

HOUSE BILL NO. 5292

November 02, 2023, Introduced by Reps. Stone, Price, Rheingans, Brabec, MacDonell, McKinney and Hood and referred to the Committee on Labor.

A bill to require employers to provide breaks for employees to breastfeed a nursing child or express breast milk for a nursing child; to provide for the conditions under which the breaks must be taken; to provide for the powers and duties of certain state governmental officers and entities; and to provide sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "breastfeeding privacy
2 act".

3 Sec. 3. As used in this act:

1 (a) "Commission" means the civil rights commission established
2 by section 29 of article V of the state constitution of 1963.

3 (b) "Employee" means an individual employed by an employer.

4 (c) "Employer" means a person that employs 1 or more
5 employees.

6 (d) "Nursing child" means an individual who is 1 year of age
7 or younger.

8 (e) "Person" means an individual or a partnership,
9 corporation, limited liability company, association, governmental
10 entity, or other legal entity.

11 Sec. 5. (1) An employer shall do all of the following:

12 (a) Subject to subsection (2), provide an employee with breaks
13 as necessary for the employee to breastfeed the employee's nursing
14 child or express breast milk for the employee's nursing child.

15 (b) Provide for its employees a place to express breast milk
16 that meets all of the following requirements:

17 (i) Is shielded from view.

18 (ii) Has seating and counter space suitable for breastfeeding
19 and expressing breast milk.

20 (iii) Is not a restroom.

21 (c) Provide for its employees a refrigerator or other cold
22 storage device that is suitable for storing breast milk.

23 (d) Provide an employee with access to a functioning sink
24 suitable for cleaning a breast pump.

25 (2) An employer shall pay an employee who takes a break under
26 subsection (1) (a) at the employee's regular rate of pay during the
27 break. A break taken under subsection (1) (a) must not be used to
28 fulfill the requirements of any other break or rest period required
29 by law or contract.

1 Sec. 7. A person shall not do any of the following:

2 (a) Retaliate or discriminate against a person because the
3 person does any of the following:

4 (i) Opposes a violation of this act.

5 (ii) Brings an action or files a complaint under this act.

6 (iii) Testifies, assists, or participates in an investigation,
7 proceeding, or hearing under this act.

8 (b) Aid, abet, incite, compel, or coerce a person to engage in
9 a violation of this act.

10 (c) Attempt directly or indirectly to violate this act.

11 (d) Willfully interfere with the performance of a duty or the
12 exercise of a power by the commission or 1 of its authorized
13 representatives under this act, a rule promulgated under this act,
14 or an order issued under this act.

15 (e) Willfully obstruct or prevent a person from complying with
16 this act or an order issued or rule promulgated under this act.

17 (f) Coerce, intimidate, threaten, or interfere with a person
18 who exercises a right guaranteed under this act.

19 Sec. 9. (1) A person that violates this act may be ordered to
20 pay a civil fine as follows:

21 (a) For a first violation, a civil fine of not more than
22 \$1,500.00.

23 (b) For each subsequent violation, a civil fine of not more
24 than \$2,500.00.

25 (2) A violation of this act may be prosecuted by the
26 prosecutor of the county in which the violation occurred or by the
27 attorney general.

28 Sec. 11. (1) An individual aggrieved by a violation of this
29 act may, not later than 3 years after the alleged violation, do

1 either of the following:

2 (a) File a complaint with the commission.

3 (b) Bring a civil action for appropriate injunctive relief or
4 damages, or both, in the circuit court for the county where the
5 alleged violation occurred or where the person against whom the
6 civil complaint is filed resides or has its principal place of
7 business. Filing a complaint with the commission under subdivision
8 (a) is not a prerequisite or a bar to bringing an action under this
9 subdivision.

10 (2) A court may award the following to a plaintiff who
11 prevails in an action brought under subsection (1) (b):

12 (a) Damages for mental distress.

13 (b) Damages for emotional distress.

14 (c) Injunctive relief.

15 (d) Lost wages.

16 (e) Costs, including reasonable attorney fees.

17 Sec. 13. The commission shall do all of the following:

18 (a) Receive, initiate, investigate, conciliate, adjust,
19 dispose of, issue charges, and hold hearings on complaints alleging
20 a violation of this act.

21 (b) Approve or disapprove plans to correct past violations of
22 this act.

23 (c) Require answers to interrogatories; order the submission
24 of books, papers, records, or other materials pertinent to a
25 complaint; require the attendance of witnesses; administer oaths;
26 take testimony; and compel, through court authorization, compliance
27 with an order of the commission.

28 (d) Promulgate rules to implement this act pursuant to the
29 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328.

2 Sec. 15. If this act conflicts with an employment agreement or
3 collective bargaining agreement that is in effect on the effective
4 date of this act, this act applies to the parties to the agreement
5 beginning on the date the agreement is amended, extended, or
6 renewed.