MEANS BY WHICH AN EMPLOYEE MUST SUBMIT THE REQUEST
32 TO THE EMPLOYER;

Council Bill 18-0276

1 (II) REQUIRE THE EMPLOYER TO RESPOND TO THE REQUEST WITHIN 5 BUSINESS
2 DAYS; AND

3 (III) REQUIRE THE EMPLOYER AND EMPLOYEE TO ENGAGE IN AN INTERACTIVE
4 PROCESS TO DETERMINE LACTATION BREAK PERIODS AND A LACTATION
5 LOCATION APPROPRIATE FOR THE EMPLOYEE;

6 (3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE LACTATION BREAKS
7 OR A LACTATION LOCATION, OR PROVIDES A LACTATION LOCATION THAT DOES
8 NOT FULLY COMPLY WITH PART 2 OF THIS SUBTITLE, OR ASSERTS ANY WAIVER OR
9 VARIANCE GRANTED UNDER § 16-14 {"WAIVER OR VARIANCE FOR UNDUE
10 HARDSHIP"} OF THIS SUBTITLE, THE EMPLOYER WILL BE REQUIRED TO DESCRIBE, IN
11 A WRITTEN RESPONSE TO THE REQUEST, THE SPECIFIC BASES ON WHICH THE
12 EMPLOYER HAS DONE SO;

13 (4) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS
14 SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS
15 COMMISSION; AND

16 (5) STATE THAT RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING THE RIGHTS
17 CONFERRED BY THIS SUBTITLE IS PROHIBITED.

18 (C) *EMPLOYER TO KEEP COPIES OF ALL RESPONSES.*

19 THE EMPLOYER MUST RETAIN, IN ACCORDANCE WITH § 16-21 {"EMPLOYER RECORDS"} OF
20 THIS SUBTITLE, A COPY OF ALL WRITTEN RESPONSES MADE UNDER THE POLICY REQUIRED
21 BY SUBSECTION (B)(3) OF THIS SECTION.

22 (D) *DISTRIBUTION OF POLICY.*

23 (1) THE EMPLOYER MUST DISTRIBUTE A COPY OF THE EMPLOYER'S LACTATION
24 ACCOMMODATION POLICY TO ALL EMPLOYEES:

25 (I) UPON THEIR HIRING; AND

26 (II) AGAIN, WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

27 (2) THE EMPLOYER MUST ALSO OFFER A COPY OF THE LACTATION ACCOMMODATION
28 POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT PREGNANCY OR
29 PARENTAL LEAVE.

30 (3) IF THE EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS
31 AVAILABLE TO EMPLOYEES, THE LACTATION ACCOMMODATION POLICY MUST BE
32 INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

Council Bill 18-0276

1 **§ 16-21. EMPLOYER RECORDS.**

2 (A) *IN GENERAL.*

3 EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST MAINTAIN A RECORD OF ALL REQUESTS
4 FOR A LACTATION ACCOMMODATION RECEIVED BY THE EMPLOYER.

5 (B) *REQUIRED CONTENTS.*

6 THE RECORD MUST INCLUDE THE FOLLOWING DOCUMENTATION:

- 7 (1) THE NAME OF THE EMPLOYEE;
- 8 (2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;
- 9 (3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE
10 EMPLOYEE AND EMPLOYER; AND
- 11 (4) A DESCRIPTION OF HOW THE EMPLOYER RESOLVED THE REQUEST.

12 (C) *RETENTION PERIOD; INSPECTION.*

13 THE EMPLOYER MUST:

- 14 (1) RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION FOR A
15 PERIOD OF 3 YEARS FROM THE DATE OF THE REQUEST FOR LACTATION
16 ACCOMMODATION; AND
- 17 (2) ALLOW THE COMMUNITY RELATIONS COMMISSION ACCESS TO THAT RECORD,
18 SUBJECT TO REASONABLE NOTICE, TO MONITOR COMPLIANCE WITH THE
19 REQUIREMENTS OF THIS SUBTITLE.

20 (D) *AFFECT OF FAILURE TO COMPLY.*

21 IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, IF THE EMPLOYER
22 HAS FAILED TO MAINTAIN OR RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY
23 THIS SECTION, OR DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THEM, IT
24 WILL BE PRESUMED THAT THE EMPLOYER HAS VIOLATED THIS SUBTITLE, ABSENT CLEAR
25 AND CONVINCING EVIDENCE OTHERWISE.

26 **§§ 16-22 TO 16-24. {RESERVED}**

27 ***PART 4. ADMINISTRATIVE ENFORCEMENT***

28 **§ 16-25. COMPLAINT TO COMMUNITY RELATIONS COMMISSION.**

29 (A) *COMPLAINT AUTHORIZED.*

Council Bill 18-0276

1 (1) ANY PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A
2 COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION.

3 (2) THE COMPLAINT SHALL BE FILED, INVESTIGATED, AND HEARD IN THE SAME MANNER
4 AS THAT PROVIDED IN CITY CODE ARTICLE 4 {"COMMUNITY RELATIONS"}, SUBTITLE
5 4 {"ENFORCEMENT"}, FOR ALLEGED VIOLATIONS OF THAT ARTICLE'S UNLAWFUL
6 DISCRIMINATORY EMPLOYMENT PRACTICES.

7 ~~(B) DECISION AND ORDER.~~

8 ~~IN ITS DECISION AND ORDER, THE COMMISSION MAY AWARD THE AGGRIEVED PERSON:~~

9 ~~(1) BACK PAY FOR LOST WAGES CAUSED BY THE VIOLATION OF THIS SUBTITLE;~~

10 ~~(2) REINSTATEMENT;~~

11 ~~(3) COMPENSATORY DAMAGES, WHICH MAY INCLUDE:~~

12 ~~(i) COMPENSATION FOR HUMILIATION, EMBARRASSMENT, AND EMOTIONAL~~
13 ~~DISTRESS; AND~~

14 ~~(ii) EXPENSES INCURRED IN SEEKING OTHER EMPLOYMENT; AND~~

15 ~~(4) REASONABLE ATTORNEY'S FEES.~~

16 **§ 16-26. JUDICIAL AND APPELLATE REVIEW.**

17 (A) *JUDICIAL REVIEW.*

18 A PARTY AGGRIEVED BY THE FINAL DECISION OF THE COMMUNITY RELATIONS
19 COMMISSION MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT
20 COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF
21 PROCEDURE.

22 (B) *APPELLATE REVIEW.*

23 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE
24 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
25 PROCEDURE.

26 **§ 16-27. {RESERVED}**

27 ***PART 5. PROHIBITED CONDUCT; CRIMINAL PENALTIES***

28 **§ 16-28. RETALIATION OR DISCRIMINATION PROHIBITED.**

29 NO EMPLOYER OR OTHER PERSON MAY TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR
30 OTHERWISE RETALIATE OR DISCRIMINATE AGAINST ANY PERSON AS A REPRISAL FOR THAT

Council Bill 18-0276

1 PERSON'S HAVING ALLEGED A VIOLATION OF THIS SUBTITLE OR OTHERWISE HAVING
2 EXERCISED A RIGHT GRANTED BY THIS SUBTITLE.

3 § 16-29. {RESERVED}

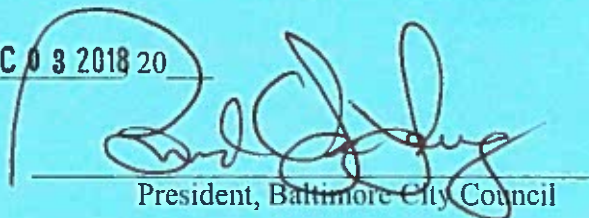
4 § 16-30. CRIMINAL PENALTIES.

5 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION
6 ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS
7 SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS
8 OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

9 SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance
10 are not law and may not be considered to have been enacted as a part of this or any prior
11 Ordinance.

12 SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90th day
13 after the date it is enacted.

Certified as duly passed this _____ day of DEC 03 2018 20



President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of DEC 03 2018, 20



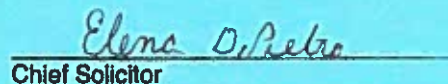
Chief Clerk

Approved this 13 day of December, 2018



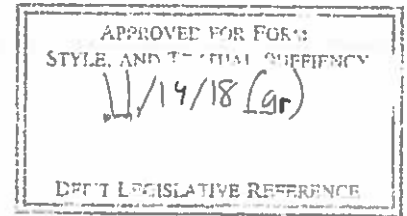
Mayor, Baltimore City

Approved For Form and Legal Sufficiency
This 6th Day of December 2018



Chief Solicitor

AMENDMENTS TO COUNCIL BILL 18-0276
(3rd Reader Copy)



By: Councilmember Sneed
{To be offered on the Council Floor}

Amendment No. 1

On page 6, in line 4, strike "AND" and substitute "AND"; and, on the same page, strike lines 5 and 6 in their entireties.

ADOPTED

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 18-0276

Introduced by: Councilmember Sneed, President Young, Councilmembers Dorsey, Scott, Bullock, Burnett, Henry, Schleifer, Pinkett, Cohen, Costello, Stokes, Reisinger, Middleton, Clarke

Introduced and read first time: August 6, 2018

Assigned to: Labor Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: October 29, 2018

AN ORDINANCE CONCERNING

Lactation Accommodations in the Workplace

1

2 FOR the purpose of requiring certain employers to provide certain lactation accommodations
3 (including lactation breaks and locations) and to develop, distribute, and implement certain
4 policies and procedures for providing these lactation accommodations; establishing minimum
5 standards for lactation accommodations; defining certain terms; providing for certain
6 exceptions and authorizing certain waivers or variances under certain conditions; requiring
7 employers to maintain certain records; prohibiting retaliatory or discriminatory actions
8 against persons exercising rights under this Ordinance; authorizing the adoption of
9 administrative rule and regulations to carry out this Ordinance; providing for administrative
10 and judicial review of and remedial relief for violations; imposing certain criminal penalties
11 for violations; providing for a special effective date; and generally relating to the required
12 provision of certain lactation accommodations for employees.

13 BY repealing and reordaining, without amendments

14 Article 4 - Community Relations
15 Section 1-101(a) and (f)(1)
16 Baltimore City Code
17 (Edition 2000)

18 BY repealing and reordaining, with amendments

19 Article 11 - Community Relations
20 Section 1-101(f)(3)
21 Baltimore City Code
22 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 18-0276

1 BY adding
2 Article 11 - Labor and Employment
3 Sections 16-1 through 16-30, to be under the new subtitle designation,
4 "Lactation Accommodation in the Workplace"
5 Baltimore City Code
6 (Edition 2000)

7 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
8 Laws of Baltimore City read as follows:

9 **Baltimore City Code**

10 **Article 4. Community Relations**

11 **Subtitle 1. Definitions; General Provisions**

12 **§ 1-1. Definitions.**

13 (a) *In general.*

14 In this article, the following terms have the meanings indicated.

15 (f) *Discrimination.*

16 (1) "Discrimination" means any difference in the treatment of an individual or person
17 because of race, color, religion, national origin, ancestry, sex, marital status, physical
18 or mental disability, sexual orientation, or gender identity or expression.

19 ...

20 (3) However, it is not discrimination for:

21 ...

22 (v) any person to provide:

23 (A) separate toilet facilities for males and females; OR

24 (B) LACTATION ACCOMMODATIONS FOR FEMALES IN ACCORD WITH CITY
25 CODE ARTICLE 11, SUBTITLE 16 {"LACTATION ACCOMMODATION IN
26 THE WORKPLACE"}.

27 **Article 11. Labor and Employment**

28 **SUBTITLE 16. LACTATION ACCOMMODATION IN THE WORKPLACE**

29 **PART 1. DEFINITIONS; GENERAL PROVISIONS**

Council Bill 18-0276

1 § 16-1. DEFINITIONS.

2 (A) *IN GENERAL.*

3 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

4 (B) *COMMUNITY RELATIONS COMMISSION; COMMISSION.*

5 "COMMUNITY RELATIONS COMMISSION" OR "COMMISSION" MEANS THE BALTIMORE
6 COMMUNITY RELATIONS COMMISSION ESTABLISHED BY CITY CODE ARTICLE 4
7 {"COMMUNITY RELATIONS"}, SUBTITLE 2 {"COMMUNITY RELATIONS COMMISSION"}.

8 (C) *EMPLOYEE.*

9 (1) *IN GENERAL.*

10 "EMPLOYEE" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
11 INDIVIDUAL WHO WORKS IN BALTIMORE CITY FOR AN EMPLOYER.

12 (2) *EXCLUSIONS.*

13 "EMPLOYEE" DOES NOT INCLUDE:

14 (I) AN INDIVIDUAL ENGAGED IN THE ACTIVITIES OF AN EDUCATIONAL,
15 CHARITABLE, RELIGIOUS, OR OTHER NONPROFIT ORGANIZATION WHERE THE
16 SERVICES RENDERED TO THAT ORGANIZATION ARE ON A VOLUNTARY BASIS OR
17 IN RETURN FOR CHARITABLE AID CONFERRED ON THE INDIVIDUAL;

18 (II) AN INDIVIDUAL WHO IS EMPLOYED BY HIS OR HER PARENT, SPOUSE, OR CHILD;
19 OR

20 (III) AN INDIVIDUAL WHO IS EMPLOYED AS A DOMESTIC WITHIN A PRIVATE
21 RESIDENCE.

22 (D) *EMPLOYER.*

23 (1) *EMPLOYER.*

24 "EMPLOYER" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
25 PERSON WHO EMPLOYS 2 OR MORE FULL-TIME EQUIVALENT EMPLOYEES WORKING IN
26 THE CITY OF BALTIMORE.

27 (2) *EXCLUSIONS.*

28 "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE
29 GOVERNMENT, OR ANY INSTRUMENTALITY OR UNIT OF EITHER.

Council Bill 18-0276

1 (E) *LACTATION ACCOMMODATION.*

2 "LACTATION ACCOMMODATION" MEANS BOTH LACTATION BREAK AND LACTATION
3 LOCATION.

4 (F) *LACTATION BREAK.*

5 "LACTATION BREAK" MEANS THE BREAK TIME THAT AN EMPLOYER IS REQUIRED BY THIS
6 SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING BREAST MILK.

7 (G) *LACTATION LOCATION.*

8 "LACTATION LOCATION" MEANS THE SPACE, ROOM, OR LOCATION THAT AN EMPLOYER IS
9 REQUIRED BY THIS SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING
10 BREAST MILK.

11 (H) *PERSON.*

12 (1) *IN GENERAL.*

13 "PERSON" MEANS:

14 (I) AN INDIVIDUAL;

15 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
16 KIND; OR

17 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
18 OR REPRESENTATIVE OF ANY KIND.

19 (2) *INCLUSIONS.*

20 "PERSON" INCLUDES, EXCEPT AS USED IN § 16-30 {"CRIMINAL PENALTIES"} OF THIS
21 SUBTITLE, ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,
22 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

23 § 16-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.

24 (A) *MANDATORY TERMS.*

25 "MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
26 OR TO IMPOSE A DUTY.

27 (B) *PROHIBITORY TERMS.*

28 "MAY NOT" AND "NO ... MAY" ARE EACH MANDATORY NEGATIVE TERMS USED TO
29 ESTABLISH A PROHIBITION.

Council Bill 18-0276

1 (C) *PERMISSIVE TERMS.*

2 "MAY" IS PERMISSIVE.

3 § 16-3. *{RESERVED}*

4 § 16-4. **RULES AND REGULATIONS.**

5 (A) *IN GENERAL.*

6 THE COMMUNITY RELATIONS COMMISSION MUST ADOPT RULES AND REGULATIONS TO
7 CARRY OUT THIS SUBTITLE.

8 (B) *FILING WITH LEGISLATIVE REFERENCE.*

9 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED
10 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

11 §§ 16-5 TO 16-9. *{RESERVED}*

12 ***PART 2. REQUIRED ACCOMMODATIONS***

13 § 16-10. **LACTATION BREAKS.**

14 (A) *IN GENERAL.*

15 AN EMPLOYER MUST PROVIDE A REASONABLE AMOUNT OF BREAK TIME TO
16 ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK.

17 (B) *WHEN AND HOW PROVIDED.*

18 (1) IF POSSIBLE, THE BREAK TIME REQUIRED BY THIS SECTION MUST RUN CONCURRENTLY
19 WITH ANY PAID REST OR BREAK TIME ALREADY REQUIRED BY LAW OR OTHERWISE
20 AUTHORIZED FOR THE EMPLOYEE.

21 (2) BREAK TIME REQUIRED BY THIS SECTION THAT DOES NOT RUN CONCURRENTLY WITH
22 PAID REST OR BREAK TIME REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE
23 EMPLOYEE MAY BE UNPAID.

24 § 16-11. **LACTATION LOCATION – IN GENERAL.**

25 (A) *"CLOSE PROXIMITY ... " DEFINED.*

26 IN THIS SECTION, "CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA" MEANS NO MORE
27 THAN 500 FEET AND TWO ADJACENT FLOORS FROM THE FURTHEST EMPLOYEE WORK AREA
28 BEING SERVED.

Council Bill 18-0276

1 (B) *IN GENERAL.*

2 (1) AN EMPLOYER MUST PROVIDE A LACTATION LOCATION, OTHER THAN A BATHROOM OR
3 A CLOSET, THAT:

4 (1) ~~(A)~~ IS IN CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA; ~~AND~~

5 A. IS AVAILABLE ON 2 ADJACENT FLOORS; OR

6 B. IS ACCESSIBLE VIA A FUNCTIONAL ELEVATOR; AND

7 (1) ~~(B)~~ SHIELDS ITS OCCUPANTS FROM VIEW AND FROM INTRUSION BY COWORKERS
8 OR OTHERS.

9 (2) THE LACTATION LOCATION MAY INCLUDE THE PLACE WHERE THE EMPLOYEE
10 NORMALLY WORKS IF IT OTHERWISE MEETS THE REQUIREMENTS OF THIS PART 2.

11 (C) *SPECIFICATIONS.*

12 THE LACTATION LOCATION MUST:

13 (1) BE SAFE, CLEAN, AND FREE OF TOXIC OR HAZARDOUS MATERIALS;

14 (2) LIMIT ACCESS TO IT BY A DOOR THAT CAN BE LOCKED FROM THE INSIDE; AND

15 (3) CONTAIN:

16 (I) A SURFACE (E.G., A TABLE OR SHELF) ON WHICH TO PLACE A BREAST PUMP
17 AND OTHER PERSONAL ITEMS;

18 (II) A PLACE TO SIT;

19 (III) AT LEAST ONE ELECTRICAL OUTLET; AND

20 (IV) UNLESS ELSEWHERE PROVIDED BY THE EMPLOYER IN CLOSE PROXIMITY TO
21 THE EMPLOYEE'S WORK AREA:

22 (A) A SINK WITH RUNNING HOT AND COLD WATER; AND

23 (B) A REFRIGERATOR IN WHICH THE EMPLOYEE CAN STORE BREAST
24 MILK.

