

MEMORANDUM

July 11, 2022

TO: Government Operations and Fiscal Policy and Health and Human Services

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 11-22, Buildings - Lactation Rooms in County Buildings – Required

PURPOSE: Worksession – Committee recommendation expected

Expected Attendees:

Jaime Cook, Department of General Services
David Dise, Department of General Services
Daryl Gorman, Office of Human Resources
Jodi Finkelstein, Commission for Women
Cory Orlosky, OMB
Rachel Silberman, OMB

Bill 11-22, Buildings - Lactation Rooms in County Buildings – Required sponsored by Lead Sponsor Councilmember Friedson, and Co-sponsors Councilmembers Huckler, Albornoz, Katz, Navarro, Glass, Riemer, Jawando, and Rice was introduced on June 14, 2022. A public hearing is scheduled for July 12 at 1:30 pm.

Bill 11-22 would:

- (1) require County buildings to include a lactation room for County employees or provide alternative accommodations;
- (2) require employees to receive break time for lactation needs;
- (3) require the County Executive to establish personnel regulations for certain accommodations;
- (4) require certain educational materials posted on the County's website; and
- (5) generally, amend the law regarding buildings and personnel regulations.

PURPOSE

The purpose of Bill 11-22 is to promote public health, reduce health disparities, and support County employees who wish to express breast milk at work by requiring designated lactation rooms in certain County buildings, and providing employees with reasonable break time for lactation. A memorandum from the lead sponsor is on page ©8.

BACKGROUND

Federal Law

The Patient Protection and Affordable Care Act (known as the “Affordable Care Act” (ACA)) enacted in 2010, requires employers to provide a *space* that is not a bathroom for employees to express breast milk. The space must be completely private so that no one can see inside, and no one is able to enter the space while it is being used. It also must be functional, and usable as a space for expressing breast milk. *See* 29 U.S.C. 207.

Employers are not required to create a permanent dedicated space for breastfeeding employees. In many workplaces, there is no unused space. In that case, the employer could instead provide access to a temporary space normally used for other things (like a meeting room or storage area). If the space is available each time the employee needs it, the employer is meeting the requirements of federal law. If there are no breastfeeding employees, the employer does not need to maintain a space.¹

The ACA also amended the Fair Labor Standards Act (FLSA) to require employers to provide reasonable break time for an employee to express breast milk for a nursing child up to one year after the child’s birth. *Id.*

Federal law does not preempt state laws from creating a permanent², dedicated space for lactation or providing greater protections for employees by expanding the reasonable break time beyond one year after a child’s birth.

State Law

Maryland passed House Bill 306 in 2018, a state version that mirrors the federal law, where state employees are provided reasonable break time and a place to express breast milk. Section § 2-130 of Maryland State Personnel and Pension Code, states:

- (a) In general.** — The State, through its appropriate officers and employees, shall provide:
- (1)** a reasonable break time for an employee to express breast milk for her nursing child after the child’s birth each time the employee needs to express the milk; and
 - (2)** on notice, a place, other than a bathroom, that is shielded from view and free from coworkers and the public and that may be used by an employee to express breast milk.
- (b) Compensation.** — The State may not be required to compensate an employee receiving reasonable break time under subsection (a)(1) of this section for any time spent expressing breast milk at work.

State law does not preempt local jurisdictions the authority to implement greater protections by requiring lactation accommodations for breastfeeding employees.

Lactation Rooms in County Buildings

¹ U.S. Department of Labor [Fact Sheet](#) and the Frequently Asked Questions.

² Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)(4)).

The County's Office of Human Resources (OHR), in collaboration with the Department of General Services (DGS), provides guidance for County Departments to comply with FLSA, including allocating or repurposing space in a County building for employees who return to work after a birth of a child and need a lactation room. While the County has some buildings that may include a designated lactation room for some departments, other departments, may comply with federal law and solely provide a temporary, functional space.

BILL DESCRIPTION

Bill 11-22 would extend protections for nursing mothers in the workplace by requiring a permanent, dedicated room for County employees who are breastfeeding in certain County buildings.

Specifically, it would require County buildings, whether existing or newly constructed, to include at least one lactation room for County employees to express breast milk. A lactation room means a designated sanitary room, other than a bathroom, made available for expressing breast milk, that is shielded from view; free from public or coworker intrusion; displays appropriate signage, and contains the following:

1. a chair;
2. a flat surface to place a breast pump;
3. a sink with running water;
4. a small refrigerator;
5. a microwave;
6. at least one or more electrical outlets; and
7. any other related supplies as provided in regulations.

While some County buildings already have an existing lactation room, this bill would provide for consistency, throughout *all* County buildings, if feasible. Further, if the Director of Department of General Services determines that a room in a County building is unable to be repurposed as a lactation room, the Director must consider alternative accommodations. Alternative accommodations include creating a space for a lactation pod or station that is mobile, private, and functional for the employee.

Further, an employee must be given reasonable break time to express breast milk. The breaktime must align with existing lunch or other regular breaks. This is similar to federal and state law, but it provides greater protection because federal law allows break time to occur for up to a year after the birth of a child, while Bill 11-22 imposes no specific time period.

The bill would also require the Executive to develop personnel regulations to adopt a lactation accommodation policy.

See lines 52-66, as follows:

- (a) The policy, at a minimum, must contain guidelines regarding:
 - (1) the process to request the use of a lactation room, as provided under Section 8-14C(b);
 - (2) the process to request break time under Section 33-27;
 - (3) the availability of the lactation room; and
 - (4) best practices for maintenance of room, including recommended general cleaning of milk expression areas and storage of breast milk in the designated refrigerator.
- (b) Outreach and Education. The Director of the Office of Human Resources must provide, or cause to be provided, on its website informational materials related to prenatal and postpartum breastfeeding for County employees.

PUBLIC HEARING

The Council received in anticipation of the public hearing scheduled for July 12, three written testimonies in support of Bill 11-22.

Jacquelyn Williams, on behalf of African American Health Program, expressed support for the bill because as cited by the Centers for Disease Control and Prevention (CDC), “breastfeeding is the “best source of nutrition for most babies, supports a baby’s growth and development, and protects the baby and mom against certain illnesses and diseases”. The health benefits for moms/birthing people are major since breastfeeding reduces the mother’s risk of breast and ovarian cancer, type 2 diabetes, and high blood pressure (CDC, 2021).” © 16.

The Montgomery County Community Action Board testimony stated this bill would, “provide critical support to County employees and removes an employment barrier by allowing new parents to breastfeed/pump for as long as they wish, even after they return to work.” Further, it noted, that additional co-benefits affiliated with breastfeeding include a lower risk of SIDS, asthma, and diabetes. The Community Action Board also called for the Council to expand the bill to all employees in the County, not only County employees. © 18.

