

BILL ANALYSIS

C.S.H.B. 741
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Some scientific studies show that breastfeeding provides many short- and long-term health benefits to babies and nursing mothers. The benefits of breastfeeding reportedly include strengthened immune systems and reduced risk of disease and infection for babies, as well as a reduced risk of developing type 2 diabetes, breast cancer, and ovarian cancer for mothers. In addition, it has been observed that a mother must express her milk at certain intervals to maintain milk production when she is breastfeeding and is separated from her child. Interested parties contend that the federal Fair Labor Standards Act (FLSA) provides certain protections for some nursing mothers but that certain public employees are exempt from certain provisions of FLSA. Currently, certain public employees who return to work and want to continue breastfeeding have limited options.

C.S.H.B. 741 seeks to help reduce employee absenteeism due to sick children, improve workplace morale and productivity, and lower health care costs for employers by requiring public employers to create a written policy on the expression of breast milk by employees.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 741 amends the Government Code to entitle an employee of a public employer to express breast milk at the employee's workplace. The bill defines a public employer for purposes of the bill's provisions as a county, municipality, or other political subdivision of the state, including a school district, or a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government, including an institution of higher education; requires such public employer to develop a written policy on the expression of breast milk by employees; and requires the policy to state that the public employer is required to support the practice of expressing breast milk and to make reasonable accommodations for the needs of employees who express breast milk. The bill requires a public employer to provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk and provide a place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk. The bill prohibits a public employer from suspending or terminating the employment of, or otherwise discriminating against, an employee because the employee has asserted the employee's right to express breast milk in the workplace.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 741 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 619 to read as follows:

CHAPTER 619. RIGHT TO BREAST-FEED OR EXPRESS BREAST MILK IN THE WORKPLACE

Sec. 619.001. DEFINITION. In this chapter, "public employer" means a:

(1) county, municipality, or other political subdivision of this state, including a school district; or

(2) board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government, including an institution of higher education.

Sec. 619.002. RIGHT TO BREAST-FEED OR EXPRESS BREAST MILK. An employee of a public employer is entitled to breast-feed, or express breast milk for, the employee's child at the employee's workplace.

Sec. 619.003. BREAST-FEEDING POLICY.

(a) A public employer shall develop a written policy supporting women who want to continue breast-feeding after returning from maternity leave.

(b) A policy developed under Subsection (a) must state that the public employer shall:

(1) support and encourage the practice of breast-feeding; and

(2) accommodate the breast-feeding needs of employees.

Sec. 619.004. PUBLIC EMPLOYER RESPONSIBILITIES. A public employer shall:

(1) provide a reasonable amount of break time at appropriate intervals to accommodate an employee desiring to breast-feed or express breast milk under this chapter; and

(2) provide a room or other location in close proximity to the employee's work area, other than a toilet stall or restroom, with an accessible electrical outlet and a locking door where the employee can breast-feed or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 619 to read as follows:

CHAPTER 619. RIGHT TO EXPRESS BREAST MILK IN THE WORKPLACE

Sec. 619.001. DEFINITION. In this chapter, "public employer" means a:

(1) county, municipality, or other political subdivision of this state, including a school district; or

(2) board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government, including an institution of higher education.

Sec. 619.002. RIGHT TO EXPRESS BREAST MILK. An employee of a public employer is entitled to express breast milk at the employee's workplace.

Sec. 619.003. POLICY ON EXPRESSING BREAST MILK.

(a) A public employer shall develop a written policy on the expression of breast milk by employees under this chapter.

(b) A policy developed under Subsection (a) must state that the public employer shall:

(1) support the practice of expressing breast milk; and

(2) make reasonable accommodations for the needs of employees who express breast milk.

Sec. 619.004. PUBLIC EMPLOYER RESPONSIBILITIES. A public employer shall:

(1) provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and

(2) provide a place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

express breast milk in private.

Sec. 619.005. DISCRIMINATION PROHIBITED. (a) A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee based on the employee's exercise of her right to breast-feed or express breast milk in the workplace under this chapter.

(b) The refusal of a public employer to comply with the requirements of this chapter constitutes an unlawful employment practice under Chapter 21, Labor Code.

SECTION 2. This Act takes effect September 1, 2013.

Sec. 619.005. DISCRIMINATION PROHIBITED. A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under this chapter.

SECTION 2. Same as introduced version.