

SB

297



Official Business

Alaska State Legislature

Senate

State Capitol
Juneau, AK. 99801-1182

Rules Committee MEMORANDUM.

TO: Senator Kelly, Chairman
Senate Rules Committee

FROM: Benjamin Brown, ^{SES.} Legislative Aide

DATE: 6 May 1998

IN RE: sectional analysis of the revised Rules CS for SB 297
(version 0-LS1530\Kp)

"An Act relating to breast-feeding."

This memo is a summary of the revised Senate Rules Committee Substitute for SB 297. Please note that a sectional analysis is not generally considered to be the most authoritative interpretation of a bill; a bill itself is the best statement of its specific effects.

SECTION 1: LEGISLATIVE FINDINGS This section sets forth the general findings which provide the rationale for legislative action regarding breast-feeding. The list of findings has been abbreviated by the removal of six provisions.

SECTION 2: AS 01.10.060(b) EXEMPTION FROM GENERAL DEFINITION OF LEWDNESS This section adds a new subsection to the definitions that apply to all laws of the State unless the context requires otherwise. It specifies that several generally-defined terms do not refer to breast-feeding activity. It prohibits misconstrual of this definition as a means of permitting indecent viewing or photography under AS 11.61.123.

SECTION 3: AS 29.10.200(21) LIMITATION OF HOME RULE POWERS This section adds a reference to AS 29.25.080, created by Section

4 of the bill, to the list of provisions in Title 29 that curtail legal action by municipalities.

SECTION 4: AS 29.25.080 RESTRICTION ON MUNICIPAL ORDINANCES REGARDING BREAST-FEEDING This section adds a new section to the Home Rule Municipalities chapter of Title 29 which prevents enactment of an ordinance restricting breast-feeding activity. It prohibits definitions of 'lewdness' and 'immorality' in municipal ordinance from including breast-feeding. It prohibits misconstrual of this section as a means of permitting indecent viewing or photography under AS 11.61.123.

SECTION 5: AS 44.83.990(4) DEFINITION OF PERSON This section makes a relettering change to a reference to the definitions that apply to all laws of the State unless the context requires otherwise, in the definition of 'person' in the Alaska Energy Authority's enabling statute, AS 44.83.990(4).

0-LS1530VH
Lauterbach
4/28/98

*adopted
5-1-98*

*recinded
5-6-98*

CS FOR SENATE BILL NO. 297(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES 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. LEGISLATIVE FINDINGS. The legislature finds that

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

7 (2) in addition to the benefit of improving bonding between mothers and their
8 babies, breast-feeding offers better nutrition, digestion, and immunity for babies than does
9 formula-feeding, and it may increase the intelligence quotient of a child;

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

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

1 * Sec. 2. AS 01.10.060 is amended by adding a new subsection to read:

2 (b) In the laws of the state, "lewd conduct," "lewd touching," "immoral
3 conduct," "indecent conduct," and similar terms do not include the act of a woman
4 breast-feeding a child in a public or private location where the woman and child are
5 otherwise authorized to be. Nothing in this subsection may be construed to authorize
6 an act that is an offense under AS 11.61.123.

7 * Sec. 3. AS 44.83.990(4) is amended to read:

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

0-LS1530F
Lauterbach
4/22/98

*not
considered*

CS FOR SENATE BILL NO. 297(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES 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. LEGISLATIVE FINDINGS.** The legislature finds that

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

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

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

12 (4) in addition to the benefit of improving bonding between mothers and their
13 babies, breast-feeding offers better nutrition, digestion, and immunity for babies than does
14 formula-feeding, and it may increase the intelligence quotient of a child;

15 (5) babies who are breast-fed have lower rates of death, meningitis, childhood

1 leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections,
2 diarrheal diseases, otitis media, allergies, obesity, and developmental delays;

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

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

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

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

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

17 * Sec. 2. AS 01.10.060 is amended by adding a new subsection to read:

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

23 * Sec. 3. AS 44.83.990(4) is amended to read:

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



OFFICE OF SENATOR TIM KELLY

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TELEFAX MESSAGE

TOTAL NUMBER OF PAGES 6, INCLUDING THIS PAGE

DATE: TUE. 4-21

TO: TERRY LAUTERBACH

FAX#: _____

VOICE#: _____

FROM: TIM BENINTENDI

SUBJECT: SB 297

Terry - May we get a RLS c.s. which
deletes Sections 1, 4, 5, 6 & 7?

Also, on page 2, line 23, put
a period after "be," and delete
the words "irrespective → feeding."

Thanks, Tim B. 3770

**** Confidentiality Notice ****

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TERRY LAUTERBACH

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 ~~delete~~ * 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 *delete* **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 ~~delete~~ 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 *delete* 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 *delete* (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)];

Tuesday, April 21, 1998

WE FEEL STRONGLY THAT NURSING MOTHERS SHOULD NOT BE SUBJECTED TO LAWS RELATING TO LEWD CONDUCT, INDECENT TOUCHING, IMMORAL CONDUCT, INDECENT CONDUCT, OR THE LIKE, UNDER ALASKA STATUTE. IN ADDITION, WE FEEL THAT IN THE ABSENCE OF ACTUAL SOCIAL DISTURBANCES OR THE FILING OF CHARGES AGAINST WOMEN WHO PUBLICLY BREAST-FEED THEIR INFANTS, THERE SHOULD BE NO LAWS MADE OR ABRIDGED TO IMPACT RIGHTS WHICH ALREADY EXIST.

Alaska State Legislature



Official Business

State Capitol
Juneau AK
99801-1182

April 14, 1998

Senator Tim Kelly, Chair
Senate Rules Committee
State Capitol Building, Room 101
Juneau, Alaska 99801

Dear Senator Kelly,

We are writing to request that you please consider scheduling Senate Bill 297, "The Breast-feeding Promotion and Protection Act" for a Senate floor vote at your earliest convenience.

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. "*The Breast-feeding Promotion and Protection Act*" clarifies this protection. In addition, anyone that interferes with a mother's right to breast-feed her baby will be charged with a violation.

Mothers and health care workers from across Alaska have sent letters and public opinion messages endorsing The Breast-feeding Act. The Anchorage and Juneau chapters of the La Leche League International, the Alaska Nurses Association, South East Alaska Regional Health Consortium, Alaska Breast-feeding Coalition, and the Division of Public Health have also announced their support.

Again, we urge you to schedule this important bill for a floor vote as soon as possible. We would like this bill to have adequate time to get through the House before we adjourn. Thank you for your consideration.

Sincerely,

Handwritten signatures of five individuals: Johnny Ellis, Georgianna Lincoln, Al Adams, Lyman Hoffman, and Jim Duncan.
Johnny Ellis Georgianna Lincoln Al Adams Lyman Hoffman Jim Duncan