Selena Mendy Singleton, on behalf of Montgomery County Racial Equity and Social Justice Advisory Committee, noted “[b]reastfeeding disparities and inequities have persisted in families of color. Systemic and structural obstacles, such as inequitable access to lactation resources and assistance are persistent. According to the CDC, women, and infants of color experience racism, and systemic and structural barriers during the perinatal period.

Increasing breastfeeding rates is a critical public health strategy to address maternal mortality and morbidity and infant mortality. Data suggest that community-based strategies, government plans, and maternity care policies and practices that encourage breastfeeding have been successful in enhancing breastfeeding rates [...] This legislation, by protecting, promoting, and supporting breastfeeding, is one step toward a multifaceted public health strategy to address and reduce health disparities and inequities toward mothers and infants, especially mothers and infants of color.” © 19.

ISSUES FOR COMMITTEE’S DISCUSSION

1. What is the scope of County buildings that would be impacted by this legislation?

According to the Office of Management and Budget (OMB), in coordination, with the Department of General Services (DGS), the County has over 400 facilities, with 300 that would be impacted by this legislation. Of the 300, 100 are considered unfeasible for retrofits and would qualify for alternative accommodation, *i.e.*, a portable lactation station or pod.

The remaining 200 may be retrofitted, but 170 are not adjacent to plumbing and require major plumbing work to comply with Bill 11-22, as introduced. The last 30 buildings can be retrofitted with access to a sink with running water.

2. What is the fiscal impact?

Essentially, how much would implementation cost the County? The fiscal impact statement provided by OMB, © 10, indicates that in fiscal year 2023 County expenditures would increase by \$9.7 million dollars to retrofit buildings to include a lactation room with running water over a six-year period. As an alternative, if lactation rooms are provided without running water, County expenditures would significantly decrease to \$3.5 million dollars. The following chart below provided by OMB breakdowns the cost analysis for 1) retrofit with plumbing, 2) retrofit without plumbing and 3) portable lactation room without plumbing.

		Retrofit with Plumbing		Retrofit without Plumbing	
		Number of Units	Total	Number of Units	Total w/o plumbing
Retrofit of Existing Space					
Adjacent to Available Plumbing					
Chair, small refrig, microwave, flat surface	\$ 1,800				
Electrical Outlet	\$ -				
Sink/plumbing @ \$500/ft - avg 20 ft	\$ 10,000				
TOTAL	\$ 11,800	30	\$ 354,000	200	\$ 360,000
Retrofit of Existing Space					
No Adjacent Available Plumbing					
Chair, small refrig, microwave, flat surface	\$ 1,800				
Electrical Outlet	\$ -				
Sink/plumbing	\$ 35,000				
TOTAL	\$ 36,800	170	\$ 6,256,000	\$ -	\$ -
Portable Lactation Room*					
Purchase of Pod	\$ 25,000				
Installation/Other	\$ 5,000				
TOTAL	\$ 30,000	100	\$ 3,000,000	100	\$ 3,000,000
<i>* Portables do not include plumbing</i>					
Total All Buildings		300	\$ 9,610,000	300	\$ 3,360,000
Contract or Staff Costs for Survey			\$ 150,000		\$ 150,000
TOTAL - Building and Personnel Cost			\$ 9,760,000		\$ 3,510,000

- a. *The Committee may want to discuss whether a sink with running water is required for a lactation room?*

According to the U.S. Office of Personnel Management, as published in its, *Guide for Establishing Nursing Mother’s Program*³, a sink with hot and cold water within the lactation room is an accepted best practice. Breastfeeding employees who have access to a sink can use it for proper handwashing, thoroughly washing breast pumps and the devices, and for general cleaning any flat surface for the next user.

While it is a best practice and well supported by advocates to include a sink with running water, Council staff has identified several other jurisdictions that *do not* require running water; instead, the law requires “nearby” access to running water. Jurisdictions include Baltimore City, Philadelphia, New York City, San Antonio, San Francisco, and California. For each jurisdiction, the term “nearby” was not clearly defined in the respective statute or code.

- b. *The Committee may consider, as an amendment, access to a nearby sink with running water?*

If the Committee chooses to reduce the cost for implementation of Bill 11-22, it may consider an amendment to remove the requirement for running water, and instead, consider only “access to a nearby sink.” This would align the County with several other jurisdictions and decrease expenditures.

Amend line 20, as follows:

³ OPM: Guide for Establishing a Federal Nursing Mother’s Program. < <https://www.opm.gov/policy-data-oversight/worklife/reference-materials/nursing-mother-guide.pdf>>

[a sink with running water] access to a nearby sink with running water;

Decision Point: Whether the Council should amend the requirements for a lactation room to include a sink with running water?

3. What is the economic impact?

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 11-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators. © 13.

A notable economic impact as identified by the U.S. Department of Health and Human Services - Office of the Surgeon General, indicates that generally “families who follow optimal breastfeeding practices can save between \$1,200 – \$1,500 (inflation was not factored) in expenditures on infant formula in the first year alone.”⁴ Also, for both employers and employees, better infant health means fewer health insurance claims, less employee time off to care for sick children, and higher productivity.

4. How will an employee's break time be determined? Should the County compensate an employee for additional break time outside of normal scheduled paid breaks?

Federal and state laws both require an employer to allow “reasonable break time” each time an employee needs to express milk regardless of whether the time corresponds with lunch or scheduled breaks. As drafted, lines 49 through 51 of the Bill (Section 33-27(b)) pose a conflict and can be interpreted as more restrictive than federal law, *See* 29 U.S.C. 207(r)(1)(A), © 22.

Nursing employees may require different amounts of time to pump, and it is important that the County take into consideration varying circumstances and job types; so, while flexibility is strongly encouraged, the intent of the legislation does not require County to compensate breastfeeding employees for breaks taken to express breast milk. Further, the Council should provide authority for the County Executive to establish regulations to determine the process and procedure for an employee to request reasonable break time. Therefore, Council staff recommends the following clarifying amendments:

Amend lines 49-51, as follows:

33-27. [Reserved] Break Time for Lactation.

- (a) An employee must be provided with reasonable break time during the workday to accommodate the need for lactation.
- (b) [[The break time must run concurrently with any lunch or normal break already provided to the employee unless an alternative schedule has been approved by the

⁴ U.S. Health and Human Services. Breastfeeding: Surgeon General's Call to Action Fact Sheet. <
<https://www.hhs.gov/surgeongeneral/reports-and-publications/breastfeeding/factsheet/index.html>>

employee's supervisor.]] *Compensation.* The County may not be required to compensate an employee receiving reasonable break time under subsection (a) of this section for any time spent expressing breast milk at work.