25 **§ 16-12. LACTATION LOCATION – MULTI-PURPOSE LOCATIONS.**

26 AN EMPLOYER MAY PROVIDE A LACTATION LOCATION THAT IS ALSO USED FOR OTHER
27 PURPOSES, BUT ONLY AS LONG AS:

28 (1) THROUGHOUT THE PERIOD OF ANY EMPLOYEE'S NEED TO EXPRESS MILK, THE PRIMARY
29 FUNCTION OF THE LOCATION IS ITS USE AS A LACTATION LOCATION;

Council Bill 18-0276

1 (2) DURING THAT PERIOD, THE LOCATION'S USE FOR LACTATION TAKES PRECEDENCE OVER
2 ALL OTHER FUNCTIONS AND USES; AND

3 (3) THE EMPLOYER PROVIDES NOTICE TO ALL EMPLOYEES WHO MIGHT OTHERWISE NEED
4 TO USE THAT LOCATION FOR OTHER PURPOSES, THAT:

5 (I) THE LOCATION'S PRIMARY FUNCTION IS ITS USE AS A "LACTATION LOCATION";
6 AND

7 (II) THIS PRIMARY FUNCTION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS
8 AND USES.

9 § 16-13. LACTATION LOCATION – MULTI-TENANT BUILDING.

10 IF AN EMPLOYER'S WORKSPACE IS INADEQUATE TO SATISFY THE REQUIREMENTS OF THIS PART
11 2 AND OTHER EMPLOYERS ARE LOCATED IN THE SAME BUILDING, THE EMPLOYER MAY FULFILL
12 THE REQUIREMENTS OF THIS PART 2 BY PROVIDING A LACTATION LOCATION THAT:

13 (1) IS SHARED BY 2 OR MORE EMPLOYERS IN THE BUILDING;

14 (2) COMPLIES WITH § 16-11 {"LACTATION LOCATION – IN GENERAL"} AND § 16-12
15 {"LACTATION LOCATION – MULTI-PURPOSE LOCATIONS"} OF THIS PART 2; AND

16 (3) IS SUFFICIENT TO ACCOMMODATE THE NUMBER OF EMPLOYEES WHO MIGHT DESIRE TO
17 USE IT AT ANY GIVEN TIME.

18 § 16-14. WAIVER OR VARIANCE FOR UNDUE HARDSHIP.

19 (A) *IN GENERAL.*

20 IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED UNDER § 16-4 {"RULES
21 AND REGULATIONS"} OF THIS SUBTITLE, AN EMPLOYER MAY APPLY TO THE COMMUNITY
22 RELATIONS COMMISSION FOR A WAIVER OR VARIANCE OF ANY REQUIREMENT OF THIS
23 PART 2 THAT THE EMPLOYER CAN DEMONSTRATE WOULD IMPOSE AN UNDUE HARDSHIP BY
24 CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY WHEN CONSIDERED IN
25 RELATION TO THE SIZE, FINANCIAL RESOURCES, NATURE, OR STRUCTURE OF THE
26 EMPLOYER'S BUSINESS.

27 (B) TEMPORARY LACTATION LOCATION AS A VARIANCE.

28 AN EMPLOYER MAY APPLY TO THE COMMUNITY RELATIONS COMMISSION TO DESIGNATE
29 A SPACE WITHIN A ROOM AS A TEMPORARY LACTATION LOCATION, IN PLACE OF A
30 PERMANENT LACTATION LOCATION, OR A ROOM THAT IS A MULTIPURPOSE LACTATION
31 LOCATION IF AN EMPLOYER CAN DEMONSTRATE THAT A PERMANENT LACTATION
32 LOCATION OR A ROOM THAT IS A MULTIPURPOSE LACTATION LOCATION WOULD IMPOSE AN
33 UNDUE HARDSHIP BY CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY FOR
34 THE EMPLOYER. A TEMPORARY LACTATION LOCATION COULD BE CREATED USING
35 SCREENING OR CURTAINS.

Council Bill 18-0276

1 THE MEANS BY WHICH THE TEMPORARY LACTATION LOCATION IS CREATED (E.G., THE
2 CURTAIN), AND THE ITEMS CONTAINED THEREIN (E.G., THE CHAIR, TABLE OR SHELF, ETC.)
3 SHOULD NOT BE MODIFIED DURING THE DURATION OF AN EMPLOYEE'S NEED TO EXPRESS
4 MILK. WHILE AN EMPLOYEE EXPRESSES MILK, THE LACTATION LOCATION SHOULD BE FREE
5 FROM INTRUSION BY OTHER PERSONS BY MEANS OF A LATCH OR OTHER CLOSURE
6 MECHANISM. THE TEMPORARY LACTATION SPACE SHOULD HAVE SIGNAGE VISIBLE TO
7 OTHER EMPLOYEES DESIGNATING THE AREA AS A LACTATION LOCATION FOR THE
8 DURATION OF AN EMPLOYEE'S NEED TO EXPRESS MILK. THE EMPLOYER SHOULD PROVIDE
9 NOTICE TO EMPLOYEES OF THE EXISTENCE AND PURPOSE OF THE TEMPORARY LACTATION
10 LOCATION AND THAT IT SHOULD NOT BE DISTURBED.

11 (C) (B) RULES AND REGULATIONS.

12 THE COMMISSION'S RULES AND REGULATIONS MUST INCLUDE:

- 13 (1) THE CRITERIA FOR ESTABLISHING AN UNDUE HARDSHIP AS DESCRIBED IN
14 SUBSECTION (A) OF THIS SECTION;
- 15 (2) THE PROCEDURES, FORMS, AND DOCUMENTATION REQUIRED TO APPLY FOR THE
16 WAIVER OR VARIANCE; AND
- 17 (3) THE PROCEDURES FOR THE COMMISSION'S HEARING ON AND CONSIDERATION OF
18 THE APPLICATION.

19 §§ 16-15 TO 16-19. {RESERVED}

20 *PART 3. EMPLOYER POLICY AND PROCESS; RECORDS*

21 § 16-20. EMPLOYER POLICY AND PROCESS.

22 (A) *IN GENERAL.*

23 EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST DEVELOP AND IMPLEMENT A WRITTEN
24 LACTATION ACCOMMODATION POLICY.

25 (B) *MINIMUM CONTENTS.*

26 THE WRITTEN POLICY MUST:

- 27 (1) CONTAIN A STATEMENT THAT EMPLOYEES HAVE A LEGAL RIGHT TO REQUEST A
28 LACTATION ACCOMMODATION;
- 29 (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A LACTATION
30 ACCOMMODATION, WHICH PROCESS MUST, AT A MINIMUM:
- 31 (i) SPECIFY THE MEANS BY WHICH AN EMPLOYEE MUST SUBMIT THE REQUEST
32 TO THE EMPLOYER;

Council Bill 18-0276

1 (II) REQUIRE THE EMPLOYER TO RESPOND TO THE REQUEST WITHIN 5 BUSINESS
2 DAYS; AND

3 (III) REQUIRE THE EMPLOYER AND EMPLOYEE TO ENGAGE IN AN INTERACTIVE
4 PROCESS TO DETERMINE LACTATION BREAK PERIODS AND A LACTATION
5 LOCATION APPROPRIATE FOR THE EMPLOYEE;

6 (3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE LACTATION BREAKS
7 OR A LACTATION LOCATION, OR PROVIDES A LACTATION LOCATION THAT DOES
8 NOT FULLY COMPLY WITH PART 2 OF THIS SUBTITLE, OR ASSERTS ANY WAIVER OR
9 VARIANCE GRANTED UNDER § 16-14 {"WAIVER OR VARIANCE FOR UNDUE
10 HARDSHIP"} OF THIS SUBTITLE, THE EMPLOYER WILL BE REQUIRED TO DESCRIBE, IN
11 A WRITTEN RESPONSE TO THE REQUEST, THE SPECIFIC BASES ON WHICH THE
12 EMPLOYER HAS DONE SO;

13 (4) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS
14 SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS
15 COMMISSION; AND

16 (5) STATE THAT RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING THE RIGHTS
17 CONFERRED BY THIS SUBTITLE IS PROHIBITED.

18 (C) *EMPLOYER TO KEEP COPIES OF ALL RESPONSES.*

19 THE EMPLOYER MUST RETAIN, IN ACCORDANCE WITH § 16-21 {"EMPLOYER RECORDS"} OF
20 THIS SUBTITLE, A COPY OF ALL WRITTEN RESPONSES MADE UNDER THE POLICY REQUIRED
21 BY SUBSECTION (B)(3) OF THIS SECTION.

22 (D) *DISTRIBUTION OF POLICY.*

23 (1) THE EMPLOYER MUST DISTRIBUTE A COPY OF THE EMPLOYER'S LACTATION
24 ACCOMMODATION POLICY TO ALL EMPLOYEES:

25 (i) UPON THEIR HIRING; AND

26 (ii) AGAIN, WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

27 (2) THE EMPLOYER MUST ALSO OFFER A COPY OF THE LACTATION ACCOMMODATION
28 POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT PREGNANCY OR
29 PARENTAL LEAVE.

30 (3) IF THE EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS
31 AVAILABLE TO EMPLOYEES, THE LACTATION ACCOMMODATION POLICY MUST BE
32 INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

Council Bill 18-0276

1 § 16-21. EMPLOYER RECORDS.

2 (A) *IN GENERAL.*

3 EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST MAINTAIN A RECORD OF ALL REQUESTS
4 FOR A LACTATION ACCOMMODATION RECEIVED BY THE EMPLOYER.

5 (B) *REQUIRED CONTENTS.*

6 THE RECORD MUST INCLUDE THE FOLLOWING DOCUMENTATION:

7 (1) THE NAME OF THE EMPLOYEE;

8 (2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;

9 (3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE
10 EMPLOYEE AND EMPLOYER; AND

11 (4) A DESCRIPTION OF HOW THE EMPLOYER RESOLVED THE REQUEST.

12 (C) *RETENTION PERIOD; INSPECTION.*

13 THE EMPLOYER MUST:

14 (1) RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION FOR A
15 PERIOD OF 3 YEARS FROM THE DATE OF THE REQUEST FOR LACTATION
16 ACCOMMODATION; AND

17 (2) ALLOW THE COMMUNITY RELATIONS COMMISSION ACCESS TO THAT RECORD,
18 SUBJECT TO REASONABLE NOTICE, TO MONITOR COMPLIANCE WITH THE
19 REQUIREMENTS OF THIS SUBTITLE.

20 (D) *AFFECT OF FAILURE TO COMPLY.*

21 IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, IF THE EMPLOYER
22 HAS FAILED TO MAINTAIN OR RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY
23 THIS SECTION, OR DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THEM, IT
24 WILL BE PRESUMED THAT THE EMPLOYER HAS VIOLATED THIS SUBTITLE, ABSENT CLEAR
25 AND CONVINCING EVIDENCE OTHERWISE.

26 §§ 16-22 TO 16-24. *{RESERVED}*

27 *PART 4. ADMINISTRATIVE ENFORCEMENT*

28 § 16-25. COMPLAINT TO COMMUNITY RELATIONS COMMISSION.

29 (A) *COMPLAINT AUTHORIZED.*

Council Bill 18-0276

1 (1) ANY PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A
2 COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION.

3 (2) THE COMPLAINT SHALL BE FILED, INVESTIGATED, AND HEARD IN THE SAME MANNER
4 AS THAT PROVIDED IN CITY CODE ARTICLE 4 {"COMMUNITY RELATIONS"}, SUBTITLE
5 4 {"ENFORCEMENT"}, FOR ALLEGED VIOLATIONS OF THAT ARTICLE'S UNLAWFUL
6 DISCRIMINATORY EMPLOYMENT PRACTICES.

7 ~~(B) DECISION AND ORDER.~~

8 ~~IN ITS DECISION AND ORDER, THE COMMISSION MAY AWARD THE AGGRIEVED PERSON:~~

9 ~~(1) BACK PAY FOR LOST WAGES CAUSED BY THE VIOLATION OF THIS SUBTITLE;~~

10 ~~(2) REINSTATEMENT;~~

11 ~~(3) COMPENSATORY DAMAGES, WHICH MAY INCLUDE:~~

12 ~~(I) COMPENSATION FOR HUMILIATION, EMBARRASSMENT, AND EMOTIONAL~~
13 ~~DISTRESS; AND~~

14 ~~(II) EXPENSES INCURRED IN SEEKING OTHER EMPLOYMENT; AND~~

15 ~~(4) REASONABLE ATTORNEY'S FEES.~~

16 **§ 16-26. JUDICIAL AND APPELLATE REVIEW.**

17 (A) *JUDICIAL REVIEW.*

18 A PARTY AGGRIEVED BY THE FINAL DECISION OF THE COMMUNITY RELATIONS
19 COMMISSION MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT
20 COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF
21 PROCEDURE.

22 (B) *APPELLATE REVIEW.*

23 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE
24 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
25 PROCEDURE.

26 **§ 16-27. {RESERVED}**

27 ***PART 5. PROHIBITED CONDUCT; CRIMINAL PENALTIES***

28 **§ 16-28. RETALIATION OR DISCRIMINATION PROHIBITED.**

29 NO EMPLOYER OR OTHER PERSON MAY TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR
30 OTHERWISE RETALIATE OR DISCRIMINATE AGAINST ANY PERSON AS A REPRISAL FOR THAT

Council Bill 18-0276

1 PERSON'S HAVING ALLEGED A VIOLATION OF THIS SUBTITLE OR OTHERWISE HAVING
2 EXERCISED A RIGHT GRANTED BY THIS SUBTITLE.

3 § 16-29. {RESERVED}

4 § 16-30. CRIMINAL PENALTIES.

5 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION
6 ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS
7 SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS
8 OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

9 SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance
10 are not law and may not be considered to have been enacted as a part of this or any prior
11 Ordinance.

12 SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90th day
13 after the date it is enacted.

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City

BY adding

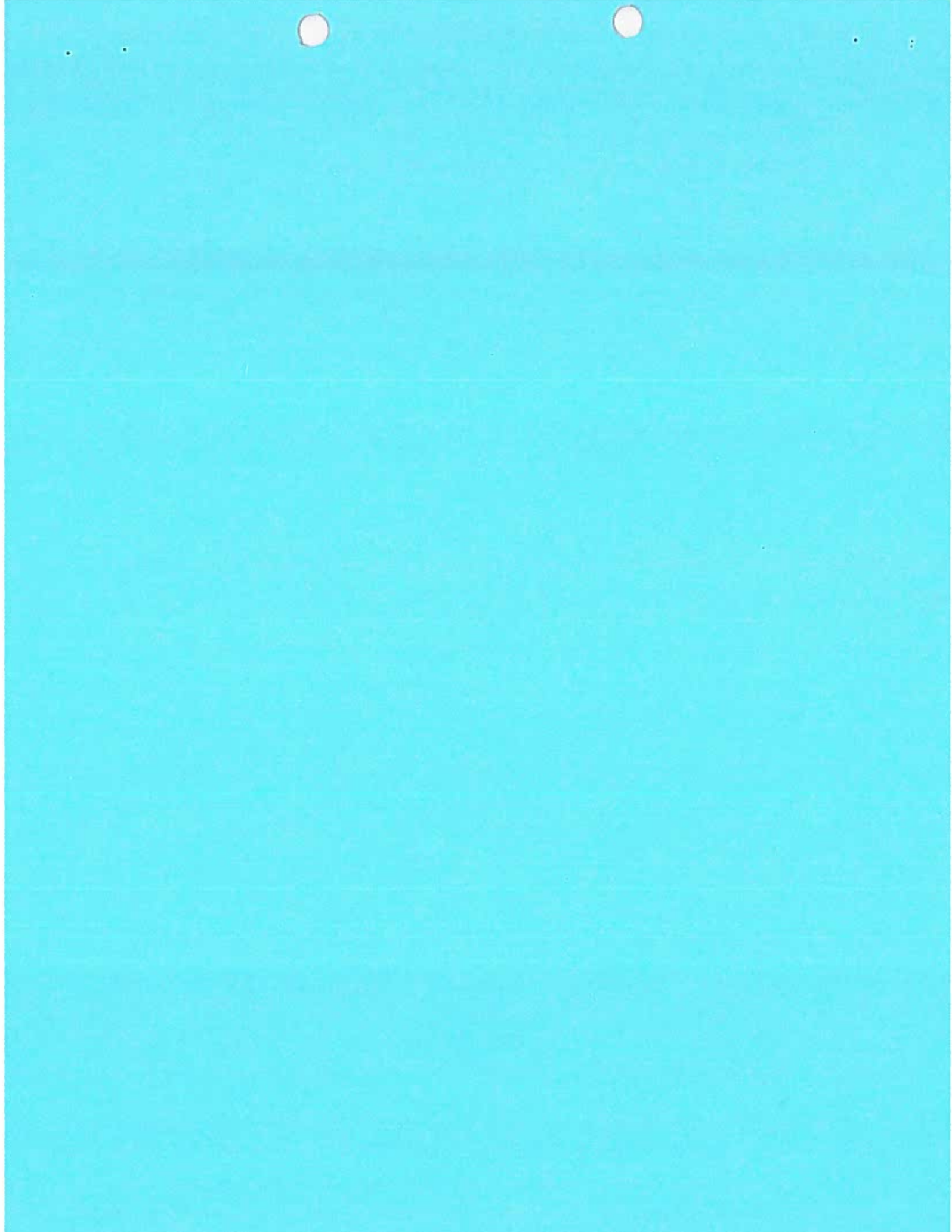
Article 11 - Labor and Employment

Sections 16-1 through 16-30, to be under the new subtitle designation,

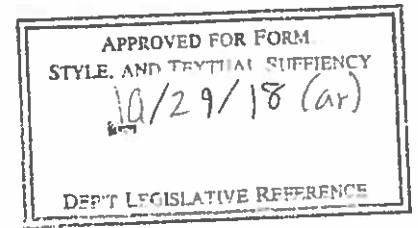
“Lactation Accommodation in the Workplace”

Baltimore City Code

(Edition 2000)



AMENDMENTS TO COUNCIL BILL 18-0276
(1" Reader Copy)



By: Councilmember Sneed
{To be offered on the Council Floor}

Amendment No. 1

On page 5, in lines 21 and 22, strike "(A)" and "(B)", respectively, and substitute "(I)" and "(II)", respectively, and in line 21, strike "AND".

Amendment No. 2

On page 5, after line 21, insert

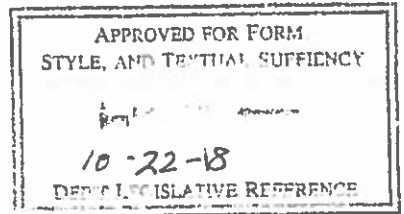
ADOPTED

"A. IS AVAILABLE ON 2 ADJACENT FLOORS; OR
B. IS ACCESSIBLE VIA A FUNCTIONAL ELEVATOR; AND".

Amendment No. 3

On page 11, in line 11, after "\$500", strike "OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FINE AND IMPRISONMENT".

AMENDMENTS TO COUNCIL BILL 18-0276
(1st Reader Copy)



By: Labor Committee

Amendment No. 1

On page 7, after line 9, insert

ADOPTED

“(B) TEMPORARY LACTATION LOCATION AS A VARIANCE.

AN EMPLOYER MAY APPLY TO THE COMMUNITY RELATIONS COMMISSION TO DESIGNATE A SPACE WITHIN A ROOM AS A TEMPORARY LACTATION LOCATION, IN PLACE OF A PERMANENT LACTATION LOCATION, OR A ROOM THAT IS A MULTIPURPOSE LACTATION LOCATION IF AN EMPLOYER CAN DEMONSTRATE THAT A PERMANENT LACTATION LOCATION OR A ROOM THAT IS A MULTIPURPOSE LACTATION LOCATION WOULD IMPOSE AN UNDUE HARDSHIP BY CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY FOR THE EMPLOYER. A TEMPORARY LACTATION LOCATION COULD BE CREATED USING SCREENING OR CURTAINS.

