

SENATE BILL NO. 297

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR ELLIS

Introduced: 2/12/98

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to breast-feeding."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** This Act may be known as the Breast-feeding Promotion and Protection Act
4 of 1998.

5 * **Sec. 2.** LEGISLATIVE FINDINGS. The legislature finds that

6 (1) the medical profession in the United States recommends that children from
7 birth to the age of one year should be breast-fed unless, under particular circumstances, it is
8 medically inadvisable;

9 (2) despite the recommendation of the medical profession, statistics reveal a
10 declining percentage of mothers who are choosing to breast-feed their babies;

11 (3) many new mothers are now choosing to use formula rather than to breast-
12 feed even before they leave the hospital, and only a small percentage of all mothers are still
13 breast-feeding when their babies are six months old;

14 (4) in addition to the benefit of improving bonding between mothers and their
15 babies, breast-feeding offers better nutrition, digestion, and immunity for babies than does

1 formula-feeding, and it may increase the intelligence quotient of a child;

2 (5) babies who are breast-fed have lower rates of death, meningitis, childhood
3 leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections,
4 diarrheal diseases, otitis media, allergies, obesity, and developmental delays;

5 (6) breast-feeding also provides significant benefits to the health of the mother,
6 including protection against breast cancer and other cancers, osteoporosis, and infections of
7 the urinary tract;

8 (7) the incidence of breast cancer in the United States might be reduced by 25
9 percent if every woman breast-fed all her children until they reached the age of two years;

10 (8) the World Health Organization and the United Nations Children's Fund
11 have established as one of their major goals for the decade the encouragement of breast-
12 feeding;

13 (9) the social constraints of modern society weigh against the choice of breast-
14 feeding and lead new mothers with demanding time schedules to choose formula-feeding to
15 avoid embarrassment, social ostracism, or criminal prosecution; and

16 (10) any promotion of family values should encourage public acceptance of
17 this most basic act of nurture between a mother and her baby, and a mother should not be
18 made to feel incriminated or socially ostracized for breast-feeding her child.

19 * **Sec. 3.** AS 01.10.060(b) is amended by adding a new subsection to read:

20 (b) In the laws of the state, "lewd conduct," "lewd touching," "immoral
21 conduct," "indecent conduct," and similar terms do not include the act of a woman
22 breast-feeding a child in a public or private location where the woman and child are
23 otherwise authorized to be, irrespective of whether the nipple of the woman's breast
24 is uncovered during or incidental to the breast feeding. Nothing in this subsection may
25 be construed to authorize an act that is an offense under AS 11.61.123.

26 * **Sec. 4.** AS 11.76 is amended by adding a new section to read:

27 **Sec. 11.76.150. Interference with the right to breast-feed.** (a) A person
28 commits the crime of interference with the right of a woman to breast-feed a child if
29 the person intentionally prevents or restricts a woman from breast-feeding a child in
30 a common carrier, place of public accommodation, or other place to which the general
31 public is invited and where the woman and child are otherwise authorized to be

1 present, irrespective of whether the nipple of the woman's breast is uncovered during
2 or incidental to the breast feeding.

3 (b) Interference with the right of a woman to breast-feed a child is a class B
4 misdemeanor.

5 * **Sec. 5.** AS 29.10.200 is amended to read:

6 **Sec. 29.10.200. Limitation of home rule powers.** Only the following
7 provisions of this title apply to home rule municipalities as prohibitions on acting
8 otherwise than as provided. These provisions supersede existing and prohibit future
9 home rule enactments that provide otherwise:

- 10 (1) AS 29.05.140 (transition);
- 11 (2) AS 29.06.010 (change of municipal name);
- 12 (3) AS 29.06.040 - 29.06.060 (annexation and detachment);
- 13 (4) AS 29.06.090 - 29.06.170 (merger and consolidation);
- 14 (5) AS 29.06.190 - 29.06.420 (unification of municipalities);
- 15 (6) AS 29.06.450 - 29.06.530 (dissolution);
- 16 (7) AS 29.10.100 (charter amendment);
- 17 (8) AS 29.20.010 (conflict of interest);
- 18 (9) AS 29.20.020 (meetings public);
- 19 (10) AS 29.20.050 (legislative power);
- 20 (11) AS 29.20.060 - 29.20.120 (assembly composition and
21 apportionment);
- 22 (12) AS 29.20.140 (qualifications of members of governing bodies);
- 23 (13) AS 29.20.150 (term of office);
- 24 (14) AS 29.20.220 (executive power);
- 25 (15) AS 29.20.270(e) (ordinance veto by mayor);
- 26 (16) AS 29.20.630 (prohibited discrimination);
- 27 (17) AS 29.20.640 (reports);
- 28 (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond
29 requirements);
- 30 (19) AS 29.25.050 (codification);
- 31 (20) AS 29.25.060 (resolutions);