(c) *Regulations.* The Director may promulgate Method (2) regulations to implement the requirements of this section.

Decision Point: Whether to amend the provision related to reasonable break time?

5. Clarifying Amendment suggested by Council staff

Although it may be implied and despite being modeled after federal language, line 14 indicates the lactation room must be “free from public or coworker intrusion;” however, this may not be sufficient to avoid intrusion. Rather, the bill needs to explicitly state a **door lock is required**. Council staff recommends the following clarifying amendment that a door lock is required for a lactation room.

Amend line 14, as follows:

Lactation room means a designated sanitary room, other than a bathroom, made available for expressing breast milk, that:

- (1) is shielded from view;
- (2) is free from public or coworker intrusion;
- (3) has a door lock from the inside;

* * *

Decision Point: Whether to adopt a clarifying amendment that a lactation room must have a door lock?

Next Steps: Whether the Committee recommends Bill 11-22, as amended, for a vote?

This packet contains:

	<u>Circle #</u>
Bill 11-22	©1
Legislative Request Report	©5
Councilmember Friedson's Memo	©7
Public Testimony	©16
29 U.S.C 207(r)(1)(A)	© 22

Bill No. 11-22
Concerning: Buildings – Lactation Rooms
in County Buildings - Required
Revised: 5/23/2022 Draft No. 2
Introduced: June 14, 2022
Expires: December 13, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Friedson
Co-Sponsors: Councilmembers Hucker, Albornoz, Katz, Navarro, Glass, Riemer, Jawando, and
Rice

AN ACT to:

- (1) require County buildings to include a lactation room for County employees or provide alternative accommodations;
- (2) require employees to receive break time for lactation needs;
- (3) require the County Executive to establish personnel regulations for certain accommodations;
- (4) require certain educational materials posted on the County’s website; and
- (5) generally amend the law regarding buildings and personnel regulations.

By amending

Montgomery County Code
Chapter 8, Buildings
Section 8-14C

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-27 and 33-28

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Sections 8-14C, 33-27, and 33-28 are amended as follows:**

2 **8-14C. [Reserved] Lactation Rooms in County Buildings.**

3 (a) Definitions. In this Section, the following terms have the meanings
 4 indicated.

5 County building means a building, whether existing or newly constructed,
 6 that is owned or leased by the County where County employees work.

7 County employee has the meaning stated in Section 33-6.

8 Department means the Department of General Services.

9 Director means the Director of General Services or the Director’s
 10 designee.

11 Lactation room means a designated sanitary room, other than a bathroom,
 12 made available for expressing breast milk, that:

- 13 (1) is shielded from view;
- 14 (2) is free from public or coworker intrusion;
- 15 (3) displays appropriate signage that indicates “lactation room” or
 16 “nursing room;” and
- 17 (4) contains the following:
 - 18 (A) a chair;
 - 19 (B) a flat surface to place a breast pump;
 - 20 (C) a sink with running water;
 - 21 (D) a small refrigerator;
 - 22 (E) a microwave;
 - 23 (F) at least one or more electrical outlets; and
 - 24 (G) any other related supplies as provided in regulations.

25 (b) Lactation room - required. Except as provided in subsection (c) or (d),
 26 the Department must provide at least one lactation room in each County

27 building that is available for use by any County employee to express
 28 breast milk.

29 (c) Alternative Accommodation. If the Director determines that a County
 30 building does not have a room that could be repurposed as a lactation
 31 room, at a reasonable cost, the Department must consider alternative
 32 accommodations. Alternative accommodation includes installing or
 33 creating a space for a portable lactation room or station.

34 (1) The Executive may enter into a memorandum of understanding
 35 between the Department and an owner that offers, for sale or lease,
 36 a portable lactation room or station to meet the requirement for
 37 subsection (c).

38 (d) Exceptions. A County building may be excluded from the requirement
 39 under subsection (b), if the building:

- 40 (1) is solely a warehouse;
- 41 (2) is primarily used for archives; or
- 42 (3) would require new construction to create a room and the cost of
 43 such construction is unfeasible.

44 (e) Regulations. The Director may promulgate Method (2) regulations to
 45 implement the requirements of this Section.

46 **33-27. [Reserved] Break Time for Lactation.**

47 (a) An employee must be provided with reasonable break time during the
 48 workday to accommodate the need for lactation.

49 (b) The break time must run concurrently with any lunch or normal break
 50 already provided to the employee unless an alternative schedule has been
 51 approved by the employee's supervisor.

52 **33-28. [Reserved] Lactation Accommodation Policy.**

53 (a) Personnel regulations. The County Executive must adopt personnel
 54 regulations under Method (1) to establish a lactation accommodation
 55 policy. The policy, at a minimum, must contain guidelines regarding:

56 (1) the process to request the use of a lactation room, as provided
 57 under Section 8-14C(b);

58 (2) the process to request break time under Section 33-27;

59 (3) the availability of the lactation room; and

60 (4) best practices for maintenance of room, including recommended
 61 general cleaning of milk expression areas and storage of breast
 62 milk in the designated refrigerator.

63 (b) Outreach and Education. The Director of the Office of Human Resources
 64 must provide, or cause to be provided, on its website informational
 65 materials related to prenatal and postpartum breastfeeding for County
 66 employees.

67 **Sec. 2. Implementation.** The County Executive must issue any policy and
 68 regulations required under this Act, and make available the required lactation rooms,
 69 within 6 months after the effective date of this Act.

LEGISLATIVE REQUEST REPORT

Bill 11-22

Bill 11-22, Buildings – Lactation Rooms in County Buildings – Required

DESCRIPTION:	Bill 11-22 would: <ol style="list-style-type: none">(1) require County buildings to include a lactation room for County employees or provide alternative accommodations;(2) require employees to receive break time for lactation needs;(3) require the County Executive to establish personnel regulations for certain accommodations;(4) require certain educational materials posted on the County’s website; and(5) generally, amend the law regarding buildings and personnel regulations.
PROBLEM:	Employers are not required to create a permanent dedicated space for breastfeeding employees. Federal law requires an employer to instead provide access to a temporary space, other than a bathroom, but that space may have other uses, including for meetings, utility, storage, etc. The space may not provide the essentials needed for a nursing employee. The limited access to accommodation may raise health disparities and discourage County employees to continue breastfeeding in the workplace after a birth of a child.
GOALS AND OBJECTIVES:	The purpose of Bill 11-22 is to promote public health, reduce health disparities, and support County employees who wish to express breast milk at work by requiring designated lactation rooms in certain County buildings, and providing employees with reasonable break time for lactation.
COORDINATION:	Department of General Services and Office of Human Resources
FISCAL IMPACT:	To be provided by OMB
ECONOMIC IMPACT:	To be provided by OLO
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	To be provided by OLO
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	To be researched.