THE MEANS BY WHICH THE TEMPORARY LACTATION LOCATION IS CREATED (E.G., THE CURTAIN), AND THE ITEMS CONTAINED THEREIN (E.G., THE CHAIR, TABLE OR SHELF, ETC.) SHOULD NOT BE MODIFIED DURING THE DURATION OF AN EMPLOYEE’S NEED TO EXPRESS MILK. WHILE AN EMPLOYEE EXPRESSES MILK, THE LACTATION LOCATION SHOULD BE FREE FROM INTRUSION BY OTHER PERSONS BY MEANS OF A LATCH OR OTHER CLOSURE MECHANISM. THE TEMPORARY LACTATION SPACE SHOULD HAVE SIGNAGE VISIBLE TO OTHER EMPLOYEES DESIGNATING THE AREA AS A LACTATION LOCATION FOR THE DURATION OF AN EMPLOYEE’S NEED TO EXPRESS MILK. THE EMPLOYER SHOULD PROVIDE NOTICE TO EMPLOYEES OF THE EXISTENCE AND PURPOSE OF THE TEMPORARY LACTATION LOCATION AND THAT IT SHOULD NOT BE DISTURBED.”;

and, on page 7, in line 10, strike “(B)” and substitute “(C)”.

Amendment No. 2

On page 10, strike lines 10 through 18 in their entirety.

ADOPED

BALTIMORE CITY COUNCIL

*

VOTING RECORD

DATE: October 17, 2018

BILL#: 18-0276

BILL TITLE: Lactation Accommodation in the Workplace

MOTION BY: Mary Pat Clarke SECONDED BY: Robert Stokes

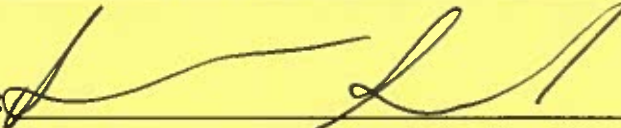
FAVORABLE

FAVORABLE WITH AMENDMENTS


UNFAVORABLE

WITHOUT RECOMMENDATION

NAME	YEAS	NAYS	ABSENT	ABSTAIN
Sneed, Shannon, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stokes, Robert, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costello, Eric	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarke, Mary Pat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry, Bill	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS	5			

CHAIRPERSON: 

COMMITTEE STAFF: Samuel Johnson, Initials: 

FROM	NAME & TITLE	Lauren Jackson, Community Relations Representative	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Office of Civil Rights and Wage Enforcement 7 E. Redwood Street, 9 th Floor Baltimore, MD 21202		
	SUBJECT	Council Bill 18-0276: Lactation Accommodations in the Workplace		

DATE: October 16, 2018

TO The Honorable President and Members of the Baltimore City Council
 Attn. Natawna B. Austin, Executive Secretary
 Room 409, City Hall
 100 N. Holliday Street

The Office of Civil Rights has reviewed City Council Bill 18-0276. This bill requires employers to provide lactation accommodations, in addition to recommending the policy and procedures that would oversee such accommodations. Because the Office of Civil Rights, and in particular the Community Relations Commission (CRC), has been tasked by the bill to provide administrative enforcement, the agency and CRC recommend that the policies set forth in proposed Article 11, Subtitle 16 be encapsulated within the scope of Article 4 of the Baltimore City Code. By encapsulating the current proposed policies into Section 4, the CRC would not have to create separate rules and regulations for which to govern this proposed legislation, thereby delaying expedient implementation.

The CRC enthusiastically supports this bill provided the following recommendations are adopted:

- Expand the definition of Familial status as defined by Article 4, Section 1-101(k) to include specific language in regards to lactation and post-partum health.
- Expand the definition of Employer as defined by Article 4, Section 1-101(i) in order to ensure that more employers (those with 2 or more employees) are covered in particular reference to lactation accommodations.
- Expand Article 4, Subtitle 3-1 to include the procedures laid out by the proposed Article 11, Subtitle 16-10 through 16-13 (Lactation Breaks, Lactation Location- In General, Lactation Location- Multi-Purpose Locations, Lactation Location- Multi-Tenant Buildings) and 16-20 through 16-21 (Employer Policy and Process, Employer Records).
- Eliminate language in regards to the "Waiver of Undue Hardship." Undue hardship could be asserted as a defense by the employer during the investigative process, therefore rendering the language around the waiver unnecessary. If, however, the "Waiver of Undue Hardship" is seen as vital by the sponsors of this bill, the CRC recommend that the waiver only be available for employers that have between 2 and 14 employees. Employers with 15 or more employees will be liable under the Pregnancy Discrimination Act of 1978.
- Eliminate criminal penalties. The CRC acknowledges that criminal penalties serve to express and enforce the seriousness of discrimination against those who are lactating. However, the CRC believes that the civil penalties outlined by Article 4 have the ability to provide significant remedial action.

The CRC has provided the attached document with specific language the CRC proposes to amend Article 4 of the Baltimore City Code to encapsulate the policies set forth in proposed Article 11, Subtitle 16 contained in City Council Bill 18-0276. The CRC believes that the outlined policies would greatly serve to protect lactating individuals from discrimination in the workplace. Therefore the Office of Civil Rights and the CRC fully support the passing of this Bill, provided the suggested recommendations are adopted.

cc: Bill P. Carter, Director
 Raemond A. Parrott, Supervisor

OCT 16 2018

BALTIMORE CITY COUNCIL
 PRESIDENT'S OFFICE

Sincerely,

 Lauren E. Jackson, Community Relations Representative

Favor Amend S

The CRC provides the following specific recommendations:

BY repealing and reordaining, without amendments (as recommended by City Council Bill 18-0276)

Article 4 - Community Relations

Section 1-101(a) and (f)(1)

Baltimore City Code

(Edition 2000)

BY repealing and reordaining, with amendments (as recommended by City Council Bill 18-0276)

Article 4 - Community Relations

Section 1-101(f)(3)

Baltimore City Code

(Edition 2000)

BY repealing and reordaining, with amendments

Article 4- Community Relations

Section 1-101(k), Section 3-101

EXPLANATION:

CAPITALS indicate matter added to existing law – language provided by City Council Bill 18-0276

CAPITALS & BOLD indicate matter added to existing law- language and location recommended by CRC.

[Brackets] indicate matter deleted from existing law.

[**Bolded brackets**] indicate matter deleted from proposed language provided by City Council Bill 18-0276

Article 4. Community Relations
Subtitle 1. Definitions; General Provisions

§ 1-1. Definitions.

(a) *In general.*

In this article, the following terms have the meanings indicated.

(f) *Discrimination.*

(1) "Discrimination" means any difference in the treatment of an individual or person because of race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, or gender identity or expression.

...

(3) However, it is not discrimination for:

...

(v) any person to provide:

(A) separate toilet facilities for males and females; OR

(B) LACTATION ACCOMMODATIONS FOR FEMALES

...

(i) Employer

(1) "Employer" means every person, other than fraternal and religious organizations, who employs 15 or more persons, exclusive of parents, spouse, or children of such a person during at least 15 days in the preceding 12 months

(I) IN REFERENCE ONLY TO THE REQUIREMENT THAT EMPLOYERS ACCOMMODATE EMPLOYEES WHO ARE LACTATING, EMPLOYER WILL BE DEFINED AS ANY PERSON WHO EMPLOYS 2 OR MORE EMPLOYEES

...

(k) Familial Status

(1) "Familial Status" defined as 1 or more individuals (who have not attained the age of 18 years being domiciled with

...

(3) THE PROTECTIONS AFFORDED AGAINST DISCRIMINATION ON THE BASIS OF FAMILIAL STATUS SHALL APPLY TO ANY PERSON WHO IS LACTATING AND/OR OTHERWISE PARTICIPATING IN ACTIONS ASSOCIATED WITH POST-PARTUM HEALTH

...

**Subtitle 3
Unlawful Practices**

§ 3-1. Employment.

Except where a particular occupation or position reasonably requires, as an essential qualification, the employment of a person or persons of a particular race, color, religion, national origin, ancestry, sex, age, marital status, physical or mental capability, sexual orientation, or gender identity or expression and that qualification is not adopted as a means of circumventing the purpose of this article, it is an unlawful employment practice:

...

(8) FOR AN EMPLOYER TO NOT PROVIDE A REASONABLE LOCATION AND AMOUNT OF BREAK TIME TO ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK. IN ORDER TO ACCOMMODATE AN EMPLOYEE WHO IS LACTATING, AN EMPLOYER MUST ADHERE TO THE FOLLOWING:

(I) LACTATION BREAKS.

(A) IN GENERAL. AN EMPLOYER MUST PROVIDE A REASONABLE AMOUNT OF BREAK TIME TO ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK. WHEN AND HOW PROVIDED.

(1) IF POSSIBLE, THE BREAK TIME REQUIRED BY THIS SECTION MUST RUN CONCURRENTLY WITH ANY PAID REST OR BREAK TIME ALREADY REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE.

(2) BREAK TIME REQUIRED BY THIS SECTION THAT DOES NOT RUN CONCURRENTLY WITH PAID REST OR BREAK TIME REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE MAY BE UNPAID.

(II) LACTATION LOCATION – IN GENERAL.

(A) "CLOSE PROXIMITY ..." DEFINED.

IN THIS SECTION, "CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA" MEANS NO MORE THAN 500 FEET AND TWO ADJACENT FLOORS FROM THE FURTHEST EMPLOYEE WORK AREA BEING SERVED.

(B) IN GENERAL.

(1) AN EMPLOYER MUST PROVIDE A LACTATION LOCATION, OTHER THAN A BATHROOM OR A CLOSET, THAT:

(A) IS IN CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA; AND

(B) SHIELDS ITS OCCUPANTS FROM VIEW AND FROM INTRUSION BY COWORKERS OR OTHERS.

(2) THE LACTATION LOCATION MAY INCLUDE THE PLACE WHERE THE EMPLOYEE NORMALLY WORKS IF IT OTHERWISE MEETS THE REQUIREMENTS OF THIS PART 2.

(C) SPECIFICATIONS.

THE LACTATION LOCATION MUST:

(1) BE SAFE, CLEAN, AND FREE OF TOXIC OR HAZARDOUS MATERIALS;

(2) LIMIT ACCESS TO IT BY A DOOR THAT CAN BE LOCKED FROM THE INSIDE; AND

(3) CONTAIN:

- (I) A SURFACE (E.G., A TABLE OR SHELF) ON WHICH TO PLACE A BREAST PUMP AND OTHER PERSONAL ITEMS;
- (II) A PLACE TO SIT;
- (III) AT LEAST ONE ELECTRICAL OUTLET; AND
- (IV) UNLESS ELSEWHERE PROVIDED BY THE EMPLOYER IN CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA:
 - (A) A SINK WITH RUNNING HOT AND COLD WATER; AND
 - (B) A REFRIGERATOR IN WHICH THE EMPLOYEE CAN STORE BREAST MILK.

(III) LACTATION LOCATION –MULTI-PURPOSE LOCATIONS.

AN EMPLOYER MAY PROVIDE A LACTATION LOCATION THAT IS ALSO USED FOR OTHER PURPOSES, BUT ONLY AS LONG AS:

- (1) THROUGHOUT THE PERIOD OF ANY EMPLOYEE'S NEED TO EXPRESS MILK, THE PRIMARY FUNCTION OF THE LOCATION IS ITS USE AS A LACTATION LOCATION;
- (2) DURING THAT PERIOD, THE LOCATION'S USE FOR LACTATION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS AND USES; AND
- (3) THE EMPLOYER PROVIDES NOTICE TO ALL EMPLOYEES WHO MIGHT OTHERWISE NEED TO USE THAT LOCATION FOR OTHER PURPOSES, THAT:
 - (I) THE LOCATION'S PRIMARY FUNCTION IS ITS USE AS A "LACTATION LOCATION"; AND
 - (II) THIS PRIMARY FUNCTION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS AND USES.

(IV) LACTATION LOCATION –MULTI-TENANT BUILDING.

IF AN EMPLOYER'S WORKSPACE IS INADEQUATE TO SATISFY THE REQUIREMENTS OF THIS PART 2 AND OTHER EMPLOYERS ARE LOCATED IN THE SAME BUILDING, THE EMPLOYER MAY FULFILL THE REQUIREMENTS OF THIS PART 2 BY PROVIDING A LACTATION LOCATION THAT:

- (1) IS SHARED BY 2 OR MORE EMPLOYERS IN THE BUILDING;
- (2) COMPLIES WITH § 3-1(8)(ii) ("LACTATION LOCATION – IN GENERAL") AND § 3-1(8)(iii) ("LACTATION LOCATION –MULTI-PURPOSE LOCATIONS"); AND
- (3) IS SUFFICIENT TO ACCOMMODATE THE NUMBER OF EMPLOYEES WHO MIGHT DESIRE TO USE IT AT ANY GIVEN TIME.

(V) EMPLOYER POLICY AND PROCESS.

(A) *IN GENERAL.*

EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST DEVELOP AND IMPLEMENT A WRITTEN LACTATION ACCOMMODATION POLICY.

(B) *MINIMUM CONTENTS.*

THE WRITTEN POLICY MUST:

- (1) CONTAIN A STATEMENT THAT EMPLOYEES HAVE A LEGAL RIGHT TO REQUEST A LACTATION ACCOMMODATION;
- (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A LACTATION ACCOMMODATION, WHICH PROCESS MUST, AT A MINIMUM:
 - (i) SPECIFY THE MEANS BY WHICH AN EMPLOYEE MUST SUBMIT THE REQUEST TO THE EMPLOYER;
 - (ii) REQUIRE THE EMPLOYER TO RESPOND TO THE REQUEST WITHIN 5 BUSINESS DAYS; AND
 - (iii) REQUIRE THE EMPLOYER AND EMPLOYEE TO ENGAGE IN AN INTERACTIVE PROCESS TO DETERMINE LACTATION BREAK PERIODS AND A LACTATION LOCATION APPROPRIATE FOR THE EMPLOYEE;
- (3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE LACTATION BREAKS OR A LACTATION LOCATION, OR PROVIDES A LACTATION LOCATION THAT DOES NOT FULLY COMPLY WITH [PART 2 OF THIS SUBTITLE] SUBTITLE 3-1(8)I-IV , [OR ASSERTS ANY WAIVER OR VARIANCE GRANTED UNDER § 16-14 ["WAIVER OR VARIANCE FOR UNDUE HARDSHIP"] OF THIS SUBTITLE], THE EMPLOYER WILL BE REQUIRED TO DESCRIBE, IN A WRITTEN RESPONSE TO THE REQUEST, THE SPECIFIC BASES ON WHICH THE EMPLOYER HAS DONE SO;

(4) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION; AND

(5) STATE THAT RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING THE RIGHTS CONFERRED BY THIS SUBTITLE IS PROHIBITED.

(C) EMPLOYER TO KEEP COPIES OF ALL RESPONSES.

THE EMPLOYER MUST RETAIN, IN ACCORDANCE WITH § 3-1(8)(vi) {"EMPLOYER RECORDS"} OF THIS SUBTITLE, A COPY OF ALL WRITTEN RESPONSES MADE UNDER THE POLICY REQUIRED BY SUBSECTION (B)(3) OF THIS SECTION.

(D) DISTRIBUTION OF POLICY:

(1) THE EMPLOYER MUST DISTRIBUTE A COPY OF THE EMPLOYER'S LACTATION ACCOMMODATION POLICY TO ALL EMPLOYEES:

(i) UPON THEIR HIRING; AND

(ii) AGAIN, WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

(2) THE EMPLOYER MUST ALSO OFFER A COPY OF THE LACTATION ACCOMMODATION POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT PREGNANCY OR PARENTAL LEAVE.

(3) IF THE EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS AVAILABLE TO EMPLOYEES, THE LACTATION ACCOMMODATION POLICY MUST BE INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

(VI) EMPLOYER RECORDS.

(A) IN GENERAL.

EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST MAINTAIN A RECORD OF ALL REQUESTS FOR A LACTATION ACCOMMODATION RECEIVED BY THE EMPLOYER.

(B) REQUIRED CONTENTS.

THE RECORD MUST INCLUDE THE FOLLOWING DOCUMENTATION:

(1) THE NAME OF THE EMPLOYEE;

(2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;

(3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE EMPLOYEE AND EMPLOYER; AND

(4) A DESCRIPTION OF HOW THE EMPLOYER RESOLVED THE REQUEST.

(C) RETENTION PERIOD; INSPECTION.

THE EMPLOYER MUST:

(1) RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION FOR A PERIOD OF 3 YEARS FROM THE DATE OF THE REQUEST FOR LACTATION ACCOMMODATION; AND

(2) ALLOW THE COMMUNITY RELATIONS COMMISSION ACCESS TO THAT RECORD, SUBJECT TO REASONABLE NOTICE, TO MONITOR COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(D) AFFECT OF FAILURE TO COMPLY.

IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, IF THE EMPLOYER HAS FAILED TO MAINTAIN OR RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION, OR DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THEM, IT WILL BE PRESUMED THAT THE EMPLOYER HAS VIOLATED THIS SUBTITLE, ABSENT CLEAR AND CONVINCING EVIDENCE OTHERWISE.

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor

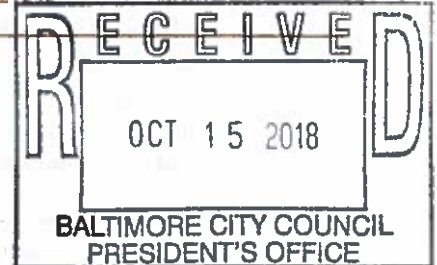


DEPARTMENT OF LAW

ANDRE M. DAVIS, CITY SOLICITOR
100 N. Holliday Street
Suite 101, City Hall
Baltimore, Maryland 21202

October 15, 2018

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



favorable with amendments

Re: City Council Bill 18-0276 – Lactation Accommodations in the Workplace

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 18-0276 for form and legal sufficiency. The bill requires certain employers to provide certain lactation accommodations and to develop, distribute and implement certain policies and procedures for providing these accommodations; establishes minimum standards for lactation accommodations; defines certain terms, provides for certain exceptions and authorizes certain waivers or variances under certain conditions; requires employers to maintain certain records; prohibits retaliatory or discriminatory actions against persons exercising rights under this ordinance; authorizes the adoptions of rules and regulations to carry out the ordinance, provides for administrative, judicial and appellate review of and remedial relief for violations; imposes certain criminal penalties for violations and provides for a special effective date.

Federal law, as part of the Affordable Care Act, requires certain employers to provide “reasonable break time” and a private location (not a bathroom) for nursing mothers to express breast milk for one year after the child’s birth. 29 U.S.C.A. § 207 (r)(1). The employer is not required to pay the employee for the time spent and employers with less than 50 employees may be excepted from the requirement if it would “impose an undue hardship” “when considered in relation” to the size or nature of the employer’s business. 29 U.S.C.A. § 207 (r)(2), (3). The law expressly allows for states to pass “greater protections to employees” and many states and cities have done so. 29 U.S.C.A. § 207 (r)(4). Although Maryland does not have a parallel provision for private employers, the General Assembly recently passed a law requiring certain state agencies to provide a private lactation room for nursing mothers. Md. Code, State Personnel and Pensions, § 2-310. Similarly, the City has a policy that requires lactation accommodations for City employees for one year after the birth of their child. AM 204-7.

