

MIBFN

Michigan Breastfeeding Network

JURY DUTY



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SYSTEM CHANGER'S GUIDE TO JURY DUTY

www.mibreastfeeding.org/jury-duty



BREASTFEEDING IS GOOD FOR EVERYONE

Breastfeeding is not a lifestyle choice: it is a public health imperative for families in our society and recognized as the optimal method for feeding and nurturing children. It is biologically normal to breastfeed infants and children and research has long touted its tremendous nutritional, developmental, social, and environmental benefits for children, mothers, and society as a whole. The American Academy of Pediatrics recommends exclusive breastfeeding for the first six months of life and the World Health Organization recommends breastfeeding until at least two years of age with continuation of breastfeeding as long as mutually desired by mother and child. Recent estimates show that over 800,000 child lives and 20,000 maternal lives could be saved each year if every child were exclusively breastfed for the first six months of life. Additionally, associated medical cost differences equaled a savings of \$40.2 million per year (Breastfeeding Medicine, December 2017). Breastfeeding provides valuable protection against illnesses such as diarrhea, pneumonia, and upper respiratory infections in addition to protection against Sudden Infant Death Syndrome (SIDS), particularly during the first year of life (Pediatrics, October 2017). Breastfeeding benefits extend well beyond infancy, providing lasting health benefits with lower incidences of allergy, asthma, high

blood pressure, and obesity as breastfed infants enter into childhood and adolescence. Breastfeeding also promotes socio-emotional development, contributing to positive maternal self-image while developing a stable, nurturing maternal-infant relationship. The emotional security and warmth developed within the breastfeeding relationship promotes an early and secure attachment for the child, which is central to subsequent development. Breastfeeding affects children's cognitive and social functioning with typical IQ gains of two to five points in healthy infants and up to eight points for low birthweight babies, which significantly impacts school readiness and participation (Currie, J., "Health Disparities and Gaps in School Readiness," The Future of Children, Spring 2005). In addition to these benefits for infants and children, breastfeeding helps to improve the health of mothers by lowering the risk of postpartum depression and decreasing their lifetime incidence of cardiovascular disease, type II diabetes, osteoporosis, and breast and ovarian cancers.



MOTHERS ARE VALUABLE MEMBERS OF SOCIETY

Jury duty is an obligation that all citizens of the United States are called to uphold. Jury duty ensures equal representation of opinion while upholding the just measure of the law. Accordingly, motherhood and citizenship are not incompatible. The courts should not treat a breastfeeding mother like a liability when it comes to her participation in jury duty. Breastfeeding mothers should not be summarily dismissed from this civic responsibility based solely on the fact that they breastfeed their children. Courts need to welcome breastfeeding mothers as potential jurors in order to provide defendants with a true jury of their peers. In light of federal legislation that protects breastfeeding in the workplace, public spaces, and federal buildings, the same consideration now needs to include the courthouse in ongoing work to normalize breastfeeding within our society.

BEST PRACTICES INCLUDE RACIAL, ETHNIC, AND GENDER INCLUSIVENESS IN JURY SERVICE

As found in *Batson v. Kentucky* in 2016 and endorsed by the Justices of the Supreme Judicial Court, best practices for jury selection should include historically underrepresented racial and ethnic groups or underrepresentation based upon gender (476 U.S. 79 1986). Prosecuting attorneys must be mindful of this history and the importance of inclusion in maintaining public confidence in the justice system. As stated in *J.E.B. v. Alabama*, the United States Supreme Court ruled “discrimination in jury selection, whether based on race or on gender, causes harm to the litigants, and the individual jurors who are wrongfully excluded from participation in the judicial process” (511 U.S. 127 1994).

WHY WOMEN'S VOICES MATTER

As late as 1942, only 28 states had laws that allowed women to serve as jurors, but these states also gave them the right to claim exemption solely based on their sex. The Civil Rights Act of 1957 gave women the right to serve on federal juries, but it was not until 1973 that women could serve on juries in all 50 states. The fight for women to be included on juries in the United States should not be erased because of their status as breastfeeding mothers.



BREASTFEEDING IS NOT A HARDSHIP OR A BURDEN

How does a woman fulfill her civic duty while breastfeeding? A number of states still consider breastfeeding an “undue hardship” and grounds for exemption from jury duty. As it currently stands, 17 states have laws that either exempt breastfeeding mothers from jury duty or allow postponement. The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers provides women with a legal exemption from jury service for the length of time they are breastfeeding a child. A letter from a healthcare provider is needed to verify that the woman is breastfeeding.