SOURCE OF INFORMATION:

Ludeen McCartney-Green, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES:

N/A

PENALTIES:

N/A



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ANDREW FRIEDSON
COUNCILMEMBER
DISTRICT 1

MEMORANDUM

TO: Montgomery County Councilmembers
FROM: Andrew Friedson *AF*
SUBJECT: **Supporting Working Parents in the County Government Workforce**
DATE: May 31, 2022

On June 14, 2022, I will introduce two bills to benefit working parents in the County Government workforce. I believe that the County government, as an employer of almost 10,000, must lead by the power of its example. We must model an environment that acknowledges, values, and uplifts women, parents, and families.

The first bill, *The Paid Parental Leave Act*, will provide for six weeks of paid parental leave for County employees and the second, *The Right to Nourish Act*, for lactation room(s) in County buildings. I would appreciate your co-sponsorship.

Historically, women in the workforce have been overburdened and under supported. COVID-19 has only exacerbated existing challenges. Women need our backing to productively engage in the workforce and their homes, perhaps now more than ever.

A significant body of literature supports the implementation of paid parental leave and lactation rooms in the workplace. The two are inextricably linked and produce noteworthy outcomes. Paid parental leave improves maternal mental and physical health, supports fathers' involvement in care, and enhances families' economic security. Research also shows that paid parental leave reduces infant mortality perhaps partially due to adherence to recommended medical checkup and vaccinations schedules. The greatest impact appears to be on mothers who could not otherwise afford to take time off.

Furthermore, paid parental leave contributes to healthy infant development vis a vis increased initiation and duration of breastfeeding. Breastfed infants have reduced risk of developing type 2 diabetes, obesity, asthma, infections, and sudden infant death syndrome, and lowers a mother's risk of heart disease, type 2 diabetes, ovarian cancer, and breast cancer. Sadly, a return to work often marks the end of breastfeeding because mothers cannot maintain their milk supply. This doesn't have to be the case. The CDC reports that in 2018 – 2019 Montgomery County had the highest rate of breastfeeding initiation (96.3%) in the State. With adequate facilities to support their efforts, mothers won't be forced to choose between returning to work and continuing to breastfeed.

We also know that race-based differences in breastfeeding exacerbate health disparities and other related inequities. For instance, in the US 64% of Black mothers initiate and 14% breastfeed exclusively at six months, compared to 82% and 23% among White mothers. Many factors play into these persistent disparities including issues related to work and labor conditions. The CDC and national public health

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ANDREW FRIEDSON
COUNCILMEMBER
DISTRICT 1

partners recommend providing support for breastfeeding in the workplace to reduce disparities in breastfeeding.

While it is morally just to support women, parents, and caregivers in the workplace, Montgomery County Government will also reap the rewards of this public policy. Paid parental leave has been shown to increase retention and productivity and boost labor force participation. Breastfeeding is linked to decrease direct and indirect insurance claim costs and missed days from work due to caring for a sick infant. This legislation represents a win-win for all involved.

Please do not hesitate to reach out to me or [Mary Gies](#) on my staff with any questions. We look forward to receiving your support.

Fiscal Impact Statement
Bill 11-22
Buildings – Lactation Rooms in County Buildings – Required

1. Legislative Summary.

The Legislation requires County buildings to include a permanent lactation room for County employees or provide alternative accommodations if a permanent lactation room cannot be provided at a reasonable cost. County buildings may be excluded if the building is a warehouse, is primarily used for archives, or would require new construction to create a room and the cost of such construction is unfeasible. Lactation rooms as required under the bill must be provided within six months after the effective date of this Act. The Legislation also requires that employees be provided reasonable workday breaktime to accommodate lactation, the establishment of a lactation accommodation policy, and web-based information on breastfeeding for County employees.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

FY23 County Expenditures increase by \$9,760,000 to support one-time and ongoing costs associated with the retrofit of lactation rooms as required under the Bill, with running water provided in all non-portable lactation spaces, as shown below. If running water is not provided, FY23 County Expenditures increase by \$3,510,000.

Estimates assume that of the County's over 400 facilities, County employees operate out of 300 facilities, which would therefore be impacted by the Bill. Of these, 100 facilities are assumed to require the use of a portable lactation room due to the absence of space or because the construction of new space is infeasible, at an estimated cost of \$3,000,000. In addition, 200 facilities are assumed to have existing space that could be retrofit. Of these, 30 facilities are assumed to have space close to existing plumbing that could be retrofit, and 170 facilities are assumed not to have space next to adjacent plumbing and require additional plumbing work. These cost estimates range between \$360,000 and \$6,610,000 depending on whether running water is assumed.

Finally, staff time is required to survey over 400 County facilities to identify facilities that are impacted by the Bill and the modifications needed to satisfy the Bill's requirements at an estimated cost of \$150,000.

		Retrofit with Plumbing		Retrofit without Plumbing	
		Number of Units	Total	Number of Units	Total w/o plumbing
Retrofit of Existing Space					
Adjacent to Available Plumbing					
Chair, small refrig, microwave, flat surface	\$ 1,800				
Electrical Outlet	\$ -				
Sink/plumbing @ \$500/ft - avg 20 ft	\$ 10,000				
TOTAL	\$ 11,800	30	\$ 354,000	200	\$ 360,000
Retrofit of Existing Space					
No Adjacent Available Plumbing					
Chair, small refrig, microwave, flat surface	\$ 1,800				
Electrical Outlet	\$ -				
Sink/plumbing	\$ 35,000				
TOTAL	\$ 36,800	170	\$ 6,256,000	\$ -	\$ -
Portable Lactation Room*					
Purchase of Pod	\$ 25,000				
Installation/Other	\$ 5,000				
TOTAL	\$ 30,000	100	\$ 3,000,000	100	\$ 3,000,000
<i>* Portables do not include plumbing</i>					
Total All Buildings		300	\$ 9,610,000	300	\$ 3,360,000
Contract or Staff Costs for Survey			\$ 150,000		\$ 150,000
TOTAL - Building and Personnel Cost			\$ 9,760,000		\$ 3,510,000

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The proposed Legislation is estimated to total \$9,760,000 over the six-year period if running water is provided in all non-portable lactation spaces. If running water is not provided, the estimated six-year expenditure totals \$3,510,000. Because the Bill requires that lactation rooms be made available within six months after the effective date of the Act, all expenditures occur in FY23. There is no anticipated impact on revenues.