As expressly authorized by federal law, Bill 18-0276 imposes stricter and more specific requirements for lactation accommodations on employers. The bill, for example, requires that the lactation location be in close proximity to the employee’s work area, have a door that locks from the inside, contain a surface to place materials needed, a place to sit, an electrical outlet and

a sink and refrigerator close by. CCB 18-0276, p. 5 line 13- p.6 line 9. The bill broadens the waiver permitted by Federal law to include any employer demonstrating an undue hardship in relation to the nature of his business. CCB 18-0276, p. 7 lines 1-9. The bill broadens the scope of application as federal law exempts certain types of employers. Since federal law expressly allows "greater protections to employees" the bill can go further and apply more broadly without preemption. 29 U.S.C.A. §207 (r)(4). Many other states and cities have passed similar laws with more stringent requirements and broader application. See, e.g. Colorado, CO ST § 8-13.5-104 and Philadelphia Police Code, Title 9 § 9-1103.

The City has the authority to legislate in this area, subject to federal and state law. City Charter, Art. II, §§ 11,27,47.


The bill requires employers to develop and implement a lactation accommodation policy which, among other requirements, gives notice to the employee that they have a right to request accommodation, requires the employer to respond in a certain amount of time, gives notice to the employee that she may file a complaint if a request is denied and that retaliation against the employee is prohibited. CCB 18-0276, p.7, line 19 – p.8, line 17. While this is potentially an impairment of the employment contract, to violate the Contract Clause, the impairment must be substantial and even then, can be overridden by a legitimate exercise of police power. *Bannum, Inc. v. Town of Ashland*, 922 F.2d 197 (4th Cir. 1990) (citing *Allied Structural Steel v. Spannaus*, 438 U.S. 234 (1978)). Requiring employers to implement an accommodation policy is not likely a "substantial" impairment of an employment contract and the requirement furthers the City's interest in protecting the rights of employees who are breastfeeding in the workplace. Therefore, the bill could withstand a freedom of contract challenge.

The bill allows the Commission to award an aggrieved person back pay, reinstatement, compensatory damages and reasonable attorney's fees. CCB 18-0276, p. 10, lines 10-18. The City does not have the authority to create a private cause of action, nor does it have the authority to provide these remedies. See *McCrary Corp. v. Fowler*, 319 Md. 12, 20 (1990). Section 16-25 (B) must therefore be removed from the bill.

Subject to the above amendment, the Law Department could approve the bill for form and legal sufficiency.

Sincerely, *ecm*
Ashlea H. Brown
Ashlea H. Brown
Assistant Solicitor

cc: Andre Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervalo, Chief Solicitor

F R O M	Name & Title	Mary Beth Haller, Esq. Interim Commissioner	Health Department AGENCY REPORT	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	Subject	18-0276 – Lactation Accommodations in the Workplace		

**To: President and Members
of the City Council
c/o 409 City Hall**

October 17, 2018

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review #18-0276. This legislation would require employers to provide break time and a safe and clean space for employees to express breast milk.

18-0276 would represent a major victory for public health, as well as gender and socioeconomic equity, in Baltimore City. Breast feeding is considered a medical best practice, one that was acknowledged by San Francisco in its similar 2017 lactation accommodation bill.¹ According to the American Academy of Pediatrics (AAP), it is recommended that infants “be fed breast milk exclusively for the first 6 months after birth.”² Similarly, the World Health Organization recommends that “infants be exclusively breastfed for the first 6 months after birth to achieve optimal growth, development, and health.”³

Yet, for most new mothers, breast feeding faces a number of different obstacles. Working mothers, especially those earning lower incomes, are limited in their ability to express milk during the day, specifically because of their workplace accommodations. The Society for Human Resource Management conducted a study in 2009, in which “only 25 percent of companies surveyed had lactation programs or made special accommodations for breastfeeding.”⁴ Also in 2009, a National Employment Law Project study found that “more than two-thirds (69 percent) [of surveyed low income workers] received no [work] break at all, had their break shortened, were interrupted by their employer, or worked during the break.”⁵

Other breast feeding obstacles include stigma and a lack of social supports. The United States Surgeon General noted, “Women with friends who have breastfed successfully are more likely to choose

¹ Ordinance No. 131-17, <https://sfgov.legistar.com/View.ashx?M=F&ID=5293283&GUID=D2832479-4890-4468-B365-BADB1F5AC8DC>

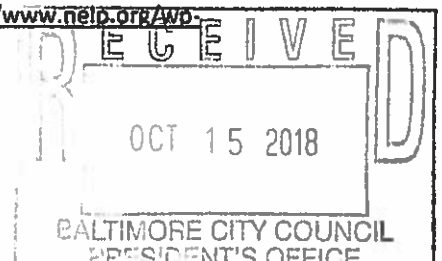
² American Academy of Pediatrics, “Breastfeeding and the use of human milk,” *Pediatrics*, 129(3), e827–e841, <http://pediatrics.aappublications.org/content/129/3/e827.full.pdf+html>

³ World Health Organization, “The World Health Organization’s infant feeding recommendation,” http://www.who.int/nutrition/topics/infantfeeding_recommendation/en/index.html

⁴ Society for Human Resource Management, “Employee benefits: examining employee benefits in a fiscally challenging economy,” www.shrm.org/Research/SurveyFindings/Articles/Documents/09-0295_Employee_Benefits_Survey_Report_spread_fnl.pdf

⁵ National Employment Law Project, “Broken Laws, Unprotected Workers,” <https://www.nelp.org/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf>


Fav w/ comments



to breastfeed. On the other hand, negative attitudes of family and friends can pose a barrier to breastfeeding." Moreover, "Embarrassment remains a formidable barrier to breastfeeding in the United States and is closely related to disapproval of breastfeeding in public."⁶ By passing this bill and enforcing its provisions, the City would likely be increasing the number of breast feeding mothers, thereby decreasing public stigma and increasing the support pool for said mothers.

For the forgoing reasons, the Baltimore City Health Department urges a favorable report on Council Bill #18-0276.

⁶ United States Surgeon General, "The Surgeon General's Call to Action to Support Breastfeeding," <https://www.ncbi.nlm.nih.gov/books/NBK52688/>

FROM	NAME & TITLE	Henry Raymond, Director <i>HMR</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Finance Room 454, City Hall (410) 396-4940		
	SUBJECT	City Council Bill 18-0276 – Lactation Accommodations in the Workplace		

DATE:

TO

The Honorable President and
Members of the City Council
Room 400, City Hall

September 20, 2018

City Council Bill #18-0276 was created for the purpose of requiring both private and public employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations.

To accomplish this goals mandated by the proposed legislation, the bill would create an avenue for employees to file grievance with the Baltimore Community Relations Commission, which would then also investigate the matter. The employer must also maintain a record of all lactation location requests and responses for a duration of three years.

The Finance Department review of this legislation focused on current policy, how the proposed bill differs, and any financial impact as a result of implementation of the proposal. The City's current policies are summarized as follows:

- Current Fair Labor Standards Act/Patient Protection and Affordable Care Act Policy (AM-207-1-4) provides a right to an employee to have reasonable break time to express milk up to 1 year after a child's birth and it requires access to a private space to express milk that is not a bathroom.
- Current Baltimore City Lactation Accommodations Policy (AM-204-7) applies to all City employees for up to one year after the birth of a child, allowing an employee to take reasonable breaks during the workday to express breast milk.

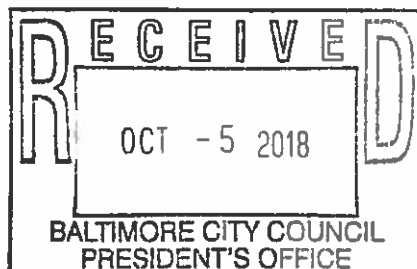
The proposed legislation provides greater accommodation than either of the current lactation policies. Specifically, the bill would remove the 1 year limit for providing lactation accommodation. The proposed requires that the lactation location must have an outlet, surface, seating, and doors that lock from the inside, while also being reasonably near a sink and refrigerator.

The proposed legislation would have a fiscal impact for both the City's operating and capital budgets, based on a preliminary analysis conducted by Department of General Services (DGS). DGS determined that implementing the proposed legislation would cost the City between \$5,000 to \$20,000 due to each City-owned building having specific needs and requirements, including situations where agency already provides lactation accommodation. The total cost of the proposed legislation is unknown and would require a survey of each City facility for compliance and/or upgrade requirements.

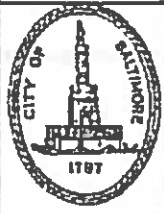
The Finance Department determined that without a survey a local businesses, providing the proposed legislation's fiscal impact is impossible.

Acknowledging the limited costs associated with the implementing the proposed legislation within City government; the Department of Finance supports this bill. However, the Finance Department takes no position on the fiscal impact for private businesses.

cc: Kyron Banks



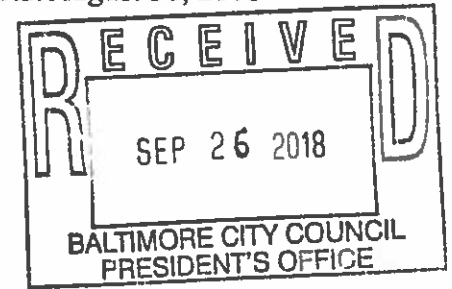
*Favorable
no position on
private businesses*

FROM	Name & Title	Steve Sharkey, Director	CITY OF BALTIMORE MEMO	
	Agency Name & Address	Department of General Services 200 Holliday Street, Suite 800 Baltimore, Maryland 21202		
	Subject	Support – City Council Bill 18-0276 – Lactation Accommodations in the Workplace		

TO: The Honorable President and Members of the City Council
 Room 409, City Hall
 100 N. Holliday Street
 Baltimore, Maryland 21202

DATE: August 30, 2018

Re: Support – City Council Bill 18-0276 – Lactation Accommodations in the Workplace



Dear President Young and Members of the City Council:

The Department of General Services reviewed City Council Bill 18-0276 – Lactation Accommodations in the Workplace as introduced by Councilwoman Sneed with the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations. The department **SUPPORTS** City Council Bill 18-0276 – Lactation Accommodations in the Workplace.

The department has taken a proactive approach to lactation accommodations by providing lactation accommodations in various city-owned properties. Over the last few years, DGS has placed lactation rooms in each City Hall, the Abel Wolman Municipal Building, the Charles L. Benton Building, the Health Department headquarters, and the George L. Winfield Fleet Maintenance Facility, respectively.

In planning its maintenance, renovation, and capital funding requests on behalf of various city agencies, DGS considers the existence of any legal mandate that requires the project to be performed. However, DGS is constrained by the budget allocations set by the Planning Department and the Department of Finance. Each agency should work closely with Finance and Planning to obtain the estimated funding necessary to meet their needs in their upcoming budget and to prioritize the requirements of the bill. We recommend that there be funding added to both the capital and operating budgets to ensure that the City can properly implement the requirements set forth in the bill.

The bill defines an employer as “any person who employs 2 or more full-time equivalent (FTE) employees working in the City of Baltimore” and a person as “any department, board, commission, council, authority, committee, office, or other unit of city government.” Based on our reading of this language in the proposed legislation, each individual unit with 2 or more FTEs of the city government will be responsible for the development of their own lactation accommodations. Thusly, DGS will continue to work closely with other agencies as they seek to meet the requirements of the bill and assist them as they determine their own specific needs and space limitations.

A

The Department of General Services reviewed City Council Bill 18-0276 – Lactation Accommodations in the Workplace and will continue to assist other agencies as they determine their own specific needs and space limitations. DGS requests that the bill be given favorable consideration by the City Council.

A handwritten signature in black ink, appearing to read "Steve Sharkey". The signature is fluid and cursive, with the first name "Steve" and last name "Sharkey" clearly distinguishable.

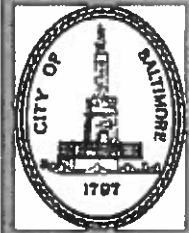
STEVE SHARKEY DIRECTOR

SS:rpt

Quinton Herbert

FROM	NAME & TITLE	Quinton Herbert, Acting Director and Chief Human Capital Officer
	AGENCY NAME & ADDRESS	Department of Human Resources 7 East Redwood Street, 17 th Floor Baltimore, Maryland 21202
	SUBJECT	Council Bill 18-0276: Lactation Accommodations in the Workplace

CITY of
BALTIMORE
MEMO



DATE: 9/11/2018

TO: Council President Young and Members of the City Council

Recommended Position

The Department of Human Resources ("DHR") reviewed the above captioned City Council Bill. This legislation seeks to extend and expand existing accommodation rights under Federal law that currently require employers to provide lactation accommodations in the workplace by lowering the threshold number of employees from employers with 50 or more employees to all Baltimore City employers with two or more full-time equivalent employees. In accordance with the City's existing Lactation Accommodation policy (AM-204-7), DHR supports Council Bill 18-0276.

Comments and Analysis

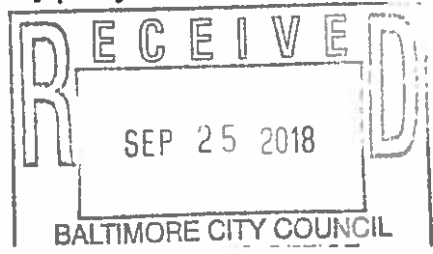
DHR recognizes that mothers are the fastest-growing segment of the nation's labor force. It is estimated that 70% of employed mothers with children younger than 3 years old work full time. Council Bill 18-0276 (the "Bill") proposes to expand the Federal and State mandated workplace accommodations afforded to nursing mothers to all employers with 2 or more full-time employees. The bill is consistent with City's existing policy (AM-204-7) which allows a nursing mother to express breast milk for her nursing child for a period of one year after the child's birth, as frequently and for as long a duration as that nursing mother may need each break. Consistent with the Bill, City employees are permitted to use regular meal and rest breaks for the purpose of expressing milk; and where additional time is needed, employees must use their accrued leave.

The Bill proposes specific requirements for location, conditions and equipment that must be made available to nursing mothers. Specifically, the Bill requires a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public; be equipped with a surface sufficient to handle a "breast pump", a place to sit, an electrical outlet; and have in close proximity a sink with running hot and cold water with a refrigerator to store the breast milk. Additionally, the Bill requires that the location be "proximate" to the employee's workspace (i.e. <500 feet or 2-adjacent floors away). With the exception of the specified proximity as proposed by this legislation, the City's current policy reflects these requirements.

The Bill proposes requirements for distributing and promoting the policy and process with regard to lactation and establishes the duty of an employer to respond to every employee request for accommodation within 5-days and also provide a written explanation to the employee in the event an employer is unable to provide location. DHR does not find these requirements onerous and believes strongly that are consistent with good HR practice and policy.

Accordingly, DHR supports Council Bill 18-0276 as serves to augment existing City policy and further our commitment to equality and access for all employees.

Fav w/ comments



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Minutes - Final

Labor Committee

Wednesday, October 17, 2018

5:00 PM

Du Burns Council Chamber, 4th floor, City Hall

18-0276

CHARM TV 25

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 5 - Member Shannon Sneed, Member Robert Stokes Sr., Member Eric T. Costello, Member Bill Henry, and Member Mary Pat Clarke

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0276

Lactation Accommodations in the Workplace

For the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees.

Sponsors: Shannon Sneed, President Young, Ryan Dorsey, Brandon M. Scott, John T. Bullock, Kristerfer Burnett, Bill Henry, Isaac "Yitzy" Schleifer, Leon F. Pinkett, III, Zeke Cohen, Eric T. Costello, Edward Reisinger, Robert Stokes, Sr., Sharon Green Middleton, Mary Pat Clarke

A motion was made by Member Clarke, seconded by Member Stokes, Sr., that bill 18-0276 be Recommended Favorably with Amendments. The motion carried by the following vote:

Yes: 5 - Member Sneed, Member Stokes Sr., Member Costello, Member Henry, and Member Clarke

ADJOURNMENT



HEARING NOTES

Bill: 18-0276

Lactation Accommodations in the Workplace

Committee: Labor

Chaired By: Councilmember Shannon Sneed

Hearing Date: October 17, 2018

Time (Beginning): 5:15 p.m.

Time (Ending): 5:50 p.m.

Location: Clarence "Du" Burns Chambers

Total Attendance: Approximately 35 – 40

Committee Members in Attendance:

- Sharon Sneed
- Robert Stokes
- Eric Costello
- Mary Pat Clarke
- Bill Henry

Bill Synopsis in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Attendance sheet in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Agency reports read?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Hearing televised or audio-digitally recorded?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Certification of advertising/posting notices in the file?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Evidence of notification to property owners?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Final vote taken at this hearing?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Motioned by:	Councilmember Clarke		
Seconded by:	Councilmember Stokes		
Final Vote:	Fav. with Amendments		

Major Speakers

(This is not an attendance record.)

- Ryan Trout, Dept. of General Services
- Caroline Sturgis, Dept. of Finance
- Raemond Parrot, Office of Civil Rights
- Eleana DiPietro, Law Dept.

- Jamar Rayne, Dept. of Human Resources
- Dr. Shelly Choo, Dept. of Health
- Rebecca Dineen, Dept. of Health

Major Issues Discussed

1. Councilwoman Sneed read the bill into the record and introduced committee members.
2. Ryan Trout, General Services – Read agency report into the record.
3. Caroline Sturgis, Finance – Read agency report into the record.
4. Raemond Parrott, Office of Civil Rights – Read agency report into the record.
5. Eleana DiPietro, Law Department – Read agency report into the record and offered an amendment to the bill.
6. Jamar Rayne, Human Resources – Read agency report into the record.
7. Dr. Shelly Choo, Health – Spoke about the positive effects that breastfeeding has on the health of the child.
 - She stated that breastfeeding wards off illnesses, reduces infections, and is a proven best practice in an effort to promote maternal health for the mother and baby.
8. Rebecca Dineen, Health – Spoke about the work that the health department is doing to reduce the infant mortality rate and creating a unified voice to support mothers to promote equity.
 - She stated that breast milk is good for premature babies and Baltimore has a high rate of premature children.
 - This legislation will support internal initiatives that they already have in place to reduce infant mortality rates which have currently decreased by 35%.
 - It would be her hope that this legislation helps to create a unified voice to promote breastfeeding and to support the 24,000 mothers currently receiving WIC (Women Infants and Children).

Public Testimony

1. Gia McGinnis – Maryland Public Health Association: She read her written testimony into the record. A copy was provided to the committee and can be found in the bill file.
2. Andrea Williams – Doula, Birth Equity Advocate: She read her written testimony into the record. A copy was provided to the committee and can be found in the bill file.
3. Matt Quinlan – Family League of Baltimore: She read her written testimony into the record. A copy was provided to the committee and can be found in the bill file.
4. Approximately 35 - 40 people testified at this hearing.
5. Amendment #1 was moved by Clarke and seconded by Stokes. This amendment passed.
6. Amendment #2 was moved by Clarke and seconded by Stokes. This amendment passed.
7. The bill was moved favorable as amended by Clarke and seconded by Stokes. The bill passed as amended.

Further Study

Was further study requested?