BREASTFEEDING WOMEN DESERVE A JURY OF THEIR PEERS

While a straightforward exemption policy may initially be seen as positive, it is important to consider the ramifications of simply exempting all breastfeeding mothers from jury duty. In light of the fact that there are more women incarcerated now than at any other time in U.S. history, an exemption from jury

duty should be challenged as the best solution available for breastfeeding women. Instead, jury duty should be a seamless experience for breastfeeding women. Women's equal representation on juries ensures that fairness, equality, and accountability is maintained throughout the judicial process. Women's participation should not be dismissed.

EXEMPTION EXISTS FOR THOSE MOTHERS WHO CANNOT SERVE

Due to current courthouse practices, exemptions protected under law should be upheld. Even if breastfeeding is accommodated in the courthouse environment, it still represents a challenge that some women may not want to face. The crowded and close confines may be perceived to pose an infectious risk to the infant. Milk expression may not be an option. The mother may not have a breast pump. The mother may not have expressed milk for her infant while she is gone or the infant may not yet accept artificial nipples or teats. She may not have access to a caregiver for her infant or child. Breastfeeding mothers should continue to have exemption as an option if they so choose. The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers provides these mothers with a legal exemption from jury service for the period in which they are nursing a child. Mothers provide a letter from their healthcare provider verifying their breastfeeding status. Michigan is one of only 17 states plus Puerto Rico that exempt breastfeeding mothers from jury duty.



COURTHOUSE ACCOMMODATIONS ARE LACKING

Once breastfeeding women are considered a vital part of the juror selection process, accommodations for women bringing their children with them to jury duty or for those that will express milk while they are at the courthouse must be addressed. In multiple states, mothers have shared their stories that make clear current accommodations are not adequate. These stories come from women throughout the country, from states such as California and Illinois, and have highlighted some of the challenges breastfeeding women face. Current barriers include insufficient designated milk expression areas, lack of time offered in order to express milk, and disrespect from individual judges. Far too often, breastfeeding mothers are still told to utilize the bathroom to express milk while they are serving on a jury.

RECOMMENDATIONS: FROM THE PRACTICAL TO THE SYSTEMIC

The following recommendations are designed to ensure that, whenever possible, women are welcomed as breastfeeding jurors.

Jury duty summons should include specific information for breastfeeding mothers:

When citizens are called to jury duty, information on the policies in place for breastfeeding jurors should be included in order to eliminate the confusion and trepidation many breastfeeding women face when considering jury duty. Information could include the length of time and the place provided for women to breastfeed or express milk, if the court provides assistance in finding child care, and whether an exemption is available, in addition to other useful information.

Exemptions for breastfeeding mothers who are unable to serve should be upheld:

The 2012 Michigan Jury Duty Exemption Law for Nursing Mothers ensures that any woman called to jury duty while breastfeeding a child can file an exemption. This information should be clearly stated on the jury summons and should be upheld without question. This exemption is a valid excuse from jury duty and is an essential accommodation for breastfeeding women who in the past have faced insufficient designated pumping areas and/or inadequate time offered to breastfeed or express milk. At present, 17 states and Puerto Rico have laws that exempt breastfeeding mothers from jury duty. In 2018, Ohio became the most recent state to introduce a bill (House Bill 513) to allow an exemption based on breastfeeding status.



Mandatory breastfeeding education for all court employees from clerks to judges:

Education about breastfeeding accommodation should be a required element of training for all employees working within a courthouse. The goals of breastfeeding education are to increase knowledge and help employees view breastfeeding as normal. Specifics may include safe storage and handling information, milk expression basics, infant feeding cues, the benefits of breastfeeding, and the risks of infant formula use.

Circuit, district, and federal courts should adopt official policies providing accommodations for breastfeeding and milk expression during jury duty for breastfeeding mothers:

A written policy on breastfeeding and milk expression should be adopted and made accessible to employees and available for visitors. Posted signage should also be placed in a prominent locale within the courthouse. Once written policy is passed into law, the physical space and procedures must be scrutinized for real-world applicability. Just as workplaces are now mandated to provide break time for breastfeeding mothers, courts

should also be required to provide time and a proper place to express milk or breastfeed a child that is not a bathroom. Throughout the country, courthouses must create an environment that not only supports breastfeeding women, but also contributes to the normalization of breastfeeding in our society.



LOOKING AHEAD: A NEW BREASTFEEDING LANDSCAPE

We envision a Michigan in which women are encouraged to engage fully in their civic duties regardless of their breastfeeding status. We envision a judicial system that recognizes the value of implementing breastfeeding-friendly policies within the courthouses, allowing women to participate in jury duty without compromising the breastfeeding relationship they share with their children.