

**SB**

**297**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 2/12/98

FURTHER: Finance

Date of 5-Day Notice: 3/16/98  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 4-2-98

Judiciary Committee considered SENATE BILL NO. 297

"An Act relating to breast-feeding."

and recommends:

- be replaced with \_\_\_\_\_ CS FOR SB 297 ( JUD )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
  - same title
  - new title
- House Bill:
  - same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Sellers</i>	<input checked="" type="checkbox"/>				
<i>Heard Parnell</i>	<input checked="" type="checkbox"/>				
<i>Mike Duller</i>	<input checked="" type="checkbox"/>				
<i>Deance</i>	<input checked="" type="checkbox"/>				
<b>CHAIR:</b> <i>John L. Taylor</i>	<input checked="" type="checkbox"/>	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

<i>LAW-CRIM. DIV. OSPA</i>	<i>3-27-98</i>	<input checked="" type="checkbox"/>	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 1  
 Bill Version: SB 297  
 (S) Publish Date: 4-2-98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title An Act relating to breast-feeding. BRU Criminal Division  
 Component 1st-4th Judicial Districts  
 Sponsor Senator Ellis OSPA  
 Requester Senate Judiciary Committee Component Serial No. 2198/99/2261/79/01/02

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

SB 297, to be known as the Breast-feeding Promotion and Protection Act of 1998, would insure that breast-feeding is not illegal under state laws or local ordinances. In addition, the bill would create a new class B misdemeanor for interference with the right to breast-feed.

The Department of Law does not anticipate a caseload increase sufficient to warrant fiscal note costs.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date 3/27/98  
 Date 3/27/98

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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:  
Referred:

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)];

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SB 297

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>An Act relating to breast-feeding.</u>	BRU <u>Criminal Division</u>
Sponsor <u>Senator Ellis</u>	Component <u>1st-4th Judicial Districts</u>
Requester <u>Senate Judiciary Committee</u>	Component Serial No. <u>2198/99/2261/79/01/02</u>

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**POSITIONS**

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Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

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The Department of Law does not anticipate a caseload increase sufficient to warrant fiscal note costs.

Prepared by	<u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division	<u>Attorney General's Office</u>	Date <u>3/27/98</u>
Approved by Commissioner	<u>Bruce M. Botelho, Attorney General</u>	Date <u>3/27/98</u>
Agency	<u>Department of Law</u>	

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# ALASKA STATE LEGISLATURE

Senate Health, Education and  
Social Services Committee

Senate Judiciary Committee

Department of Health and Social  
Services Budget Subcommittee

Department of Law  
Budget Subcommittee



January - May  
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Juneau, Alaska 99801  
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716 West 4th Ave., Ste. 440  
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## SENATOR JOHNNY ELLIS

### Sponsor Statement For Senate Bill 297

#### *"The Breast-feeding Promotion and Protection Act"*

Breast-feeding is the most basic act of nurturing between a mother and her baby. Alaska law must be clear that mothers who breast-feed their babies in public will not be prosecuted under indecent exposure and lewd conduct laws. Senate Bill 297, "The Breast-feeding Promotion and Protection Act", shields these women and ensures the rights of moms to nourish their babies in public and private businesses.

Twelve states have recently passed progressive breast-feeding legislation. The surge of breast-feeding promotion and protection policies comes in the wake of new research indicating that babies who are breast-fed are smarter. Research also reveals that breast-fed infants have lower rates of premature death, meningitis, childhood leukemia and other cancers, diabetes, respiratory disease, and allergies. Scientists have found that moms are healthier, too. Mothers who breast-fed their children show lower incidents of breast cancer, osteoporosis, and urinary infections.

Regardless of the tremendous benefits of breast-feeding, more mothers are choosing to formula-feed their babies. New moms generally choose not to breast-feed due to demanding work schedules. Many moms are apprehensive to breast-feed merely because they want to avoid public embarrassment. "The Breast-feeding Promotion and Protection Act" is a significant step towards reducing barriers for moms who want to breast-feed their infants.

In a move to encourage businesses to become "mother-friendly", I am introducing a resolution to accompany the Breast-feeding Act. Senate Concurrent Resolution 24 urges businesses to take a proactive role in their community. Businesses can have a huge impact on public health simply by establishing "mother-friendly" policies for their employees and customers.

I urge your support and prompt passage of "The Breast-feeding Promotion and Protection Act".

Anchorage, Ak

POSITION STATEMENT: Supported SB 319

ACTION NARRATIVE

TAPE 98-26, SIDE A

Number 001

CHAIRMAN ROBIN TAYLOR called the Judiciary Committee meeting to order at 1:40 and brought up SB 297 as the first order of business. CHAIRMAN TAYLOR said he scheduled the bill because he believes it is important, supports SENATOR ELLIS in his efforts and he wants to move it from committee.

#SB 297

SB 297 - BREAST-FEEDING IN PUBLIC PLACE

SENATOR ELLIS thanked CHAIRMAN TAYLOR for his support and offered amendment #1 which reduces the penalty for ejecting a woman for breast-feeding in public from a class B misdemeanor to a violation, so as not to incur the costs that accompany a misdemeanor. SENATOR ELLIS moved the amendment and without objection, it was adopted.