Yes No

If yes, describe. N/A

Committee Vote:

S. Sneed:..... Yea
R. Stokes:..... Yea
E. Costello:..... Yea
M. Clarke:..... Yea
B. Henry:..... Yea

Samuel Johnson , Committee Staff
(410) 396-1091
cc: Bill File
OCS Chrono File

Date: October 17, 2018



CITY OF BALTIMORE

CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: * Labor Committee Chairperson: * Shannon Sneed
 Date: October 17, 2018 Time: 5:00 p.m. Place: * Clarence "Du" Burns Council Chambers
 Subject: * - Lactation Accommodations in the Workplace CC Bill Number: 18-0276

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	St. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO	WHAT IS YOUR POSITION ON THIS BILL?	LOBBYIST: ARE YOU REGISTERED IN THE CITY?
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Gia	Grier McGinnis		MID Public Health Assn 6801 Carleton Ln, Columbia, MD	21045	ggriermcginn@gmail.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Andrea	Williams				cdm.m@bc.thmore.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Michelle	Quinlan	6015	Bellows Ave	21212	myquinlan@familyleague.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Suzie	McKenna		Mama Va / Columbus, MD	47201	Suziem@mamava.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Jeanne	Kayne	17	TE Redwood	21202	jeanney@redwoodcity.gov	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Rae	Parrott		Civil Right	21202	Raemond.Parrott	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.



**CITY OF BALTIMORE
CITY COUNCIL HEARING ATTENDANCE RECORD**

Committee: * Labor Committee Chairperson: * Shannon Sneed
 Date: October 17, 2018 Time: 5:00 p.m. Place: * Clarence "Du" Burns Council Chambers
 Subject: * - Lactation Accommodations in the Workplace CC Bill Number: 18-0276

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO	WHAT IS YOUR POSITION ON THIS BILL?	(*) LOBBYIST: ARE YOU REGISTERED IN THE CITY
John	Doe	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
Lauren	Jackson	204	Office of Civil Rights		lauren.jackson@baltimorecity.gov	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>
Jennifer	Mielke		JHU		jmielke39jhu.edu	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Amy	Summer		JHU		asummers@jhu.edu	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Yinka	Bode-Creer		MDPH1A		yinkabcs@gmail.com	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Danna	JACOBS		UMMS		djacobs@umw.edu	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Reyuanca	Serringsp		Baltimore Healthy Skin		rserringsp@BaltimoreHealthySkin.org	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730. FAX: 410-396-8483.

Lactation Accommodations in the Workplace 18- 0276

Baltimore City Council

Written Testimony- Andrea N. Williams, Doula, Birth Equity Advocate

Submitted in Support of 'Lactation Accommodations in the Workplace- 18-0276'

As 2018, comes to an end we have the potential to place a positive note on the troubling conditions of maternal and infant health, especially within the African American community. In the year of the #MeToo, #BlackLivesMatter and #TrustBlackWomen the state of women and the challenges we face have come to the forefront of the national conversation; and triggered a national call of change stemming from the possibility of a reversal of Roe v Wade. Baltimore City, has the opportunity to be send a resounding vote of support of birthing persons and their families. The "Lactation Accommodations in the Workplace" legislation is not just legislation impacting the workplace; but has the potential to have a lasting impact on public health by being another tool of advocates like myself to use in educating Baltimore residents on the benefits of breastfeeding.

In a city that ranks among the top twenty among cities for rates of breastfeeding, we are also a city in which a Black woman is three times more likely to have a poor birth outcomes and a city in which the rate of breastfeeding for Black women lags significantly behind that of their White counterparts. Over twenty years ago, I began this work to educate and save myself; now I work to save my daughters and grandchildren and their peers. When I began my breastfeeding journey, breast pumps could only be obtained with a written doctors note and was often not covered by insurance. With each birth of my children I had to make the decision on whether to return to work or to stay at home, for me and their father our desire to give them the best start in life, came with a sacrifice. My decision to stay home and continuing breastfeeding was rooted not only in the access to support devices, but also in the attitude toward breastfeeding, especially in the workplace. We both changed companies so that one of us could be home with the children and continue to breastfeed.

So, this new legislation is a game-changer in the lives of families across the city. No, longer will families have to choose between what they believe is best for them on their child and continuing their careers or providing for their families. As a advocate and educator, having this tool will allow me to now empower families to choose breastfeeding as a viable option.

Testimony in Support of Council Ordinance 18-0276 Lactation Accommodations in the Workplace

TO: Chair Sneed and members of the Labor Committee
FROM: Demaune A. Millard, President & CEO, Family League of Baltimore
DATE: October 17, 2018

As Baltimore City's Local Management Board, Family League of Baltimore (Family League) serves as an architect of change by promoting data-driven, collaborative initiatives and aligning resources to create lasting outcomes for children, youth, and families. We envision a Baltimore in which all children are born healthy, succeed in school, graduate high school, and transition into higher education and the workforce. The Mayor and City Council of Baltimore have been supportive of this vision by investing in the work of the B'More for Healthy Babies (BHB) collaborative, a set of partnerships between the Baltimore City Health Department, HealthCare Access Maryland, and Family League focused on the health and well-being of infants and families across the City.

BHB was formed in response to the city's dismal infant mortality rate in 2009— 128 babies died before their first birthdays in that year alone.¹ Prior to the BHB partnership, Black babies in Baltimore were five times more likely to die than White babies. Today, as a direct result of investments in BHB and the work of its partner organizations, the mortality gap between Black and White infants in Baltimore City has been reduced by 50 percent and the overall infant mortality rate has declined by 38 percent.

B'More for Healthy Babies has identified breastfeeding as a strategy in supporting infant health, especially during the first year of a child's life; additionally, expressing breast milk via breastfeeding or pumping has positive health benefits for women. BHB has breastfeeding support groups led by lactation counselors, and Baltimore City WIC hosts prenatal and breastfeeding classes, working closely with new and expecting mothers to support their plans to breastfeed.

¹ Baltimore City Health Department, 2017. *Baltimore City 2017 Neighborhood Health Profile*.
[https://health.baltimorecity.gov/sites/default/files/NHP%202017%20-%20000%20Baltimore%20City%20\(overall\)%20\(rev%206-22-17\).pdf](https://health.baltimorecity.gov/sites/default/files/NHP%202017%20-%20000%20Baltimore%20City%20(overall)%20(rev%206-22-17).pdf)

Benefits for Infants

Access to breast milk has been proven to yield positive health outcomes for infants and young children, including protection from ear infections, pneumonia, diabetes, leukemia, and a decreased likelihood of developing autoimmune conditions like childhood asthma. Due to its biochemical composition, breast milk is easily digested by infants, which leads to fewer instances of constipation, diarrhea, and upset stomach.² Most relevant to the mission of BHB is the strong link between breast milk consumption and decreases in instances of Sudden Infant Death Syndrome.³

Benefits for Lactating Individuals

Nursing parents and other previously pregnant people (including those who have miscarried, sought an abortion, or given the infant up for adoption) experience multiple benefits from being able to regularly express breast milk (through direct breastfeeding or machine-assisted pumping) including faster postpartum recovery, decreased risk for Type 2 diabetes, and decreased risk of breast and ovarian cancer.⁴ Delaying breastfeeding and/or expressing breast milk is associated with increased incidences of retained gestational weight gain, myocardial infarction, and metabolic syndrome.⁵

Family League of Baltimore supports City Council Ordinance 18-0276 as a critical support for working individuals who are breastfeeding and/or pumping. Our office includes a dedicated nursing and lactation room which is accessible to all employees in the building. If any members of the Council would like to tour the facility, we would be happy to arrange the visit. We applaud Councilwoman Sneed for her leadership and dedication to this issue and urge a favorable report by the Committee.

Demaune A. Millard,
President & CEO

For more information contact Matt Quinlan, Public Policy Manager, and Shamoyia Gardiner, Policy Research Analyst at policy@familyleague.org.

² New York State Department of Health, 2018. *Why is Breastfeeding Important for Your Baby?*
<https://www.health.ny.gov/prevention/nutrition/wic/breastfeeding/importance.htm>

³ B'More for Healthy Babies, 2016.

http://www.healthybabiesbaltimore.com/uploads/files/bmorehealthybabies_072016_readorder.pdf

⁴ Reviews in Obstetrics & Gynecology, 2009. *The Risks of Not Breastfeeding for Mothers and Infants.*
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2812877/>

⁵ *ibid.*



Mission: To improve public health in Maryland through education and advocacy

Vision: Healthy Marylanders living in Healthy Communities

18-0276: Lactation Accommodations in the Workplace
October 17, 2018
Position: Support

The Maryland Public Health Association thanks the Baltimore City Council for the opportunity to support legislation that would require employers to develop and implement lactation accommodation policies. Employer implementation would include providing a hazard-free, non-restroom lactation location for expressing milk and a lactation break. The legislation also prohibits employer retaliation towards employees seeking lactation accommodations and requires employers to disclose lactation accommodation policies to employees upon hire. This legislation would close the gap left by the federal “Break Time for Nursing Mothers Provision¹” by extending protections to non-exempt employees and employees working for businesses with less than 50 individuals.

There are numerous benefits of breastfeeding for both mothers and nursing infants. According to the Center for Disease Control and Prevention (CDC)², breastfed babies have a reduced risk of developing asthma, becoming obese, and developing ear and respiratory infections later in life. Mothers who breastfeed are less likely to develop ovarian and breast cancers, Type 2 diabetes, and heart disease than non-breastfeeding mothers². Numerous public health and medical associations have endorsed exclusive breastfeeding for 6 months, including the American Academy of Pediatrics³, American College of Obstetricians and Gynecologists⁴, and the American Academy of Family Physicians⁵. The American Public Health Association also endorses breastfeeding for 6 months in addition to supporting global maternal workplace protections and accommodations.^{6,7}

The CDC’s 2016 Breastfeeding Report Card revealed that Maryland was one of only 12 states to meet the Healthy People 2020 goal of 60.6% of infants (born in 2013) being breastfed at age 6 months⁸. A 2014 Baltimore Community Healthy Survey found that 61% of respondents with a child less than five years old in the home indicated that it was “very important” to breastfeed children during the first 6 months of life⁹. This legislation would broaden protections to ensure that Maryland remains a nation’s leader in meeting certain Healthy People 2020 breastfeeding goals, while continuing to move knowledge into action in Baltimore City, specifically. Thank you for your consideration.

¹ Wage and Hour Division (WHD) Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision. Available from: https://www.dol.gov/whd/nursingmothers/Sec7rFLSA_btmn.htm

² CDC Factsheet Why Breastfeeding Matters. Available from: <https://www.cdc.gov/breastfeeding/pdf/breastfeeding-cdcs-work.pdf>

³ AAP Policy Statement on Breastfeeding. Available from: <http://pediatrics.aappublications.org/content/115/2/496>

⁴ ACOG Policy Statement on Breastfeeding. Available from: <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Breastfeeding-in-Underserved-Women-Increasing-Initiation-and-Continuation-of-Breastfeeding>

⁵ AAFP Policy Statement on Breastfeeding. Available from: <https://www.aafp.org/about/policies/all/breastfeeding.html>

⁶ APHA Policy Statement on Breastfeeding. Available from: <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/09/15/26/an-update-to-a-call-to-action-to-support-breastfeeding-a-fundamental-public-health-issue>

⁷ APHA Policy Statement on Breastfeeding and Maternal Protections: <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2015/01/23/10/05/supporting-breastfeeding-worldwide-through-maternity-protection>

⁸ 2016 CDC Breastfeeding Reportcard. Available from: <https://www.cdc.gov/breastfeeding/pdf/2016breastfeedingreportcard.pdf>

⁹ Baltimore City Health Department. Community Health Survey Summary Results Report Available from: <http://health.baltimorecity.gov/sites/default/files/BCHD%20CHS%20Report%20Sept%2016%202015.pdf>

The Maryland Public Health Association (MdPHA) is a nonprofit, statewide organization of public health professionals dedicated to improving the lives of all Marylanders through education efforts and advocacy of public policies consistent with our vision of achieving healthy Marylanders living in healthy communities. MdPHA is the state affiliate of the American Public Health Association, a 142-year-old professional organization with more than 50,000 members dedicated to improving population health and reducing the health disparities that plague our state and our nation.

POSITION STATEMENT

POSITION STATEMENT PRESENTED TO THE BALTIMORE CITY COUNCIL'S LABOR COMMITTEE

COUNCIL BILL 18-0276 – LACTATION ACCOMMODATIONS IN THE WORKPLACE

October 17, 2018

**DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE**

POSITION: Support w/Amendments

On March 23, 2010, the Break Time for Nursing Mothers provision of the Fair Labor Standards Act became effective with the signing of the Affordable Care Act. Under this provision, employers with 50 or more employees are required to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth in a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public. Employers with less than 50 employees are exempt if the requirements would impose an undue hardship by causing the employer significant difficulty or expense.

Considering that seventy percent of mothers with children under 18 participate in the labor force, this was a much-needed accommodation to ensure that working mothers are able to care for their infant child while at their place of employment. The exemption for small businesses is important as it protects companies that may not be able to comply with the law for financial reasons or simply because of the structure of their physical space.

There are many states and localities across the country that have passed similar laws regarding lactation accommodations for women in the workplace. The most common language used in these local statutes – including Washington, D.C. – requires an employer to provide “reasonable” break periods to allow for a woman to express breast milk and that the employer must make “reasonable efforts” to provide a location, other than a toilet stall, where an employee can express her breast milk in privacy and security. Arkansas, California, Colorado, Connecticut, Georgia, Maine, New York, Tennessee, and Vermont all use the same “reasonable efforts” language as Washington, D.C.

Council Bill 18-0276 takes the aforementioned provision of the Fair Labor Standards Act a step further in mandating that all businesses in Baltimore City that employ two or more employees *must* provide a space, other than a toilet stall, where lactating mothers can express breast milk. The bill outlines the specifics of what must be included in the space, dictates that the space must be in close proximity (within 500 feet or two adjacent floors) to an employees work area, sets out reporting requirements for businesses, and establishes criminal penalties for noncompliance.

The Greater Baltimore Committee is supportive of this effort to expand the federal law to provide additional accommodations for lactating mothers. For many businesses, compliance with this bill should cause minimal hardship since the legislation specifies that an employees' regular work area can be used as a lactation space. However, for some businesses the requirements of the legislation would cause enormous undue burden and amendments should be adopted to hold those businesses harmless.

Two business groups that would have significant trouble complying with this legislation are hotels and hospitals because of the provision in the law specifying that the lactation space must be within two adjacent floors of an employee's work area. It is unreasonable to ask a hotel or a hospital – both typically housed in buildings with multiple floors – to dedicate an area on every third floor to be used as a lactation space. Many hospitals and hotels either already have lactation facilities in a designated area or have break rooms on one floor that could be used as

GREATER BALTIMORE COMMITTEE

111 South Calvert Street • Suite 1700 • Baltimore, Maryland • 21202-6180

(410) 727-2820 • www.gbc.org

lactation spaces. Requiring these entities to take away either guest space or previously appropriated patient care space to create a lactation facility on every third floor not only hurts the business but also the customers and patients the business is trying to serve. The GBC respectfully requests that language be added to the legislation exempting hotels, hospitals, and similar businesses from the "two adjacent floors" provision.

Another exemption that should be adopted applies to very small businesses, such as stores, that may not have the physical space to create a lactation space. The federal provision only applies to businesses with 50 or more employees. The GBC respectfully requests that this bill be amended to apply to businesses with 25 or more employees.

Lastly, the component of the legislation regarding criminal penalties should be removed altogether. Imposing a criminal penalty on a business owner for a first-time violation of this law is unconscionable. Effective financial penalties or other sanctions short of criminal liability are more appropriate ways to ensure compliance with this proposal.

For these reasons and others, we respectfully request a favorable vote on Council Bill 18-0276 contingent on the passage of the amendments discussed above.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 63-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.



Maryland Hotel
Lodging Association

**Testimony on City Council Bill
18-0276 – Lactation Accommodations in the Workplace
Support with Amendments**

Chairperson Sneed, Members of the Committee,

The Maryland Hotel Lodging Association supports the objective of this legislation, and we thank Chairperson Sneed for reaching out to us during the development of the bill. We greatly appreciate the willingness of Chairperson Sneed to provide feedback on our initial comments.

We look forward to a work session on this bill so that we can provide further comments and collaboration to create an even stronger piece of legislation. There are some amendments we would like to discuss with the Committee at a future work session.

Thank you for your consideration and we are open to discussing our comments.

For more information, contact:
Amy Rohrer, President & CEO
Maryland Hotel Lodging Association



MedStar Health

**City Council Bill 18-0276
Lactation-Accommodations in the Workplace
Labor Committee
Baltimore City Council
October 17, 2018**

Thank you for the opportunity to comment on City Council Bill 18-0276 Lactation-Accommodations in the Workplace. The bill requires that an employer provide a lactation location that is other than a bathroom or a closet that is in close proximity to the employees work area and shields its occupants from view from intrusion by coworkers or others. Additionally the lactation location must be clean and free of toxic or hazardous materials and it must limit access to it by a door that can be locked from the inside and contain a surface on which to place a breast pump and other personal items; a place to sit; at least one electrical outlet; and in close proximity to the employees work area. The legislation further requires that the lactation location be in close proximity to the employees work area-no more than 500 feet and if an employer violates any provision they are subject to a \$500 fine or imprisonment for up to 90 days or both.

As you are aware, all employers covered by the Fair Labor Standards Act (FLSA) are already required 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 such employee has need to express the milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. Consequently, we support the intent of this legislation but have some concerns about the requirement that lactation location must be within 500 feet and two adjacent floors from the employees work area.

Research suggests that mothers are the fastest-growing segment of the U.S. labor force. Approximately 70% of employed mothers with children younger than 3 years work full time. One-third of these mothers return to work within 3 months after birth and two-thirds return within 6 months. Working outside the home is related to a shorter duration of breastfeeding, and intentions to work full time are significantly associated with lower rates of breastfeeding initiation and shorter duration. Low-income women, among whom African American and Hispanic women are overrepresented, are more likely than their higher-income counterparts to return to work earlier and to be engaged in jobs that make it challenging for them to continue breastfeeding. Given the substantial presence of mothers in the work force, there is a strong need to establish lactation support in the workplace.

Breastfeeding is well recognized as a means to protect, promote and support the health of infants and young children. Human breast milk promotes optimal growth and development of a baby's brain, immune system, and general physiology. Research has shown breast milk to be an important factor in

decreasing the risk for common illnesses, including diarrhea and infections of the respiratory tract, ear and urinary tract. Evidence also suggests breastfeeding may decrease the risk of obesity, diabetes, and some childhood cancers.^{2, 3, 4} Breastfeeding also has definite health benefits for mothers. Evidence shows that breastfeeding reduces women's risk for breast and ovarian cancer, and may decrease the risk of developing Type 2 diabetes and osteoporosis later in life.

We certainly agree that providing a supportive environment for nursing employees enhances a company's reputation as one that is concerned for the welfare of its employees and their families. This ultimately earns a business a positive self-image in the community however, we cannot support the requirement that these accommodations are located within 500 feet of their work space nor can we support the imposition of penalties for an offense. The 500 feet requirement is arbitrary and impossible to calculate for each employee and penalties are already provided under federal law. We respectfully ask the committee to remove these provisions from the proposed legislation.

Johnson Jr., Samuel

From: Sneed, Shannon
Sent: Wednesday, October 17, 2018 3:08 PM
To: Cailey Locklair, City Council President; Cohen, Zeke; Scott, Brandon; Dorsey, Ryan; Henry, Bill (email); Schleifer, Isaac; Middleton, Sharon; Pinkett, Leon; Burnett, Kristerfer; Bullock, John; Reisinger, Edward; Costello, Eric; Stokes, Robert; Clarke, Mary Pat
Cc: Stuart-Sikowitz, Gabriel; Johnson Jr., Samuel
Subject: RE: 18-0276 Lactation Accommodations in the Workplace

Thanks Cailey for reaching out. Your email will be added to the bill file.