	FY23	FY24	FY25	FY26	FY27	FY28	Six-Year Total
Scenario 1: Running Water In All Non-Portable Lactation Spaces	9,760,000	-	-	-	-	-	9,760,000
Scenario 2: Without Running Water	3,510,000	-	-	-	-	-	3,510,000

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Online information provided for County employees on breastfeeding on the County’s website is expected to be accommodated within existing resources. There are no other anticipated impacts to information technology systems.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

This Bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Staff time (merit or contract) will be needed to survey over 400 County facilities to determine which facilities are impacted by the Bill and the scope of modifications required to satisfy the Bill's requirements at an estimated cost of \$150,000. In addition, staff time will be required to support the retrofit of existing space including planning, design, and supervision of the project. This staff time is assumed to be absorbed within existing resources.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

See answer to Question 7.

9. An estimate of costs when an additional appropriation is needed.

FY23 Expenditures increase between \$3,510,000 and \$9,760,000 depending on whether running water is assumed to be provided in all non-portable lactation spaces.

10. A description of any variable that could affect revenue and cost estimates.

Actual costs will vary greatly depending on how many County facilities require retrofit, the number of facilities with existing space adjacent to available plumbing, and the threshold used to determine whether it is cost-effective to provide running water.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

See answer to Question 10.

12. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Angela Dizelos, Department of General Services
Gregory Boykin, Department of General Services
Hamid Omidvar, Department of General Services
Jamie Cooke, Department of General Services
Rachel Silberman, Office of Management and Budget



Jennifer R. Bryant, Director
Office of Management and Budget

7-1-22

Date

Economic Impact Statement

Office of Legislative Oversight

Bill 11-22 Buildings – Lactation Rooms in County Buildings – Required

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 11-22 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND

Bill Description

The goals of Bill 11-22 are to “promote public health, reduce health disparities, and support County employees who wish to express breast milk at work by requiring designated lactation rooms in certain County buildings, and providing employees with reasonable break time for lactation.”¹ The Bill would attempt to achieve these goals by requiring the following:

- County buildings to have a lactation room for employees or provide alternative accommodations;
- break time for employees with lactation needs;
- the County Executive to institute personnel regulations for certain accommodations; and
- certain educational materials to be posted on the County’s website.²

If enacted, the County Executive would be required to issue any requisite policy and regulations and make available the lactation rooms within six months after the effective date of this Act.³

Primary Economic Stakeholders

As described below, it is possible that creating formal lactation rooms in County buildings and designated break times for breastfeeding may economically affect certain County employees. Thus, the primary economic stakeholders of Bill 11-22 would be **certain County employees who reside in the County and, at some point, will have workplace lactation needs**. Of the 10,379 County employees, 5,654 (54 percent) reside in the County.⁴ Residents employed with the County make up approximately 1 percent of the County’s labor force—551,326 as of April 2022.⁵ While OLO does not know the average

¹ Legislative Request Report, Bill 11-22; McCartney-Green to County Council, Memorandum, June 9, 2022.

² Bill 11-22.

³ Ibid.

⁴ Data on Montgomery County Employees, Office of Human Resources, Montgomery County, May 2022.

⁵ U.S. Bureau of Labor Statistics, [Local Area Unemployment Statistics, Montgomery County, MD](#).

Economic Impact Statement

Office of Legislative Oversight

annual total of resident County employees with lactation needs, they would make up less than 1 percent of the County's labor force. (Note the Bill's potential economic impacts on non-resident County employees fall outside the purview of this Economic Impact Statements.)

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess Bill 11-22's impacts on County-based private organizations and residents in terms of the Council's priority economic indicators.⁶ There is some evidence that workplace policies and practices to support breastfeeding have positive impacts for affected employees. In its review of the evidence on workplace supports for breastfeeding, the University of Wisconsin Population Health Institute found,

"Women with access to workplace supports such as a space for lactation, breastfeeding breaks, and comprehensive lactation support programs have higher job satisfaction and job commitment than women without these supports. Workplace support programs may also reduce absenteeism, and increase productivity, morale, and retention."⁷

The evidence suggests the current lack of *formal* lactation rooms in County buildings and break times for breastfeeding may cause certain residents employed with the County to take unpaid leave or resign.⁸ If so, they may experience net decreases in household income. Thus, by establishing lactation rooms and break times for breastfeeding, the Bill may reduce a portion of potential household income losses for residents employed with the County.

However, OLO does not anticipate that the magnitude of these potential impacts would be large enough to significantly affect economic conditions in the County. As stated above, the Bill would economically affect less than 1 percent of the County's labor force. Therefore, OLO concludes that while Bill 11-22 may economically benefit certain residents, its overall impact on economic conditions in the County would be insignificant.

VARIABLES

Not applicable

⁶ Montgomery County Code, [Sec. 2-81B](#).

⁷ County Health Rankings & Roadmaps, [Workplace Supports for Breastfeeding](#).

⁸ It is worth noting certain employees with lactation needs may be provided with informal spaces and time for breastfeeding.

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

County Health Rankings & Roadmaps. [Workplace Supports for Breastfeeding](#). The University of Wisconsin Population Health Institute.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Bill 11-22, Buildings – Lactation Rooms in County Buildings – Required](#). Introduced on June 14, 2022.

McCartney-Green, Ludeen to County Council. [Memorandum](#). Bill 11-22, Buildings – Lactation Rooms in County Buildings – Required. June 14, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.



African American
Health Program
Executive Committee

June 10, 2022

Dear Councilmember Friedson:

The African American Health Program (AAHP) Executive Committee applauds you for shining the light on the need to have paid parental leave for County employees. The **Paid Parental Leave Act**, which will serve as a supplement until the State Family and Medical Leave Insurance Program takes effect in 2025, is an excellent gap measure. The **Right to Nourish Act**, for lactation room(s) in County buildings, will be extremely beneficial for moms or “birthing people”, who breastfeed, since it will provide them with a private space to pump and allow for reasonable breaks so that they can pump.

Having parental leave will be a key benefit to balancing family and work. We recently reviewed a study by Dr. Bahira Sherif Trask, who is an expert specializing in globalization, family and personal relationships and work-life issues. Dr. Trask has also written several books on work and family life. In the study by Dr. Trask (2017), it was found that an unpaid leave policy has negative health challenges for a new mom and baby. The study by Dr. Trask (2017) further revealed that paid medical leave has proven to be a contributor to higher birth weight babies and lower infant mortality. AAHP feels this is critical since Black babies are at highest risk for infant mortality and low birth weight babies are one of the main reasons that Black babies die. In addition, it has been proven that when a paid leave policy is in effect, employers benefit from “lower rate of employee turnover, and a more productive and loyal staff” (Trask, 2017, p.3). In states (e.g., California, Rhode Island, and New Jersey), where paid medical leave is mandated, many employers have enjoyed cost savings and have not experienced abuses of the system (Trask, 2017, p. 3).

