



# Updates to the Minnesota “Nursing Mothers Statute”



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Employer-employee relationships have changed in recent years. Lockdowns, retirements, the “great resignation,” and calls for flexible and remote work have impacted many employees. A group particularly impacted by these changes is working parents — especially those who recently gave birth.

The Minnesota Legislature recently codified additional protections for working mothers who breastfeed. Minn. Stat. § 181.939, also referred to as the “nursing mothers statute,” was modified during the 2021 legislative session, and the new statutory language took effect January 1, 2022. Changes to the nursing mothers statute, although few, are significant. The revisions also mirror changes other states have made to promote breastfeeding and to protect nursing mothers in the workplace.

Prior language required that employers provide “reasonable unpaid break time” to employees who needed to express breast milk (colloquially, “pump”). The 2021 modifications deleted the word “unpaid” and changed “time” to “times” in recognition that nursing mothers often must pump several times within the typical eight-hour workday. Though the statute does require, if possible, that the employee’s lactation break run concurrently with other breaks (e.g., lunch), the updated language recognizes

that many mothers must pump every couple of hours, and this necessity may not always align with standard work breaks.

The second important change is that “[a]n employer shall not reduce an employee’s compensation for time used for the purpose of expressing milk.” This, along with the deletion of the word “unpaid” in reference to “break time” in the statute, indicates that breaks for the purpose of expressing milk are now compensable under Minnesota law.

Minnesota employers must provide paid break times to lactating employees for the purpose of expressing breast milk. The law requires the breaks to be “reasonable” and allows an employer to deny a break if it would unduly disrupt the employer’s operations. However, employees who demand these reasonable break times cannot face retaliation for doing so. Specifically, an “employer *shall* not retaliate against an employee for asserting rights or remedies under this subdivision.” Under the prior version of the statute, the word “may” was used in place of “shall,” perhaps suggesting that the requirement was optional. It is now clear that employers cannot retaliate against lactating employees requesting breaks provided by the nursing mothers statute.

What constitutes a “reasonable” break is not defined in either the Minnesota statute or case law. The Federal Department of Labor has issued guidance and factors to determine a “Reasonable Break Time,” though actual parameters remain undefined. According to the guidance, “[t]he act of expressing breast milk alone typically takes about 15 to 20 minutes, but there are many other factors that will determine a reasonable break time.” It is possible that the specifics of what constitutes a reasonable break time for expressing breast milk will become better defined through future Minnesota court cases. Until then, many working mothers will be happy to learn that the changes to this law provide nursing mothers the right to take paid lactation breaks at work.

If your company needs assistance creating or evaluating existing employee policies for compliance with recent changes to the law, please contact your attorney at Moss & Barnett.