Shannon C. Sneed

City Councilwoman for the 13th District
100 Holliday Street, Room 550, Baltimore, MD 21202
Office: 410-396-4829 Fax: 410-347-0534
Email: Shannon.sneed@Baltimorecity.gov
Website: www.baltimorecitycouncil.com

From: Cailey Locklair [mailto:clocklairtolle@mdra.org]
Sent: Wednesday, October 17, 2018 3:00 PM
To: City Council President <City.CouncilPresident@baltimorecity.gov>; Cohen, Zeke <Zeke.Cohen@baltimorecity.gov>; Scott, Brandon <Brandon.Scott@baltimorecity.gov>; Dorsey, Ryan <Ryan.Dorsey@baltimorecity.gov>; Henry, Bill (email) <Bill.Henry@baltimorecity.gov>; Schleifer, Isaac <Isaac.Schleifer@baltimorecity.gov>; Middleton, Sharon <Sharon.Middleton@baltimorecity.gov>; Pinkett, Leon <Leon.Pinkett@baltimorecity.gov>; Burnett, Kristerfer <Kristerfer.Burnett@baltimorecity.gov>; Bullock, John <John.Bullock@baltimorecity.gov>; Reisinger, Edward <Edward.Reisinger@baltimorecity.gov>; Costello, Eric <Eric.Costello@baltimorecity.gov>; Stokes, Robert <Robert.Stokes@baltimorecity.gov>; Sneed, Shannon <Shannon.Sneed@baltimorecity.gov>; Clarke, Mary Pat <MaryPat.Clarke@baltimorecity.gov>
Subject: 18-0276 Lactation Accommodations in the Workplace

Honorable Members of the Baltimore City Council,

I write to you all with regard to Councilwoman Shannon Sneed's legislation pertaining to lactation room accommodations. We met last week and I wanted to be sure to share with you all our concerns as well.

Here is a link to the law California enacted, which has broader language about lactation room accommodations we would respectfully prefer. In essence, it says the following: "The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section. An employer is not required to provide an employee break time for purposes of lactating if to do so would seriously disrupt the operations of the employer." Condensing language in the legislation would significantly remove issues we foresee with compliance.

As many of you are aware, federal law already mandates nursing mothers be given breaktime in a room other than a bathroom. Most importantly though it states, "An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business." As I will discuss below, there are issues in the bill that will necessitate many employers going before the Commission to receive waivers as they will have immense difficulty meeting requirements in the bill.

I've outlined specific issues we discussed below:

1. PG 3 line 16 employer definition: The federal law mandate is applicable to businesses with 50 or more employees. Employers with less than 50 must also abide by the law unless the requirements impose an undue hardship. Perhaps we could reframe the bill in this fashion to help protect smaller employers who will have the hardest time complying- i.e. Main Street small businesses. Here is DOL's language: "An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business."
2. PG 5 lines 14-17 close proximity definition of 500 ft: With retail, it is hard to abide by this definition as grocery stores for instance cannot reconfigure a store to construct a room in an aisle, nor can we put curtains up in the middle of a clothing store aisle (which I don't believe the Council is shooting for either). We would respectfully ask this be removed as I believe we are looking to ensure there is a space a mother can access when needed as opposed to strict location requirements.
3. PG 6 lines 6-9: Close proximity we would like to see removed. Many retailers have bathrooms with sinks that would fulfil this requirement, but putting a sink elsewhere would be problematic for many retailers. A refrigerator may also be a challenge to smaller businesses as well that do not have break rooms as many don't even have an office with a door or room for inventory. I suppose the idea is if a fridge wouldn't be feasible, the employer could waive that with the commission?
4. PG 6 lines 13-14: California had to reword this provision as it is not clear as to whether this is referencing pumping happening at that time or the entire duration the female is lactating. I would recommend adding "while expressing breast milk" as California did to clear up confusion.
5. PG 6 lines 17-22: Providing notice to all employees is a privacy issue and could cause significant discomfort to the employee using the space. Employers do not share other

health oriented conditions or accommodations that are made and we would respectfully ask this is kept between the employer and employee.

6. PG 7 lines 19-31 and pg. 8-9 regarding employer policy, process and records: It would be helpful for the City to draft an example policy to help employers with their own policy and explaining the law. The state has done this for policies such as sick leave and here is an awesome example up on DLLR's website. As we discussed, I do not believe records should be required because we are implementing a law and the employee should not have to request the accommodation in writing. Either the employer can satisfy it, they cannot and ask for the waiver from the commission or they violate the law. This will keep things clear for everyone without requiring burdensome paperwork from the employee and response by the employer. Glad to work with you all on that, but I think there are many provisions that can just be removed in this section. Re the employer records- this sets a business up for keeping health records which is problematic.
7. PG 9 lines 20-25: We would respectfully ask the presumption of guilt is removed as the Commission will make that determination based on evidence they are presented with.
8. PG 10 lines 10-18: We would ask the business is first issued a warning and is allowed to rectify the issue before any penalties are assessed. We would also ask damages are removed. We understand and support the retaliatory provisions you have included which are consistent with federal law. I think we can agree that the majority of the time, the employer will willingly fix the problem, especially if they are not aware of the specifics. We also discussed, if the provision stays, that the commission would also be able to provide a remedy to the employer should they be found to be the aggrieved party. In other state pieces of legislation damages may be awarded to the prevailing party- employer or employee.
9. Pg. 11 lines 8-12: Because decriminalization is at the top of all of our minds, it does not make sense to charge an employer with a misdemeanor, fines and imprisonment should they be found guilty. We again point to a warning and ability to rectify the situation. For consistency and state violations with discrimination or accommodations, there are no criminal charges associated with violations.

Glad to speak with anyone further and as always, thank you for your time and consideration.

Cailey Locklair Tolle

President

Maryland Retailers Association,
Maryland Association of Chain Drug stores,
Tri State Jewelers Association,
& The Maryland Food Industry Council

171 Conduit Street

Annapolis MD 21401

O: 410-269-1440

C: 317-397-1918



**TESTIMONY ON BEHALF OF THE
UNIVERSITY OF MARYLAND MEDICAL SYSTEM ("UMMS")**

**Baltimore City Council Bill 18-0276
Lactation Accommodations in the Workplace**

Before the Baltimore City Council Labor Committee

Support with Amendments

October 17, 2018

Chairwoman Sneed and Members of the Committee,

Thank you for the opportunity to provide testimony on Council Bill 18-0276, Lactation Accommodations in the Workplace. The University of Maryland Medical System supports the intent, goals and spirit of this ordinance and we commend Councilwoman Sneed for its introduction. However, we have a few concerns with specific provisions of the bill and the impracticability of their application. A few amendments are necessary.

As a large hospital system, serving patients statewide, UMMS strongly supports lactation for new mothers, whether they are patients or employees. The science behind maternal breastfeeding is irrefutable. The benefits to the mom and baby are multi-faceted. Breastmilk is the best source of nutrition for most babies and it can help protect both mother and baby against some short- and long-term illnesses and diseases.

For these reasons and many others, the University of Maryland Medical Center ("UMMC") and the UMMC Midtown campus have long-held policies to promote breastfeeding in the workplace. Accommodations are made to provide safe, clean, comfortable lactation locations for working moms who choose to breastfeed and a written policy is in place to explain the process to acquire a lactation accommodation and support reasonable break times to enable a mother to pump breastmilk. In addition, UMMC constructed a centrally located lactation room, at significant cost, with five pumping stations and a complementary, hospital grade breast pump in each station. Also, to accommodate employee schedules and convenience, alternative private locations, such as call rooms or offices, are also available to nursing moms at both facilities.

As we interpret the proposed legislation, a fixed lactation room together with a private, flexible/multi-use space(s) (with a door lock, resting platform, and a chair) that takes precedence for lactation more than satisfies the intent of the proposed law. Similarly, multi-use space(s) dedicated to lactation when needed, even in the absence of a dedicated lactation room, would satisfy the bill. To that end, we are in support.

However, a few amendments would improve this bill greatly:

- (1) Additional clarity should be provided that a multi-purpose room(s), developed on an as needed basis, are sufficient to satisfy this proposed law.**

As stated above, some employers like UMMC have already developed conveniently located, dedicated lactation room(s). They may or may not be "proximal" to the employee's work space. Further, it may be impracticable to do so. In this case, there should be flexibility to "stand up" suitable lactation spaces within the employer's facility, as needed, with or without a fixed lactation location. An amendment to this effect is strongly encouraged:

Amendment No. 1:

On page 6, line 11, insert **"A")** before "AN EMPLOYER" ...

On page 6, line 22, insert **"B") AN EMPLOYER THAT PROVIDES A LACTATION LOCATION AS SPECIFIED IN SECTION (A) ABOVE SHALL BE DEEMED IN COMPLIANCE WITH THIS ORDINANCE.**

- (2) The specific distance requirements for the location of a lactation space should be stricken.**

In March 2010, the Patient Protection and Affordable Care Act amended the Fair Labor Standards Act (FLSA) to address break time for nursing mothers. While providing certain specifics related to the mother's privacy, etc., the federal law simply requires employers to provide a "reasonable break time for an employee to express breastmilk...", without, most notably, specific distance requirements. Similarly, many states, including Arkansas, California, Colorado, District of Columbia, Hawaii, Illinois, Indiana, Montana, Tennessee, Utah, and Virginia, have adopted legislation with the same clear intent as this bill and the FLSA. According to a compendium by the National Conference of State Legislators, these states require or encourage employers to make "reasonable efforts" to provide a suitable room for a mother to express milk. No state is as prescriptive as this bill in terms of the specific distance a lactation room must be from the mother's worksite, i.e., within 500 feet or two adjacent floors. Undoubtedly, there may be instances where a distance requirement cannot practically be met. In a hospital, for instance, there is often very limited, unoccupied space and patient care spaces must take precedence, despite that the hospital is committed to providing the most accommodating lactation space possible. An amendment striking the distance provision, 500 feet or two floors, is advised:

Amendment No. 2:

On page 5, strike lines 14-17.

On page 5, strike **"(B)"** and substitute **"(A)"**.

On page 5, line 26, strike **"(C)"** and substitute **"(B)"**.

- (3) The criminal penalties should be stricken from the bill.**

As written, a "person" is subject to up to a \$500 fine or imprisonment of up to 90 days. No individual should be subject to criminal penalties for failure to strictly adhere to this proposed law. Anyone aggrieved by their employer's conduct is free to make a complaint to the Community Relations Commission to have their concerns addressed. Appropriate legal remedies are provided within the context of the bill, § 16-25. COMPLAINT TO COMMUNITY RELATIONS COMMISSION, and judicial review is accorded if unsatisfied with the decision at the administrative level.

Amendment No. 3:

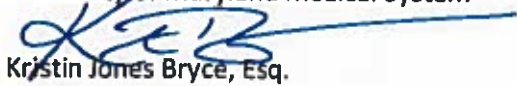
On page 11, strike lines 9-12 in their entirety.

Again, thank you for the opportunity to comment on this proposed bill.

Respectfully submitted,



Donna L. Jacobs, Esq.
SVP, Government, Regulatory and Community Health
University of Maryland Medical System



Kristin Jones Bryce, Esq.
VP, External Affairs
University of Maryland Medical System

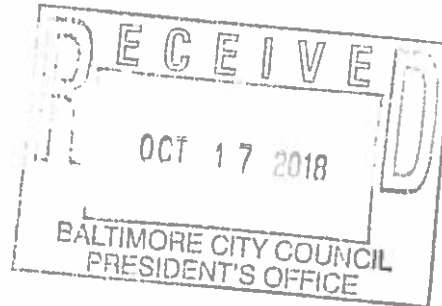
JOHNS HOPKINS

Government and Community Affairs

Suite 540
901 S. Bond Street
Baltimore MD 21231
443-287-9900 / Fax 443-287-9898

October 18, 2018

The Honorable Shannon Sneed
Chair
Labor Committee
Baltimore City Council
100 N. Holliday
Baltimore, Maryland 21202



RE: City Council Bill 18-0276 Lactation Accommodations in the Workplace

Dear Councilwoman Sneed:

Johns Hopkins University and Health System (herein "Johns Hopkins") is supportive of City Council Bill 18-0276 Lactation Accommodations in the Workplace, but respectfully request that the City Council amend its definition of close proximity of a lactation location to allow for more flexibility while still ensuring an effective and comfortable accommodation. In some instances across the institution it may be difficult to meet the distance requirements due to space/facility restrictions. As previously shared during the drafting of the legislation, research shows that accommodations are effective if located less than a 5-minute walk from an employee's work station, and that is Johns Hopkins' current practice. With its hospitals commonly at full capacity and administrative and research space limited, in order to meet the "proximity" requirement in the Bill No. 18-0276, Johns Hopkins would have to invest in substantial and costly renovations and/or purchase numerous commercially available "lactation pods" (as are available at BWI and even Penn Station), which we understand cost approximately \$20,000 for a single, ADA compliant pod.

We understand the Community Relations Commission will create the rules and regulations and that employer input will be sought and language will be proposed allowing more flexibility to meet employer's needs, especially in a hospital, clinical, or laboratory setting. Although the process and timeframe is unknown at this time, we look forward to participating to share our experiences in meeting the needs of breastfeeding mothers.

Again we are supportive of City Council Bill 18-0276, but reiterate our request for modification of the proximity requirement. We look forward to working with the Community Relations Commission as they establish the rules and regulations to carry out the legislation's purpose with support from Baltimore City employers.

Sincerely,

Joseph L. Smith

Joseph Smith
Director, Local Affairs

Jennifer J. Mielke

Jennifer J. Mielke
Director, Local and Community Affairs

Cc: The Honorable Bernard "Jack Young
The Honorable Robert Stokes
The Honorable Eric Costello
The Honorable Bill Henry
The Honorable Mary Pat Clarke



BILL SYNOPSIS

Committee: Labor

Bill 18-0276

Lactation Accommodations in the Workplace

Sponsor: Councilmember Sneed *

Introduced: August 6, 2018

Purpose:

For the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees..

Effective: On the 90th day after the date of enactment.

Hearing Date/Time/Location: October 17, 2018 / 5:00 p.m. / Clarence "Du" Burns Chamber

Agency Reports

Department of Finance	Favorable
Department of General Services	Favorable
Office of Civil Rights and Wage Enforcement	
Department of Law	
Department of Human Resources	Favorable
Health Department	

Analysis

Current Law:

Article 4 – Community Relations
Section 1 – 101(a) and (f) (1)
Baltimore City Code
(Edition 2000)

Article 11 – Community Relations
Section 1 – 101(f) (3)
Baltimore City Code
(Edition 2000)

Adding:

Article 11 – Labor and Employment
Sections 16 – 1 through 16 – 30, to be under the new subtitle designation,
“Lactation Accommodation in the Workplace”
Baltimore City Code
(Edition 2000)

Background

On March 23, 2010, the Patient Protection and Affordable Care Act amended Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision, to require employers to provide a nursing mother reasonable break time to express breast milk after the birth of her child. The amendment also requires that employers provide a place for an employee to express breast milk.

It further goes on to state under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207):

(r) (3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.

If enacted, bill 18-0276 would change the language under “employer” to mean any person who employs 2 or more full-time equivalent employees working in the City of Baltimore; to exclude federal and state government, and any instrumental unit of either. This is important given the number of small businesses that employ working mothers, as it is estimated that 70% of full-time working mothers have children younger than 3 years old.

In this legislation, under section 16-14: Waiver or Variance for Undue Hardship, employers would be able to submit and request a waiver in accordance with the rules and regulations established by the Baltimore City Community Relations Commission:

16-14. Waiver or Variance for Undue Hardship

(A) In General.

In accordance with the rules and regulations adopted under 16-4 {"Rules and Regulations"} of this subtitle, an employer may apply to the Community Relations Commission for a waiver or variance of any requirement of this Part 2 that the employer can demonstrate would impose an undue hardship by causing significant expense or operational difficulty when considered in relation to the size, financial resources, nature, or structure of the employer's business.

Baltimore City's Department of Human Resources, Lactation Accommodations Policy found in the Administrative Manual under section 204-7 establishes reasonable break time during the workday to express milk and requires agencies to provide an appropriate room for this purpose. The provisions in this policy applies to all City employees, including full and part-time, probationary, seasonal, and temporary employees, as well as elected officials and their appointed staff.

In the city's policy, employees may use up to five (5) days of accrued sick leave for lactation purposes. Sick leave used for lactation breaks will count toward the five-day maximum provided by labor agreement for the care of an immediate family member, where applicable. Employees may also use accrued personal, vacation, or compensatory leave. If the employee does not have enough accrued leave, her leave will be reduced in subsequent pay periods until the leave debt is satisfied. For businesses operating within the city limits and who do not have an established policy, the city's policy can serve as a template.

In accordance with the city existing policy, the Department of General Services has taken a proactive approach to lactation accommodations by providing lactation rooms in various city-owned properties such as: City Hall, the Abel Wolman Municipal Building, the Charles L. Benton Building, the Health Department Headquarters, and the George L. Winfield Fleet Maintenance Facility. In order to continue planning for the maintenance, renovation, and capital funding needed to ensure the department maintains the legal mandate required for these projects to be performed, other city agencies should work closely with the Department of Finance and Planning to obtain the estimated funding necessary to meet their needs in the upcoming budget and to prioritize the requirements of the bill. The estimated fiscal impact that this legislation would have on the city's operating and capital budgets would vary between \$5,000 and \$20,000 due to each building having specific needs and requirements, and some locations already providing lactation accommodations. Without an external survey being conducted there is no way for the city to estimate the fiscal impact that private businesses would incur.

Criminal Penalties.

Any person who violates any provision of this subtitle or of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 or imprisonment for not more than 90 days or both fine and imprisonment for each offense.

Additional Information

Fiscal Note: Not Available

Information Source(s): Agency Reports, Baltimore City Administrative Manual,
Fair Standards Labor Act of 1938 United States Code

Analysis by: Samuel Johnson, Jr.
Analysis Date: October 15, 2018

Direct Inquiries to: (410) 396-1091

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland
21202

Meeting Agenda - Final

Labor Committee

Wednesday, October 17, 2018

5:00 PM

Du Burns Council Chamber, 4th floor, City Hall

18-0276

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

18-0276

Lactation Accommodations in the Workplace

For the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees.

Sponsors:

Shannon Sneed, President Young, Ryan Dorsey, Brandon M. Scott, John T. Bullock, Kristerfer Burnett, Bill Henry, Isaac "Yitzy" Schleifer, Leon F. Pinkett, III, Zeke Cohen, Eric T. Costello, Edward Reisinger, Robert Stokes, Sr., Sharon Green Middleton, Mary Pat Clarke

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC

**CITY OF BALTIMORE
COUNCIL BILL 18-0276
(First Reader)**

Introduced by: Councilmember Sneed, President Young, Councilmembers Dorsey, Scott, Bullock, Burnett, Henry, Schleifer, Pinkett, Cohen, Costello, Stokes, Reisinger, Middleton, Clarke

Introduced and read first time: August 6, 2018

Assigned to: Labor Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Office of Civil Rights, Department of Human Resources, Health Department, *Department of General Services, Department of Finance*

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Lactation Accommodations in the Workplace**

3 FOR the purpose of requiring certain employers to provide certain lactation accommodations
4 (including lactation breaks and locations) and to develop, distribute, and implement certain
5 policies and procedures for providing these lactation accommodations; establishing minimum
6 standards for lactation accommodations; defining certain terms; providing for certain
7 exceptions and authorizing certain waivers or variances under certain conditions; requiring
8 employers to maintain certain records; prohibiting retaliatory or discriminatory actions
9 against persons exercising rights under this Ordinance; authorizing the adoption of
10 administrative rule and regulations to carry out this Ordinance; providing for administrative
11 and judicial review of and remedial relief for violations; imposing certain criminal penalties
12 for violations; providing for a special effective date; and generally relating to the required
13 provision of certain lactation accommodations for employees.