There are many benefits to breastfeeding. According to the Centers for Disease Control and Prevention (CDC) (2021), breastfeeding is the “best source of nutrition for most babies, supports a baby’s growth and development, and protects the baby and mom against certain illnesses and diseases”. The health benefits for moms/birthing people are major since breastfeeding reduces the mother’s risk of breast and ovarian cancer, type 2 diabetes, and high blood pressure (CDC, 2021). The African American Health Program (AAHP) is a strong proponent of breastfeeding. AAHP’s registered nurses are certified lactation specialists. At every encounter, the AAHP nurses educate mothers on the benefits of breastfeeding and encourage the moms to breastfeed their infants for as long as possible.

Other considerations

- President Biden has replaced the terminology, “pregnant mothers”, with “birthing people” in his 2022 budget proposal in order to be more inclusive of all genders who birth babies (Office of Management and Budget, 2022). The language is also in the 2023 budget.
- Montgomery County has a growing older adult population. Paid parental leave should also benefit those who are caregivers and care for elderly parents, elderly spouses, and other elderly family members.

Thank you so much for your sponsorship of these important bills, which are needed.

Sincerely,

Jacquelyn Williams, Co-Chair
African American Health Program, Executive Committee

References

- Centers for Disease Control and Prevention [CDC]. (2021). *Breastfeeding benefits both baby and mom*.
<https://www.cdc.gov/nccdphp/dnpao/features/breastfeeding-benefits/index.html>
- Office of Management and Budget. (2022). Budget of the U.S. government: Fiscal year 2022.
https://www.whitehouse.gov/wp-content/uploads/2021/05/budget_fy22.pdf
- Trask, B.S. (2017, January). Alleviating the stress on working families: Promoting family-friendly workplace policies, 2(1). https://www.ncfr.org/sites/default/files/2017-01/ncfr_policy_brief_january_2017.pdf



Montgomery County Community Action Board Testimony

County Council Bill 11-22: Buildings – Lactation Rooms in County Buildings – Required

July 12, 2022

The Community Action Board, which advocates on behalf of the County’s low-income community, supports County Council Bill 11-22. The Community Action Board advocates for policies that provide added support to workers and remove barriers that people face when trying to remain in employment that provides a self-sufficiency wage. Requiring County buildings to provide lactation rooms does just this – it provides critical support to County employees and removes an employment barrier by allowing new parents to breastfeed/pump for as long as they wish, even after they return to work.

As the governing body for Head Start, our board has a strong interest in the health and well-being of young children. Research reveals numerous health benefits for newborns that are associated with breastfeeding, including a lower risk of SIDS, asthma, and type 1 diabetes.¹ In order to maximize these benefits, new parents should have the opportunity to breastfeed for as long as they would like and lack of a sufficient space to pump at work should not stand in the way.

It is important to note that lower-income women are less likely to breastfeed than higher-income women.² There are many reasons for this, including the fact that lower-income women often work low-wage jobs in areas such as food service or retail where there is less flexibility with their schedules. For some hourly employees, stepping away from work to pump may mean

¹ <https://www.cdc.gov/nccdphp/dnpao/features/breastfeeding-benefits/index.html#:~:text=Breastfeeding%20can%20help%20protect%20babies,ear%20infections%20and%20stomach%20bugs.>

² [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6071891/#:~:text=Breastfeeding%20is%20an%20issue%20of%20health%20equity.&text=Socioeconomically%20marginalized%20\(SEM\)%20populations%20with,levels%20of%20income%20and%20education.](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6071891/#:~:text=Breastfeeding%20is%20an%20issue%20of%20health%20equity.&text=Socioeconomically%20marginalized%20(SEM)%20populations%20with,levels%20of%20income%20and%20education.)

lower wages. Our board therefore recommends expanding the requirements of this bill to employees outside of County Government. Women in all sectors would benefit from a private space for pumping. We ask that you keep this in mind as additional policies are being developed, especially in an area like Montgomery County where the Self-Sufficiency Standard for a family of three with one adult, one infant, and one preschooler is an astounding \$103,322.³

We ask the Council to pass this bill and to continue to explore other opportunities to expand work supports and benefits for all Montgomery County residents.

³ <https://selfsufficiencystandard.org/>



RACIAL EQUITY AND SOCIAL JUSTICE ADVISORY COMMITTEE

Testimony in Support of Bill 11-22: The Right to Nourish Act Submitted to the Montgomery County Council by The Montgomery County Racial Equity and Social Justice Advisory Committee July 12, 2022

Good afternoon Councilmembers. My name is Selena Mendy Singleton. I am a member of the Montgomery County Racial Equity and Social Justice Advisory Committee (Committee), and I am testifying on behalf of the Committee.

The Montgomery County Racial Equity and Social Justice Advisory Committee strongly supports *The Right to Nourish Act* – an Act to include lactation rooms in County buildings for County employees or provide alternative accommodations. Successful lactation is inextricably linked to the health and well-being of mothers and infants, and is a racial equity and social justice issue. *The Right to Nourish Act* is a critical investment in a determinant, breastfeeding, that improves maternal and infant health outcomes, generally, and specifically improves the outcomes and promotes the equity of women and infants of color.

Breastmilk represents our very first food – the initial infant nutrition that establishes the groundwork for our health trajectory. The benefits of breastfeeding provide for both the unique nutritional and health needs of infants, and as noted in the *Montgomery County, MD Improved Pregnancy Outcomes Program 2020 Annual Report*, is associated with numerous short- and long-term material health outcomes for the breastfeeding mother. For mothers, breastfeeding can provide long-term health benefits including the reduction in postpartum blood loss, Type 2 diabetes, and breast and ovarian cancer. Breastfed children have lower risks for morbidity and mortality from infectious diseases, and a reduced risk for both Sudden Infant Death Syndrome (SIDS), and Sudden Unexpected Infant Death (SUID). In addition, according to the CDC, breastfed infants have reduced risks of asthma, obesity, Type 1 diabetes, severe lower respiratory disease, and ear and gastrointestinal infections.