SENATOR ELLIS noted the bill has received an outpouring of support. SENATOR ELLIS explained the bill ensures a woman's right to breast-feed in a public place under state law and city ordinances, and makes interfering with this right a violation. SENATOR ELLIS indicated breast-feeding is beneficial to both the mother and the child for numerous reasons.

SENATOR PARNELL asked about the necessity of the findings section of SB 297; SENATOR ELLIS remarked they had only been included for the edification for the public and CHAIRMAN TAYLOR commented they could possibly be removed later.

MS. KAREN PEARSON, representing the Division of Public Health, indicated that breast-feeding is good for the mother, the child and

the economy of the family and SB 297 sends a positive message to society that breast-feeding is a normal, natural function. Her division appreciates the help in spreading this message.

Number 120

MS. NANCY RODY, Director of the Women, Infants and Children program (WIC), explained there is a barrier to breast-feeding based in the fear of what other people might think. She has heard many reports of women being harassed while breast-feeding in public. MS. Rody said young women and poor women are more sensitive to public pressure about breast-feeding and this bill would send a good message about the benefits of breast-feeding.

MS. ANN KNOBBE testified via teleconference from Mat-Su. As a nurse and lactation consultant for the WIC program in Mat-Su, she asked the committee to pass this bill and send a good message to the public.

MS. ROBERTA GILLOTT testified via teleconference from Dillingham and expressed her support, as a new mother who has experienced discrimination, for SB 297.

Number 187

MS. FAITH CHALIFOUR-KROUS, an accredited breast-feeding counselor from La Leche League International, testified via teleconference from Anchorage about the importance of encouraging young mothers to breast-feed. She said breast-feeding is a natural healthy way to bond with and feed your baby.

MS. EDNA ABBOT thanked the committee for the legislation, saying it will increase the percentage of mothers who breast-feed their children longer. She showed a picture of her child and expressed her appreciation to the committee. SENATOR ELLIS noted that MS. ABBOT helped prepare this legislation and he applauded her efforts.

Number 232

MS. SHARON GLICK testified to the fact that mothers need to get out of the house to retain their sanity. MS. GLICK said babies get breast-fed on demand and that means mothers never know where they may need to feed their baby. She said this bill is really about the rights of the baby to be able to nurse whenever and wherever they need to.

MS. SUSAN POLLARD said this bill is a step toward making breast-feeding the cultural norm. She thanked CHAIRMAN TAYLOR and the committee for allowing the bills passage on behalf of every mother and baby who can now nurse more comfortably.

CHAIRMAN TAYLOR remarked that the bill is about a cultural shift; saying it harkens back to 250-300 years of puritanical concerns about viewing the body. CHAIRMAN TAYLOR said personally, nothing makes him feel more comfortable and warms his heart more than a nursing mother with her baby.

MS. HEATHER BARBER, a Mat-Su mom, added her support to the bill.

Number 285

MR. STEVEN JAQUIER, who described himself as the "token male"

expressed his personal belief that breast fed babies do better than bottle fed babies and thanked the committee for the piece of legislation.

MS. MONICA GROSS, a pediatrician and mother of three, supported the bill and said it sends a message to the rest of the nation that the people of Alaska support its children.

Ms. CAREN ROBINSON, representing the Alaska Women's Lobby, expressed strong support for the bill and spoke of her personal experience nursing her son, saying it was an incredible bonding experience she will never forget.

MS. MARGIE HAMBURGER spoke in favor of the bill, saying that employers should also be educated and encouraged to support breast-feeding mothers.

Ms. PAM CURE commented that in a culture that pervasively depicts women as sex objects, the nurturing role of a breast-feeding mom is even more important and should be encouraged. MS. CURE said a mother should be free to enjoy society and this bill allows for the protection of that freedom. She wholeheartedly supports the bill.

Number 363

MS. GRACE ELLIOT said she was thrilled to see the bill. She recalled a campaign to promote breast-feeding she encountered in Canada which employed huge billboards saying, "Fast food - Two convenient locations" and "Sometimes it's ok to suck up to the boss."

MS. ANNE CARPENETI, representing the Department of Law, explained that her interpretation of section 3 of the bill, about "indecent viewing," is that it prohibits someone from secretly photographing a woman who is breast-feeding. In response to a question from SENATOR PARNELL, she said it is not intended to apply to anything else. MS. CARPENETI said the Department supports the bill.

MS. CARPENETI said, in order to correspond with SENATOR ELLIS's amendment, she believes the word "crime" should be changed to "offense" on page 2, line 28. CHAIRMAN TAYLOR moved this change as amendment #2. Without objection, the amendment was adopted.

SENATOR ELLIS moved the bill out of committee with individual recommendations. Without objection, it was so ordered.

#

#SB 319

SB 319 - ARBITRATION

MR. JERRY BURNETT, staff to Senator Randy Phillips, presented the bill as a means to clear up some confusion surrounding arbitration. SB 319 requires any agreement to arbitration must clearly state that engaging in arbitration may limit or waive other rights to action. SB 319 also limits the amount of an arbitration to \$7,500 to correspond with the limit of small claims court. MR. BURNETT said the bill was drafted in response to a constituent complaint, and is modeled after the Montana code.

MR. BILL MCNALL, an Anchorage attorney specializing in real estate law, testified that there is a misconception that arbitration is