14 BY repealing and reordaining, without amendments

15 Article 4 - Community Relations
16 Section 1-101(a) and (f)(1)
17 Baltimore City Code
18 (Edition 2000)

19 BY repealing and reordaining, with amendments

20 Article 11 - Community Relations
21 Section 1-101(f)(3)
22 Baltimore City Code
23 (Edition 2000)

24 BY adding

25 Article 11 - Labor and Employment
26 Sections 16-1 through 16-30, to be under the new subtitle designation,
27 "Lactation Accommodation in the Workplace"
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 18-0276

1 (C) *EMPLOYEE.*

2 (1) *IN GENERAL.*

3 "EMPLOYEE" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
4 INDIVIDUAL WHO WORKS IN BALTIMORE CITY FOR AN EMPLOYER.

5 (2) *EXCLUSIONS.*

6 "EMPLOYEE" DOES NOT INCLUDE:

7 (I) AN INDIVIDUAL ENGAGED IN THE ACTIVITIES OF AN EDUCATIONAL,
8 CHARITABLE, RELIGIOUS, OR OTHER NONPROFIT ORGANIZATION WHERE THE
9 SERVICES RENDERED TO THAT ORGANIZATION ARE ON A VOLUNTARY BASIS OR
10 IN RETURN FOR CHARITABLE AID CONFERRED ON THE INDIVIDUAL;

11 (II) AN INDIVIDUAL WHO IS EMPLOYED BY HIS OR HER PARENT, SPOUSE, OR CHILD;
12 OR

13 (III) AN INDIVIDUAL WHO IS EMPLOYED AS A DOMESTIC WITHIN A PRIVATE
14 RESIDENCE.

15 (D) *EMPLOYER.*

16 (1) *EMPLOYER.*

17 "EMPLOYER" MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY
18 PERSON WHO EMPLOYS 2 OR MORE FULL-TIME EQUIVALENT EMPLOYEES WORKING IN
19 THE CITY OF BALTIMORE.

20 (2) *EXCLUSIONS.*

21 "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE
22 GOVERNMENT, OR ANY INSTRUMENTALITY OR UNIT OF EITHER.

23 (E) *LACTATION ACCOMMODATION.*

24 "LACTATION ACCOMMODATION" MEANS BOTH LACTATION BREAK AND LACTATION
25 LOCATION.

26 (F) *LACTATION BREAK.*

27 "LACTATION BREAK" MEANS THE BREAK TIME THAT AN EMPLOYER IS REQUIRED BY THIS
28 SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING BREAST MILK.

29 (G) *LACTATION LOCATION.*

30 "LACTATION LOCATION" MEANS THE SPACE, ROOM, OR LOCATION THAT AN EMPLOYER IS
31 REQUIRED BY THIS SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING
32 BREAST MILK.

Council Bill 18-0276

1 (H) *PERSON.*

2 (1) *IN GENERAL.*

3 "PERSON" MEANS:

4 (I) AN INDIVIDUAL;

5 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
6 KIND; OR

7 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
8 OR REPRESENTATIVE OF ANY KIND.

9 (2) *INCLUSIONS.*

10 "PERSON" INCLUDES, EXCEPT AS USED IN § 16-30 {"CRIMINAL PENALTIES"} OF THIS
11 SUBTITLE, ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,
12 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

13 **§ 16-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

14 (A) *MANDATORY TERMS.*

15 "MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
16 OR TO IMPOSE A DUTY.

17 (B) *PROHIBITORY TERMS.*

18 "MAY NOT" AND "NO ... MAY" ARE EACH MANDATORY NEGATIVE TERMS USED TO
19 ESTABLISH A PROHIBITION.

20 (C) *PERMISSIVE TERMS.*

21 "MAY" IS PERMISSIVE.

22 **§ 16-3. {RESERVED}**

23 **§ 16-4. RULES AND REGULATIONS.**

24 (A) *IN GENERAL.*

25 THE COMMUNITY RELATIONS COMMISSION MUST ADOPT RULES AND REGULATIONS TO
26 CARRY OUT THIS SUBTITLE.

27 (B) *FILING WITH LEGISLATIVE REFERENCE.*

28 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED
29 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

30 **§§ 16-5 TO 16-9. {RESERVED}**

PART 2. REQUIRED ACCOMMODATIONS

§ 16-10. LACTATION BREAKS.

(A) *IN GENERAL.*

AN EMPLOYER MUST PROVIDE A REASONABLE AMOUNT OF BREAK TIME TO ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK.

(B) *WHEN AND HOW PROVIDED.*

(1) IF POSSIBLE, THE BREAK TIME REQUIRED BY THIS SECTION MUST RUN CONCURRENTLY WITH ANY PAID REST OR BREAK TIME ALREADY REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE.

(2) BREAK TIME REQUIRED BY THIS SECTION THAT DOES NOT RUN CONCURRENTLY WITH PAID REST OR BREAK TIME REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE MAY BE UNPAID.

§ 16-11. LACTATION LOCATION – IN GENERAL.

(A) *“CLOSE PROXIMITY...” DEFINED.*

IN THIS SECTION, “CLOSE PROXIMITY TO THE EMPLOYEE’S WORK AREA” MEANS NO MORE THAN 500 FEET AND TWO ADJACENT FLOORS FROM THE FURTHEST EMPLOYEE WORK AREA BEING SERVED.

(B) *IN GENERAL.*

(1) AN EMPLOYER MUST PROVIDE A LACTATION LOCATION, OTHER THAN A BATHROOM OR A CLOSET, THAT:

(A) IS IN CLOSE PROXIMITY TO THE EMPLOYEE’S WORK AREA; AND

(B) SHIELDS ITS OCCUPANTS FROM VIEW AND FROM INTRUSION BY COWORKERS OR OTHERS.

(2) THE LACTATION LOCATION MAY INCLUDE THE PLACE WHERE THE EMPLOYEE NORMALLY WORKS IF IT OTHERWISE MEETS THE REQUIREMENTS OF THIS PART 2.

(C) *SPECIFICATIONS.*

THE LACTATION LOCATION MUST:

(1) BE SAFE, CLEAN, AND FREE OF TOXIC OR HAZARDOUS MATERIALS;

(2) LIMIT ACCESS TO IT BY A DOOR THAT CAN BE LOCKED FROM THE INSIDE; AND

(3) CONTAIN:

Council Bill 18-0276

1 (I) A SURFACE (E.G., A TABLE OR SHELF) ON WHICH TO PLACE A BREAST PUMP
2 AND OTHER PERSONAL ITEMS;

3 (II) A PLACE TO SIT;

4 (III) AT LEAST ONE ELECTRICAL OUTLET; AND

5 (IV) UNLESS ELSEWHERE PROVIDED BY THE EMPLOYER IN CLOSE PROXIMITY TO
6 THE EMPLOYEE'S WORK AREA:

7 (A) A SINK WITH RUNNING HOT AND COLD WATER; AND

8 (B) A REFRIGERATOR IN WHICH THE EMPLOYEE CAN STORE BREAST
9 MILK.

10 **§ 16-12. LACTATION LOCATION – MULTI-PURPOSE LOCATIONS.**

11 AN EMPLOYER MAY PROVIDE A LACTATION LOCATION THAT IS ALSO USED FOR OTHER
12 PURPOSES, BUT ONLY AS LONG AS:

13 (1) THROUGHOUT THE PERIOD OF ANY EMPLOYEE'S NEED TO EXPRESS MILK, THE PRIMARY
14 FUNCTION OF THE LOCATION IS ITS USE AS A LACTATION LOCATION;

15 (2) DURING THAT PERIOD, THE LOCATION'S USE FOR LACTATION TAKES PRECEDENCE OVER
16 ALL OTHER FUNCTIONS AND USES; AND

17 (3) THE EMPLOYER PROVIDES NOTICE TO ALL EMPLOYEES WHO MIGHT OTHERWISE NEED
18 TO USE THAT LOCATION FOR OTHER PURPOSES, THAT:

19 (i) THE LOCATION'S PRIMARY FUNCTION IS ITS USE AS A "LACTATION LOCATION";
20 AND

21 (ii) THIS PRIMARY FUNCTION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS
22 AND USES.

23 **§ 16-13. LACTATION LOCATION – MULTI-TENANT BUILDING.**

24 IF AN EMPLOYER'S WORKSPACE IS INADEQUATE TO SATISFY THE REQUIREMENTS OF THIS PART
25 2 AND OTHER EMPLOYERS ARE LOCATED IN THE SAME BUILDING, THE EMPLOYER MAY FULFILL
26 THE REQUIREMENTS OF THIS PART 2 BY PROVIDING A LACTATION LOCATION THAT:

27 (1) IS SHARED BY 2 OR MORE EMPLOYERS IN THE BUILDING;

28 (2) COMPLIES WITH § 16-11 {"LACTATION LOCATION – IN GENERAL"} AND § 16-12
29 {"LACTATION LOCATION – MULTI-PURPOSE LOCATIONS"} OF THIS PART 2; AND

30 (3) IS SUFFICIENT TO ACCOMMODATE THE NUMBER OF EMPLOYEES WHO MIGHT DESIRE TO
31 USE IT AT ANY GIVEN TIME.

Council Bill 18-0276

§ 16-14. WAIVER OR VARIANCE FOR UNDUE HARDSHIP.

(A) *IN GENERAL.*

IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED UNDER § 16-4 {"RULES AND REGULATIONS"} OF THIS SUBTITLE, AN EMPLOYER MAY APPLY TO THE COMMUNITY RELATIONS COMMISSION FOR A WAIVER OR VARIANCE OF ANY REQUIREMENT OF THIS PART 2 THAT THE EMPLOYER CAN DEMONSTRATE WOULD IMPOSE AN UNDUE HARDSHIP BY CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY WHEN CONSIDERED IN RELATION TO THE SIZE, FINANCIAL RESOURCES, NATURE, OR STRUCTURE OF THE EMPLOYER'S BUSINESS.

(B) *RULES AND REGULATIONS.*

THE COMMISSION'S RULES AND REGULATIONS MUST INCLUDE:

- (1) THE CRITERIA FOR ESTABLISHING AN UNDUE HARDSHIP AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION;
- (2) THE PROCEDURES, FORMS, AND DOCUMENTATION REQUIRED TO APPLY FOR THE WAIVER OR VARIANCE; AND
- (3) THE PROCEDURES FOR THE COMMISSION'S HEARING ON AND CONSIDERATION OF THE APPLICATION.

§§ 16-15 TO 16-19. {RESERVED}

PART 3. EMPLOYER POLICY AND PROCESS; RECORDS

§ 16-20. EMPLOYER POLICY AND PROCESS.

(A) *IN GENERAL.*

EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST DEVELOP AND IMPLEMENT A WRITTEN LACTATION ACCOMMODATION POLICY.

(B) *MINIMUM CONTENTS.*

THE WRITTEN POLICY MUST:

- (1) CONTAIN A STATEMENT THAT EMPLOYEES HAVE A LEGAL RIGHT TO REQUEST A LACTATION ACCOMMODATION;
- (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A LACTATION ACCOMMODATION, WHICH PROCESS MUST, AT A MINIMUM:
 - (i) SPECIFY THE MEANS BY WHICH AN EMPLOYEE MUST SUBMIT THE REQUEST TO THE EMPLOYER;

Council Bill 18-0276

1 (II) REQUIRE THE EMPLOYER TO RESPOND TO THE REQUEST WITHIN 5 BUSINESS
2 DAYS; AND

3 (III) REQUIRE THE EMPLOYER AND EMPLOYEE TO ENGAGE IN AN INTERACTIVE
4 PROCESS TO DETERMINE LACTATION BREAK PERIODS AND A LACTATION
5 LOCATION APPROPRIATE FOR THE EMPLOYEE;

6 (3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE LACTATION BREAKS
7 OR A LACTATION LOCATION, OR PROVIDES A LACTATION LOCATION THAT DOES
8 NOT FULLY COMPLY WITH PART 2 OF THIS SUBTITLE, OR ASSERTS ANY WAIVER OR
9 VARIANCE GRANTED UNDER § 16-14 {"WAIVER OR VARIANCE FOR UNDUE
10 HARDSHIP"} OF THIS SUBTITLE, THE EMPLOYER WILL BE REQUIRED TO DESCRIBE, IN
11 A WRITTEN RESPONSE TO THE REQUEST, THE SPECIFIC BASES ON WHICH THE
12 EMPLOYER HAS DONE SO;

13 (4) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS
14 SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS
15 COMMISSION; AND

16 (5) STATE THAT RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING THE RIGHTS
17 CONFERRED BY THIS SUBTITLE IS PROHIBITED.

18 (C) *EMPLOYER TO KEEP COPIES OF ALL RESPONSES.*

19 THE EMPLOYER MUST RETAIN, IN ACCORDANCE WITH § 16-21 {"EMPLOYER RECORDS"} OF
20 THIS SUBTITLE, A COPY OF ALL WRITTEN RESPONSES MADE UNDER THE POLICY REQUIRED
21 BY SUBSECTION (B)(3) OF THIS SECTION.

22 (D) *DISTRIBUTION OF POLICY.*

23 (1) THE EMPLOYER MUST DISTRIBUTE A COPY OF THE EMPLOYER'S LACTATION
24 ACCOMMODATION POLICY TO ALL EMPLOYEES:

25 (I) UPON THEIR HIRING; AND

26 (II) AGAIN, WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

27 (2) THE EMPLOYER MUST ALSO OFFER A COPY OF THE LACTATION ACCOMMODATION
28 POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT PREGNANCY OR
29 PARENTAL LEAVE.

30 (3) IF THE EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS
31 AVAILABLE TO EMPLOYEES, THE LACTATION ACCOMMODATION POLICY MUST BE
32 INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

Council Bill 18-0276

1 § 16-21. EMPLOYER RECORDS.

2 (A) *IN GENERAL.*

3 EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST MAINTAIN A RECORD OF ALL REQUESTS
4 FOR A LACTATION ACCOMMODATION RECEIVED BY THE EMPLOYER.

5 (B) *REQUIRED CONTENTS.*

6 THE RECORD MUST INCLUDE THE FOLLOWING DOCUMENTATION:

7 (1) THE NAME OF THE EMPLOYEE;

8 (2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;

9 (3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE
10 EMPLOYEE AND EMPLOYER; AND

11 (4) A DESCRIPTION OF HOW THE EMPLOYER RESOLVED THE REQUEST.

12 (C) *RETENTION PERIOD; INSPECTION.*

13 THE EMPLOYER MUST:

14 (1) RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION FOR A
15 PERIOD OF 3 YEARS FROM THE DATE OF THE REQUEST FOR LACTATION
16 ACCOMMODATION; AND

17 (2) ALLOW THE COMMUNITY RELATIONS COMMISSION ACCESS TO THAT RECORD,
18 SUBJECT TO REASONABLE NOTICE, TO MONITOR COMPLIANCE WITH THE
19 REQUIREMENTS OF THIS SUBTITLE.

20 (D) *AFFECT OF FAILURE TO COMPLY.*

21 IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, IF THE EMPLOYER
22 HAS FAILED TO MAINTAIN OR RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY
23 THIS SECTION, OR DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THEM, IT
24 WILL BE PRESUMED THAT THE EMPLOYER HAS VIOLATED THIS SUBTITLE, ABSENT CLEAR
25 AND CONVINCING EVIDENCE OTHERWISE.

26 §§ 16-22 TO 16-24. *{RESERVED}*

Council Bill 18-0276

PART 4. ADMINISTRATIVE ENFORCEMENT

§ 16-25. COMPLAINT TO COMMUNITY RELATIONS COMMISSION.

(A) COMPLAINT AUTHORIZED.

(1) ANY PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION.

(2) THE COMPLAINT SHALL BE FILED, INVESTIGATED, AND HEARD IN THE SAME MANNER AS THAT PROVIDED IN CITY CODE ARTICLE 4 {"COMMUNITY RELATIONS"}, SUBTITLE 4 {"ENFORCEMENT"}, FOR ALLEGED VIOLATIONS OF THAT ARTICLE'S UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES.

(B) DECISION AND ORDER.

IN ITS DECISION AND ORDER, THE COMMISSION MAY AWARD THE AGGRIEVED PERSON:

(1) BACK PAY FOR LOST WAGES CAUSED BY THE VIOLATION OF THIS SUBTITLE;

(2) REINSTATEMENT;

(3) COMPENSATORY DAMAGES, WHICH MAY INCLUDE:

(i) COMPENSATION FOR HUMILIATION, EMBARRASSMENT, AND EMOTIONAL DISTRESS; AND

(ii) EXPENSES INCURRED IN SEEKING OTHER EMPLOYMENT; AND

(4) REASONABLE ATTORNEY'S FEES.

§ 16-26. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

A PARTY AGGRIEVED BY THE FINAL DECISION OF THE COMMUNITY RELATIONS COMMISSION MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) APPELLATE REVIEW.

A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§ 16-27. {RESERVED}

Council Bill 18-0276

PART 5. PROHIBITED CONDUCT; CRIMINAL PENALTIES

§ 16-28. RETALIATION OR DISCRIMINATION PROHIBITED.

NO EMPLOYER OR OTHER PERSON MAY TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST ANY PERSON AS A REPRISAL FOR THAT PERSON'S HAVING ALLEGED A VIOLATION OF THIS SUBTITLE OR OTHERWISE HAVING EXERCISED A RIGHT GRANTED BY THIS SUBTITLE.

§ 16-29. {RESERVED}

§ 16-30. CRIMINAL PENALTIES.

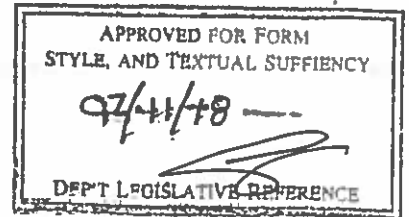
ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90th day after the date it is enacted.

INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL _____



Introduced by: Councilmember Sneed

A BILL ENTITLED

AN ORDINANCE concerning

Lactation Accommodations in the Workplace

FOR the purpose of requiring certain employers to provide certain lactation accommodations (including lactation breaks and locations) and to develop, distribute, and implement certain policies and procedures for providing these lactation accommodations; establishing minimum standards for lactation accommodations; defining certain terms; providing for certain exceptions and authorizing certain waivers or variances under certain conditions; requiring employers to maintain certain records; prohibiting retaliatory or discriminatory actions against persons exercising rights under this Ordinance; authorizing the adoption of administrative rule and regulations to carry out this Ordinance; providing for administrative and judicial review of and remedial relief for violations; imposing certain criminal penalties for violations; providing for a special effective date; and generally relating to the required provision of certain lactation accommodations for employees.