Working moms often discover that returning to work presents significant breastfeeding challenges. Women often face rigid work hours, limited lunch hours and breaks to express milk, inadequate spaces to pump breastfeeding milk, a lack of privacy for breastfeeding or expressing milk, and no place to store expressed breast milk. Evidence suggests that returning to work can also lead to stress and anxiety for new mothers. However, studies have demonstrated a positive and encouraging relationship between workplace lactation support and interventions and increased rates of both breastfeeding and the duration of breastfeeding.

Breastfeeding disparities and inequities have persisted in families of color. Systemic and structural obstacles, such as inequitable access to lactation resources and assistance are

persistent. According to the CDC, women and infants of color experience racism, and systemic and structural barriers during the perinatal period.

Increasing breastfeeding rates is a critical public health strategy to address maternal mortality and morbidity and infant mortality. Data suggest that community-based strategies, government plans, and maternity care policies and practices that encourage breastfeeding have been successful in enhancing breastfeeding rates. However, breastfeeding inequities and disparities in communities of color persist.

This legislation, by protecting, promoting, and supporting breastfeeding, is one step toward a multifaceted public health strategy to address and reduce health disparities and inequities toward mothers and infants, especially mothers and infants of color.

For more information about the work of the Montgomery County Racial Equity and Social Justice Advisory Committee, please visit:

<https://www.montgomerycountymd.gov/boards/sites/RESJ/index.html>



Wage and Hour Division

Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision

Effective March 23, 2010, the Patient Protection and Affordable Care Act amended the FLSA to require employers to provide a nursing mother reasonable break time to express breast milk after the birth of her child. The amendment also requires that employers provide a place for an employee to express breast milk.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

<p>(r) An employer shall provide—</p> <p>(1)</p>	<p>1. a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk; and</p> <p>2. a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.</p>
<p>(2)</p>	<p>An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.</p>
<p>(3)</p>	<p>An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.</p>
<p>(4)</p>	<p>Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection.</p>

[Topics](#) [Worker Rights](#) [For Employers](#) [Resources](#) [Interpretive Guidance](#) [State Laws](#) [News](#)



Wage and Hour Division

An agency within the U.S.
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MEMORANDUM

July 14, 2022

TO: Health and Human Services and Government Operations and Fiscal Policy
Committee

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: **Worksession Addendum:** Bill 11-22, Buildings - Lactation Rooms in County
Buildings – Required

Bill 11-22, Buildings - Lactation Rooms in County Buildings – Required, by Lead Sponsor Councilmember Friedson and Co-sponsors Councilmembers Hucker, Albornoz, Katz, Navarro, Glass, Riemer, Jawando, and Rice, was introduced on June 14, 2022. A public hearing was held on July 12 and five speakers testified in support of the bill.

The purpose of this memorandum is to: 1) include additional public testimony that was received after the July 12 staff report was published, and 2) discuss an amendment proposed by the County Executive to extend the effective date for implementation.

1. Public Testimony

The Council received 4 additional testimonies in support of the bill. This included testimony from an individual, Dr. Jane Balkam (©1), Charlene Day (©4), the National Association of Advancement of Colored People (NAACP) (©5), Luisa Cardona, on behalf of the County Executive (©6), and CASA (©7).

2. Amendment Suggested by the County Executive

Ms. Cardona testified and suggested a few amendments for the Council’s consideration (waiver for existing buildings to include a sink with running water and clarify employee compensation during break time), which were issues already addressed in the staff report dated July 12. The final amendment suggested was to **delay the implementation of the bill to allow adequate time for DGS to assess each of the County’s 430 buildings.** ©6. DGS would need to determine whether an existing room can be retrofitted with plumbing, no plumbing, or as an alternative, the building is more suited for a portable lactation room/station.

As drafted, line 67-69 requires implementation after 9 months (enactment is 91 days and includes a six-month period, thereafter).

The County Executive must issue any policy and regulations required under this Act, and make available the required lactation rooms, within 6 months after the effective date of this Act.

Decision Point: Whether the Committee wishes to amend the timeframe to allow additional time for implementation? If so, how much time will be allotted?

This staff report contains:	Page
Public Testimony	
Dr. Jane Balkam	© 1
Charlene Day	© 4
NAACP	© 5
Luisa Cardona	© 6
CASA	© 7

Testimony Concerning
Bill-11-22 Lactation Rooms in County Buildings
July 12, 2022
Given by Jane J. Balkam, PhD, APRN, CPNP, IBCLC
Bethesda, MD

Thank you for giving me the opportunity to speak with you today in support of Bill-11-22 Lactation Rooms in County Buildings. My name is Dr. Jane Balkam. I am a Professor at the School of Nursing of Notre Dame of Maryland University, a Board-Certified Pediatric Nurse Practitioner, and a Board-Certified Lactation Consultant. I have had a Lactation Consulting Practice in Montgomery County for many years focused on support for breastfeeding women in the workplace. In the past I was also a working breastfeeding mother of four sons at a time before the Patient Protection and Affordable Care Act of 2010 set requirements for employers to provide time and space for milk expression for working mothers. I know firsthand what it is like when there is no support for breastfeeding mothers and no place at work to go and safely collect milk for your baby. For the past 25 years, I have worked with several employers, including a large federal government agency located in Montgomery County, to assist them in providing a comprehensive Workplace Lactation Program for their employees so that both the employee and the organization can experience the health benefits to mothers and babies from breastfeeding.

There is much scientific evidence that human milk is the best food for human infants, and that babies who receive breastmilk are healthier than their formula fed counterparts. There is also much scientific evidence that mothers who breastfeed their infants receive many health benefits for themselves. That is why the American Academy of Pediatrics recommends exclusive breastfeeding for the first six months of life with continuation of breastfeeding while solid foods are added to the infant's diet in the second six months of life. Recently, after reviewing current research, the AAP has gone so far as to recommend breastfeeding until the baby is two years of age. However, continued breastfeeding can only occur if the mother's breasts are being emptied on a regular basis. Physiologically, after the

first week of life, the human breast continues to make milk based on how frequently the breasts are emptied and how thoroughly the breasts are emptied. Missing even one feeding or milk expression session can result in a serious decrease in milk supply for the mother. Although it is possible to regain milk supply through increased feeding and/ or pumping sessions, it can be difficult and time consuming for the mother. Many women end up losing their milk supply when they are not able to express milk while working. In this time when infant formula is in short supply, it is especially important for organizations to do all they can to provide the time and space that new mothers need for milk expression while at work.