- 1 (21) AS 29.25.080 (breast-feeding);
- 2 (22) AS 29.26.030 (notice of elections);
- 3 (23) [(22)] AS 29.26.050 (voter qualification);
- 4 (24) [(23)] AS 29.26.250 - 29.26.360 (recall);
- 5 (25) [(24)] AS 29.35.020 (extraterritorial jurisdiction);
- 6 (26) [(25)] AS 29.35.030 (eminent domain);
- 7 (27) [(26)] AS 29.35.050 (garbage and solid waste services);
- 8 (28) [(27)] AS 29.35.055 (local air quality control program);
- 9 (29) [(28)] AS 29.35.060 (franchises and permits);
- 10 (30) [(29)] AS 29.35.070 (public utilities);
- 11 (31) [(30)] AS 29.35.080 (alcoholic beverages);
- 12 (32) [(31)] AS 29.35.120 (post audit);
- 13 (33) [(32)] AS 29.35.131 (enhanced 911 system);
- 14 (34) [(33)] AS 29.35.145 (regulation of firearms);
- 15 (35) [(34)] AS 29.35.160 (education);
- 16 (36) [(35)] AS 29.35.170(b) (assessment and collection of taxes);
- 17 (37) [(36)] AS 29.35.180(b) (land use regulation);
- 18 (38) [(37)] AS 29.35.250 (cities inside boroughs);
- 19 (39) [(38)] AS 29.35.260 (cities outside boroughs);
- 20 (40) [(39)] AS 29.35.340 (acquisition of areawide power);
- 21 (41) [(40)] AS 29.35.500 - 29.35.590 (hazardous materials and wastes);
- 22 (42) [(41)] AS 29.40.160(a) - (c) (title to vacated areas);
- 23 (43) [(42)] AS 29.40.200 (subdivisions of state land);
- 24 (44) [(43)] AS 29.45.010 - 29.45.570 (property taxes);
- 25 (45) [(44)] AS 29.45.650(c), (d), (e), and (f) (sales and use tax);
- 26 (46) [(45)] AS 29.45.700(d) (sales and use tax);
- 27 (47) [(46)] AS 29.47.200(b) (security for bonds);
- 28 (48) [(47)] AS 29.47.260 (construction);
- 29 (49) [(48)] AS 29.47.470 (air carriers);
- 30 (50) [(49)] AS 29.60.050(a) (limitation on computation and use of
- 31 payment);

1 (51) [(50)] AS 29.60.120(a) and (c) (priority revenue sharing for health
2 facilities and hospitals);

3 (52) [(51)] AS 29.65 (general grant land);

4 (53) [(52)] AS 29.71.040 (procurement preference for state agricultural
5 and fisheries products);

6 (54) [(53)] AS 29.71.050 (procurement preference for recycled Alaska
7 products).

8 * **Sec. 6.** AS 29.25 is amended by adding a new section to read:

9 **Sec. 29.25.080. Breast-feeding.** A municipality may not enact an ordinance
10 that prohibits or restricts a woman breast-feeding a child in a public or private location
11 where the woman and child are otherwise authorized to be. In a municipal ordinance,
12 "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar
13 terms do not include the act of a woman breast-feeding a child in a public or private
14 location where the woman and child are otherwise authorized to be, irrespective of
15 whether the nipple of the woman's breast is uncovered during or incidental to the
16 breast feeding. Nothing in this section may be construed to authorize an act that is an
17 offense under a municipal ordinance that establishes an offense with elements
18 substantially equivalent to the elements of an offense under AS 11.61.123. This
19 section is applicable to home rule and general law municipalities.

20 * **Sec. 7.** AS 44.83.990(4) is amended to read:

21 (4) "person" includes a public agency in addition to the entities set out
22 in AS 01.10.060(a)(8) [AS 01.10.060(8)];