BY repealing and reordaining, without amendments

Article 4 - Community Relations
Section 1-101(a) and (f)(1)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Article 11 - Community Relations
Section 1-101(f)(3)
Baltimore City Code
(Edition 2000)

BY adding

Article 11 - Labor and Employment
Sections 16-1 through 16-30, to be under the new subtitle designation,
"Lactation Accommodation in the Workplace"
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

Baltimore City Code

Article 4. Community Relations

Subtitle 1. Definitions; General Provisions

§ 1-1. Definitions.

(a) *In general.*

In this article, the following terms have the meanings indicated.

(f) *Discrimination.*

(1) “Discrimination” means any difference in the treatment of an individual or person because of race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, or gender identity or expression.

...

(3) However, it is not discrimination for:

...

(v) any person to provide:

(A) separate toilet facilities for males and females; OR

(B) LACTATION ACCOMMODATIONS FOR FEMALES IN ACCORD WITH CITY CODE ARTICLE 11, SUBTITLE 16 {“LACTATION ACCOMMODATION IN THE WORKPLACE”}.

Article 11. Labor and Employment

SUBTITLE 16. LACTATION ACCOMMODATION IN THE WORKPLACE

PART 1. DEFINITIONS; GENERAL PROVISIONS

§ 16-1. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) *COMMUNITY RELATIONS COMMISSION; COMMISSION.*

“COMMUNITY RELATIONS COMMISSION” OR “COMMISSION” MEANS THE BALTIMORE COMMUNITY RELATIONS COMMISSION ESTABLISHED BY CITY CODE ARTICLE 4 {“COMMUNITY RELATIONS”}, SUBTITLE 2 {“COMMUNITY RELATIONS COMMISSION”}.

(C) *EMPLOYEE.*

(1) *IN GENERAL.*

“EMPLOYEE” MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY INDIVIDUAL WHO WORKS IN BALTIMORE CITY FOR AN EMPLOYER.

(2) *EXCLUSIONS.*

“EMPLOYEE” DOES NOT INCLUDE:

- (I) AN INDIVIDUAL ENGAGED IN THE ACTIVITIES OF AN EDUCATIONAL, CHARITABLE, RELIGIOUS, OR OTHER NONPROFIT ORGANIZATION WHERE THE SERVICES RENDERED TO THAT ORGANIZATION ARE ON A VOLUNTARY BASIS OR IN RETURN FOR CHARITABLE AID CONFERRED ON THE INDIVIDUAL;
- (II) AN INDIVIDUAL WHO IS EMPLOYED BY HIS OR HER PARENT, SPOUSE, OR CHILD;
OR
- (III) AN INDIVIDUAL WHO IS EMPLOYED AS A DOMESTIC WITHIN A PRIVATE RESIDENCE.

(D) *EMPLOYER.*

(1) *EMPLOYER.*

“EMPLOYER” MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ANY PERSON WHO EMPLOYS 2 OR MORE FULL-TIME EQUIVALENT EMPLOYEES WORKING IN THE CITY OF BALTIMORE.

(2) *EXCLUSIONS.*

“EMPLOYER” DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT, OR ANY INSTRUMENTALITY OR UNIT OF EITHER.

(E) *LACTATION ACCOMMODATION.*

“LACTATION ACCOMMODATION” MEANS BOTH LACTATION BREAK AND LACTATION LOCATION.

(F) *LACTATION BREAK.*

“LACTATION BREAK” MEANS THE BREAK TIME THAT AN EMPLOYER IS REQUIRED BY THIS SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING BREAST MILK.

(G) *LACTATION LOCATION.*

“LACTATION LOCATION” MEANS THE SPACE, ROOM, OR LOCATION THAT AN EMPLOYER IS REQUIRED BY THIS SUBTITLE TO PROVIDE AN EMPLOYEE FOR PURPOSES OF EXPRESSING BREAST MILK.

(H) *PERSON.*

(1) *IN GENERAL.*

“PERSON” MEANS:

(I) AN INDIVIDUAL;

(II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND; OR

(III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(2) *INCLUSIONS.*

“PERSON” INCLUDES, EXCEPT AS USED IN § 16-30 {“CRIMINAL PENALTIES”} OF THIS SUBTITLE, ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY, COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

§ 16-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.

(A) *MANDATORY TERMS.*

“MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT OR TO IMPOSE A DUTY.

(B) *PROHIBITORY TERMS.*

“MAY NOT” AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS USED TO ESTABLISH A PROHIBITION.

(C) *PERMISSIVE TERMS.*

“MAY” IS PERMISSIVE.

§ 16-3. {RESERVED}

§ 16-4. RULES AND REGULATIONS.

(A) *IN GENERAL.*

THE COMMUNITY RELATIONS COMMISSION MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) *FILING WITH LEGISLATIVE REFERENCE.*

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

§§ 16-5 TO 16-9. {RESERVED}

PART 2. REQUIRED ACCOMMODATIONS

§ 16-10. LACTATION BREAKS.

(A) *IN GENERAL.*

AN EMPLOYER MUST PROVIDE A REASONABLE AMOUNT OF BREAK TIME TO ACCOMMODATE AN EMPLOYEE WHO DESIRES TO EXPRESS BREAST MILK.

(B) *WHEN AND HOW PROVIDED.*

- (1) IF POSSIBLE, THE BREAK TIME REQUIRED BY THIS SECTION MUST RUN CONCURRENTLY WITH ANY PAID REST OR BREAK TIME ALREADY REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE.
- (2) BREAK TIME REQUIRED BY THIS SECTION THAT DOES NOT RUN CONCURRENTLY WITH PAID REST OR BREAK TIME REQUIRED BY LAW OR OTHERWISE AUTHORIZED FOR THE EMPLOYEE MAY BE UNPAID.

§ 16-11. LACTATION LOCATION – IN GENERAL.

(A) *“CLOSE PROXIMITY...” DEFINED.*

IN THIS SECTION, “CLOSE PROXIMITY TO THE EMPLOYEE’S WORK AREA” MEANS NO MORE THAN 500 FEET AND TWO ADJACENT FLOORS FROM THE FURTHEST EMPLOYEE WORK AREA BEING SERVED.

(B) *IN GENERAL.*

- (1) AN EMPLOYER MUST PROVIDE A LACTATION LOCATION, OTHER THAN A BATHROOM OR A CLOSET, THAT:
 - (A) IS IN CLOSE PROXIMITY TO THE EMPLOYEE’S WORK AREA; AND
 - (B) SHIELDS ITS OCCUPANTS FROM VIEW AND FROM INTRUSION BY COWORKERS OR OTHERS.
- (2) THE LACTATION LOCATION MAY INCLUDE THE PLACE WHERE THE EMPLOYEE NORMALLY WORKS IF IT OTHERWISE MEETS THE REQUIREMENTS OF THIS PART 2.

(C) *SPECIFICATIONS.*

THE LACTATION LOCATION MUST:

- (1) BE SAFE, CLEAN, AND FREE OF TOXIC OR HAZARDOUS MATERIALS;
- (2) LIMIT ACCESS TO IT BY A DOOR THAT CAN BE LOCKED FROM THE INSIDE; AND
- (2) CONTAIN:
 - (1) A SURFACE (E.G., A TABLE OR SHELF) ON WHICH TO PLACE A BREAST PUMP AND OTHER PERSONAL ITEMS;

- (II) A PLACE TO SIT;
- (II) AT LEAST ONE ELECTRICAL OUTLET; AND
- (III) UNLESS ELSEWHERE PROVIDED BY THE EMPLOYER IN CLOSE PROXIMITY TO THE EMPLOYEE'S WORK AREA:
 - (A) A SINK WITH RUNNING HOT AND COLD WATER; AND
 - (B) A REFRIGERATOR IN WHICH THE EMPLOYEE CAN STORE BREAST MILK.

§ 16-12. LACTATION LOCATION – MULTI-PURPOSE LOCATIONS.

AN EMPLOYER MAY PROVIDE A LACTATION LOCATION THAT IS ALSO USED FOR OTHER PURPOSES, BUT ONLY AS LONG AS:

- (1) THROUGHOUT THE PERIOD OF ANY EMPLOYEE'S NEED TO EXPRESS MILK, THE PRIMARY FUNCTION OF THE LOCATION IS ITS USE AS A LACTATION LOCATION;
- (2) DURING THAT PERIOD, THE LOCATION'S USE FOR LACTATION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS AND USES; AND
- (3) THE EMPLOYER PROVIDES NOTICE TO ALL EMPLOYEES WHO MIGHT OTHERWISE NEED TO USE THAT LOCATION FOR OTHER PURPOSES, THAT:
 - (I) THE LOCATION'S PRIMARY FUNCTION IS ITS USE AS A "LACTATION LOCATION"; AND
 - (II) THIS PRIMARY FUNCTION TAKES PRECEDENCE OVER ALL OTHER FUNCTIONS AND USES.

§ 16-13. LACTATION LOCATION – MULTI-TENANT BUILDING.

IF AN EMPLOYER'S WORKSPACE IS INADEQUATE TO SATISFY THE REQUIREMENTS OF THIS PART 2 AND OTHER EMPLOYERS ARE LOCATED IN THE SAME BUILDING, THE EMPLOYER MAY FULFILL THE REQUIREMENTS OF THIS PART 2 BY PROVIDING A LACTATION LOCATION THAT:

- (1) IS SHARED BY 2 OR MORE EMPLOYERS IN THE BUILDING;
- (2) COMPLIES WITH § 16-11 {"LACTATION LOCATION – IN GENERAL"} AND § 16-12 {"LACTATION LOCATION – MULTI-PURPOSE LOCATIONS"} OF THIS PART 2; AND
- (2) IS SUFFICIENT TO ACCOMMODATE THE NUMBER OF EMPLOYEES WHO MIGHT DESIRE TO USE IT AT ANY GIVEN TIME.

§ 16-14. WAIVER OR VARIANCE FOR UNDUE HARDSHIP.

(A) *IN GENERAL.*

IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED UNDER § 16-4 {"RULES AND REGULATIONS"} OF THIS SUBTITLE, AN EMPLOYER MAY APPLY TO THE COMMUNITY

RELATIONS COMMISSION FOR A WAIVER OR VARIANCE OF ANY REQUIREMENT OF THIS PART 2 THAT THE EMPLOYER CAN DEMONSTRATE WOULD IMPOSE AN UNDUE HARDSHIP BY CAUSING SIGNIFICANT EXPENSE OR OPERATIONAL DIFFICULTY WHEN CONSIDERED IN RELATION TO THE SIZE, FINANCIAL RESOURCES, NATURE, OR STRUCTURE OF THE EMPLOYER'S BUSINESS.

(B) *RULES AND REGULATIONS.*

THE COMMISSION'S RULES AND REGULATIONS MUST INCLUDE:

- (1) THE CRITERIA FOR ESTABLISHING AN UNDUE HARDSHIP AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION;
- (2) THE PROCEDURES, FORMS, AND DOCUMENTATION REQUIRED TO APPLY FOR THE WAIVER OR VARIANCE; AND
- (3) THE PROCEDURES FOR THE COMMISSION'S HEARING ON AND CONSIDERATION OF THE APPLICATION.

§§ 16-15 TO 16-19. *{RESERVED}*

PART 3. EMPLOYER POLICY AND PROCESS; RECORDS

§ 16-20. EMPLOYER POLICY AND PROCESS.

(A) *IN GENERAL.*

EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST DEVELOP AND IMPLEMENT A WRITTEN LACTATION ACCOMMODATION POLICY.

(B) *MINIMUM CONTENTS.*

THE WRITTEN POLICY MUST:

- (1) CONTAIN A STATEMENT THAT EMPLOYEES HAVE A LEGAL RIGHT TO REQUEST A LACTATION ACCOMMODATION;
- (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A LACTATION ACCOMMODATION, WHICH PROCESS MUST, AT A MINIMUM:
 - (I) SPECIFY THE MEANS BY WHICH AN EMPLOYEE MUST SUBMIT THE REQUEST TO THE EMPLOYER;
 - (II) REQUIRE THE EMPLOYER TO RESPOND TO THE REQUEST WITHIN 5 BUSINESS DAYS; AND
 - (III) REQUIRE THE EMPLOYER AND EMPLOYEE TO ENGAGE IN AN INTERACTIVE PROCESS TO DETERMINE LACTATION BREAK PERIODS AND A LACTATION LOCATION APPROPRIATE FOR THE EMPLOYEE;

(3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE LACTATION BREAKS OR A LACTATION LOCATION, OR PROVIDES A LACTATION LOCATION THAT DOES NOT FULLY COMPLY WITH PART 2 OF THIS SUBTITLE, OR ASSERTS ANY WAIVER OR VARIANCE GRANTED UNDER § 16-14 {"WAIVER OR VARIANCE FOR UNDUE HARDSHIP"} OF THIS SUBTITLE, THE EMPLOYER WILL BE REQUIRED TO DESCRIBE, IN A WRITTEN RESPONSE TO THE REQUEST, THE SPECIFIC BASES ON WHICH THE EMPLOYER HAS DONE SO;

(3) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION; AND

(4) STATE THAT RETALIATION AGAINST AN EMPLOYEE FOR EXERCISING THE RIGHTS CONFERRED BY THIS SUBTITLE IS PROHIBITED.

(C) *EMPLOYER TO KEEP COPIES OF ALL RESPONSES.*

THE EMPLOYER MUST RETAIN, IN ACCORDANCE WITH § 16-21 {"EMPLOYER RECORDS"} OF THIS SUBTITLE. A COPY OF ALL WRITTEN RESPONSES MADE UNDER THE POLICY REQUIRED BY SUBSECTION (B)(3) OF THIS SECTION.

(D) *DISTRIBUTION OF POLICY.*

(1) THE EMPLOYER MUST DISTRIBUTE A COPY OF THE EMPLOYER'S LACTATION ACCOMMODATION POLICY TO ALL EMPLOYEES:

(I) UPON THEIR HIRING; AND

(II) AGAIN, WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

(2) THE EMPLOYER MUST ALSO OFFER A COPY OF THE LACTATION ACCOMMODATION POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT PREGNANCY OR PARENTAL LEAVE.

(3) IF THE EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS AVAILABLE TO EMPLOYEES, THE LACTATION ACCOMMODATION POLICY MUST BE INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

§ 16-21. EMPLOYER RECORDS.

(A) *IN GENERAL.*

EACH EMPLOYER SUBJECT TO THIS SUBTITLE MUST MAINTAIN A RECORD OF ALL REQUESTS FOR A LACTATION ACCOMMODATION RECEIVED BY THE EMPLOYER.

(B) *REQUIRED CONTENTS.*

THE RECORD MUST INCLUDE THE FOLLOWING DOCUMENTATION:

(1) THE NAME OF THE EMPLOYEE;

(2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;

(3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE EMPLOYEE AND EMPLOYER; AND

(4) A DESCRIPTION OF HOW THE EMPLOYER RESOLVED THE REQUEST.

(C) *RETENTION PERIOD; INSPECTION.*

THE EMPLOYER MUST:

(1) RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION FOR A PERIOD OF 3 YEARS FROM THE DATE OF THE REQUEST FOR LACTATION ACCOMMODATION; AND

(2) ALLOW THE COMMUNITY RELATIONS COMMISSION ACCESS TO THAT RECORD, SUBJECT TO REASONABLE NOTICE, TO MONITOR COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(D) *AFFECT OF FAILURE TO COMPLY.*

IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, IF THE EMPLOYER HAS FAILED TO MAINTAIN OR RETAIN THE RECORD AND DOCUMENTATION REQUIRED BY THIS SECTION, OR DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THEM, IT WILL BE PRESUMED THAT THE EMPLOYER HAS VIOLATED THIS SUBTITLE, ABSENT CLEAR AND CONVINCING EVIDENCE OTHERWISE.

§§ 16-22 TO 16-24. *{RESERVED}*

PART 4. ADMINISTRATIVE ENFORCEMENT

§ 16-25. COMPLAINT TO COMMUNITY RELATIONS COMMISSION.

(A) *COMPLAINT AUTHORIZED.*

(1) ANY PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE BALTIMORE COMMUNITY RELATIONS COMMISSION.

(2) THE COMPLAINT SHALL BE FILED, INVESTIGATED, AND HEARD IN THE SAME MANNER AS THAT PROVIDED IN CITY CODE ARTICLE 4 {"COMMUNITY RELATIONS"}, SUBTITLE 4 {"ENFORCEMENT"}, FOR ALLEGED VIOLATIONS OF THAT ARTICLE'S UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES.

(B) *DECISION AND ORDER.*

IN ITS DECISION AND ORDER, THE COMMISSION MAY AWARD THE AGGRIEVED PERSON:

(1) BACK PAY FOR LOST WAGES CAUSED BY THE VIOLATION OF THIS SUBTITLE;

(2) REINSTATEMENT;

(3) COMPENSATORY DAMAGES, WHICH MAY INCLUDE:

(I) COMPENSATION FOR HUMILIATION, EMBARRASSMENT, AND EMOTIONAL DISTRESS; AND

(II) EXPENSES INCURRED IN SEEKING OTHER EMPLOYMENT; AND

(4) REASONABLE ATTORNEY'S FEES.

§ 16-26. JUDICIAL AND APPELLATE REVIEW.

(A) *JUDICIAL REVIEW.*

A PARTY AGGRIEVED BY THE FINAL DECISION OF THE COMMUNITY RELATIONS COMMISSION MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) *APPELLATE REVIEW.*

A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§ 16-27. {RESERVED}

PART 5. PROHIBITED CONDUCT; CRIMINAL PENALTIES

§ 16-28. RETALIATION OR DISCRIMINATION PROHIBITED.

NO EMPLOYER OR OTHER PERSON MAY TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST ANY PERSON AS A REPRISAL FOR THAT PERSON'S HAVING ALLEGED A VIOLATION OF THIS SUBTITLE OR OTHERWISE HAVING EXERCISED A RIGHT GRANTED BY THIS SUBTITLE.

§ 16-29. {RESERVED}

§ 16-30. CRIMINAL PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 90th day after the date it is enacted.



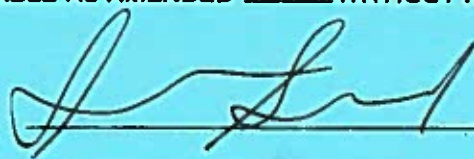
ACTION BY THE CITY COUNCIL

FIRST READING (INTRODUCTION) _____ AUG 06 2018

PUBLIC HEARING HELD ON _____ October 17 20 18

COMMITTEE REPORT AS OF _____ October 29 20 18

_____ FAVORABLE _____ UNFAVORABLE FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION


Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing. OCT 29 2018

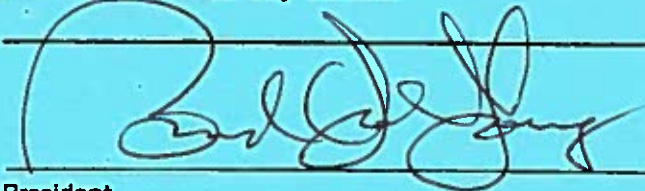
THIRD READING Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing. NOV 19 2018

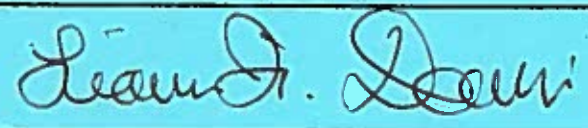
THIRD READING (ENROLLED) Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing. DEC 03 2018

THIRD READING (RE-ENROLLED) _____ 20 _____

WITHDRAWAL _____ 20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.


President


Chief Clerk