Mothers who wish to continue breastfeeding after returning to work have relatively few and simple needs. They need a clean and private place near their workstation where they can express their milk when separated from their baby at work, and they need two or three short breaks during the workday. They also need a measure of organizational support so that they feel comfortable taking the time they need for milk expression. Although I do not hear these stories as often now as I did in the past, I still find women who are needing to use toilet stalls, the back seat of their car, or to beg a coworker or boss for the use of a private office for milk expression. Major obstacles in the worksite can include inflexible work schedules, non-supportive supervisors, and restrictive organizational policies regarding the use of the employee's break time. These restrictions fall more heavily on female employees who do not have a private office where they can close the door and do what they need to do. That is why I worked with other breastfeeding advocates before the PPACA was passed in 2010 to obtain the protection of the law for milk expression at work, and that is why I am encouraging you today to pass Bill 11-22.

The good news is that since breastfed babies are half as likely to have any illness in their first year of life, and much less likely to become seriously ill, the employer reaps the benefits of lower health care costs and fewer employee absences to care for a sick child. One study showed a 35.7% reduction in

health care claims for infants who were breastfed during the first year of life and a 27.3% lower rate of absence by the mothers of breastfed babies. This can mean big savings for the organization.

In closing, I support Bill 11-22 to provide lactation rooms in county buildings for the use of mothers who are county employees. I would also encourage you to provide separate lactation rooms or “lactation pods” that could be used by visitors to county buildings. As a county resident and expert in support for breastfeeding women in the workplace, I would also offer to provide technical support to the county as this law is implemented. Thank you.

Cohen, R., Mrtek, M.B. (1994) The impact of two corporate lactation programs on the incidence and duration of breastfeeding by employed mothers. *American Journal of Health Promotion*. 8 (6), 436-441.

Benefits of a Lactation Room

- Helps mothers relax
- The lactation rooms promote the health of the mother, and baby through continued nursing
- Lactation rooms also provide a return-on-investment on the former of reduced employee turnover, lower rates of absenteeism, and an increase in morale, and productivity.
- Federal law protects the rights of employees to have a private space to pump, and reasonable breaks to accommodate the time necessary to pump
- Nursing mothers experience lower risk of diabetes, obesity, asthma, postpartum depression, and reduce risk of cancer.



**National Association for the Advancement of Colored People NAACP
Montgomery County Branch
Testimony on Bill 11-22 - Lactation Rooms in County Buildings
Tuesday, July 12, 2022**

The National Association for the Advancement of Colored People (NAACP) Montgomery County Branch supports Council Bill 11-22, Lactation Rooms in County Buildings, sponsored by Councilman Andrew Friedson.

Bill 11-22 will assist nursing mothers by providing designated areas within county offices to privately and securely express breastmilk. The Center for Disease Control(CDC) has reported that breastmilk benefits a baby's development particularly in the first six months of life. Studies have shown that breastfed infants have a reduced risk of developing type 2 diabetes, obesity, asthma, infections, and sudden infant death syndrome, and lowers a mother's risk of heart disease, type 2 diabetes, ovarian cancer, and breast cancer. Additionally, the CDC has found that 60% of mothers do not breastfeed for as long as they intend. While there are several factors that contribute to the decision to discontinue breastfeeding, the CDC notes that one major reason is "unsupportive work policies and lack of parental leave."¹ If enacted, this bill will eliminate one of the barriers for Montgomery County government employees who choose to breastfeed.

We support the requirements of this legislation to provide a separate area for women to express breastmilk and refrigeration facilities to store milk during the workday. We believe these measures will greatly assist nursing mothers.

However, we note that the amount of time required to express breast milk has not been considered and urge the Council to make provisions to assure that a nursing mother is not penalized for utilizing the time necessary. Expressing breastmilk may require from 15-30 minutes per session. During a typical 8 hour work day, breast milk may need to be expressed at least twice. Needless to say, over the course of a day, a woman could easily use up the time she is allotted for her lunch in order to provide milk for her baby. Such a situation would not promote breastfeeding but would require a woman to either carry an additional burden or neglect her own dietary needs. **Therefore, we urge the Council to amend this bill to provide time accommodations which enable a woman to truly benefit from the important objectives this bill seeks to advance.**

We wish to commend the Council for this initiative. We look forward to working with you on this important bill.

¹ Key Breastfeeding Indicators, Centers for Disease Control, [cdc.gov/breastfeeding/data](https://www.cdc.gov/breastfeeding/data)

TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC ELRICH

**Bill 11-22, Personnel – Buildings – Lactation Rooms in
County Buildings - Required**

Before the Montgomery County Council

July 12, 2022

My name is Luisa Cardona, Mid-County Regional Services Center director, and I am here to present testimony on behalf of County Executive Marc Elrich on Bill 11-22, Personnel – Buildings – Lactation Rooms in County Buildings – Required.

The County Executive strongly supports providing sanitary, private lactation rooms in County buildings and has directed that all new County buildings be designed and constructed with a dedicated lactation room moving forward.

The County Executive also supports retrofitting existing County buildings with lactation rooms. There is a cost for this work that will require additional appropriation, especially to design and install the plumbing required by the Bill.

Department of General Services and Office of Management and Budget estimates the cost of placing a lactation room in each County building immediately will be in the range of \$9 million. As a result, we ask that, for the existing buildings only, the Bill be amended to allow the requirement of a sink with running water within the lactation room to be waived if running water is accessible nearby.

We also ask that the Bill be amended to allow adequate time for the County's Department of General Services to assess each of the County's 430 buildings to properly assess the total costs and to expedite the County's ability to move quickly to provide a lactation room in each County building where that can easily be done. The Bill allows 6 months for implementation, but we believe that that timeframe should only begin to run after an assessment of all County buildings has been completed. Many office spaces may need to be retrofitted to meet the requirements of the Bill and will require scheduling and use of outside vendors.

Finally, to be consistent with State and federal law, the Bill should be amended to state that an employee cannot be compensated for any time spent expressing milk at work.

Thank you, and we look forward to working with the Council on this legislation.



TESTIMONY IN SUPPORT of Bill 11-22

Personnel – Buildings – Lactation Rooms in County Buildings
Required Before the Montgomery County Council
July 13, 2022

CASA is pleased to provide support for Bill 11-22, Personnel - Buildings - Lactation Rooms in County Buildings - Required. CASA is the largest membership-based immigrant services and advocacy organization in the mid-Atlantic region, with a membership of over 120,000 Black and brown immigrant and working families.

CASA strongly supports providing sanitary, private lactation rooms in County buildings. Having a private space is necessary to promote the health of the mother and baby through continued nursing. Breastfeeding programs in the workplace also contribute to lower health care cost, lower absenteeism, keeping valuable employees and increasing retention of employees¹.

We support the requirement of this legislation to provide a separate area for women to express breastmilk and refrigeration facilities to store milk during the workday. Additionally, we respectfully want to suggest that the amount of time required to express breast milk is added to this bill. