

**CS FOR SENATE BILL NO. 297(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/2/98

Referred: Finance

Sponsor(s): SENATOR ELLIS

**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 offense of interference with the right of a woman to breast-feed a child  
29 if the person intentionally prevents or restricts a woman from breast-feeding a child  
30 in a common carrier, place of public accommodation, or other place to which the  
31 general public is invited and where the woman and child are otherwise authorized to

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

3 (b) Interference with the right of a woman to breast-feed a child is a violation.

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

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

- 9 (1) AS 29.05.140 (transition);
- 10 (2) AS 29.06.010 (change of municipal name);
- 11 (3) AS 29.06.040 - 29.06.060 (annexation and detachment);
- 12 (4) AS 29.06.090 - 29.06.170 (merger and consolidation);
- 13 (5) AS 29.06.190 - 29.06.420 (unification of municipalities);
- 14 (6) AS 29.06.450 - 29.06.530 (dissolution);
- 15 (7) AS 29.10.100 (charter amendment);
- 16 (8) AS 29.20.010 (conflict of interest);
- 17 (9) AS 29.20.020 (meetings public);
- 18 (10) AS 29.20.050 (legislative power);
- 19 (11) AS 29.20.060 - 29.20.120 (assembly composition and  
 20 apportionment);
- 21 (12) AS 29.20.140 (qualifications of members of governing bodies);
- 22 (13) AS 29.20.150 (term of office);
- 23 (14) AS 29.20.220 (executive power);
- 24 (15) AS 29.20.270(e) (ordinance veto by mayor);
- 25 (16) AS 29.20.630 (prohibited discrimination);
- 26 (17) AS 29.20.640 (reports);
- 27 (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond  
 28 requirements);
- 29 (19) AS 29.25.050 (codification);
- 30 (20) AS 29.25.060 (resolutions);
- 31 (21) **AS 29.25.080 (breast-feeding);**

- 1                    (22) AS 29.26.030 (notice of elections);
- 2                    (23) [(22)] AS 29.26.050 (voter qualification);
- 3                    (24) [(23)] AS 29.26.250 - 29.26.360 (recall);
- 4                    (25) [(24)] AS 29.35.020 (extraterritorial jurisdiction);
- 5                    (26) [(25)] AS 29.35.030 (eminent domain);
- 6                    (27) [(26)] AS 29.35.050 (garbage and solid waste services);
- 7                    (28) [(27)] AS 29.35.055 (local air quality control program);
- 8                    (29) [(28)] AS 29.35.060 (franchises and permits);
- 9                    (30) [(29)] AS 29.35.070 (public utilities);
- 10                  (31) [(30)] AS 29.35.080 (alcoholic beverages);
- 11                  (32) [(31)] AS 29.35.120 (post audit);
- 12                  (33) [(32)] AS 29.35.131 (enhanced 911 system);
- 13                  (34) [(33)] AS 29.35.145 (regulation of firearms);
- 14                  (35) [(34)] AS 29.35.160 (education);
- 15                  (36) [(35)] AS 29.35.170(b) (assessment and collection of taxes);
- 16                  (37) [(36)] AS 29.35.180(b) (land use regulation);
- 17                  (38) [(37)] AS 29.35.250 (cities inside boroughs);
- 18                  (39) [(38)] AS 29.35.260 (cities outside boroughs);
- 19                  (40) [(39)] AS 29.35.340 (acquisition of areawide power);
- 20                  (41) [(40)] AS 29.35.500 - 29.35.590 (hazardous materials and wastes);
- 21                  (42) [(41)] AS 29.40.160(a) - (c) (title to vacated areas);
- 22                  (43) [(42)] AS 29.40.200 (subdivisions of state land);
- 23                  (44) [(43)] AS 29.45.010 - 29.45.570 (property taxes);
- 24                  (45) [(44)] AS 29.45.650(c), (d), (e), and (f) (sales and use tax);
- 25                  (46) [(45)] AS 29.45.700(d) (sales and use tax);
- 26                  (47) [(46)] AS 29.47.200(b) (security for bonds);
- 27                  (48) [(47)] AS 29.47.260 (construction);
- 28                  (49) [(48)] AS 29.47.470 (air carriers);
- 29                  (50) [(49)] AS 29.60.050(a) (limitation on computation and use of
- 30                  payment);
- 31                  (51) [(50)] AS 29.60.120(a) and (c) (priority revenue sharing for health

1 facilities and hospitals);

2 (52) [(51)] AS 29.65 (general grant land);

3 (53) [(52)] AS 29.71.040 (procurement preference for state agricultural  
4 and fisheries products);

5 (54) [(53)] AS 29.71.050 (procurement preference for recycled Alaska  
6 products).

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

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

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

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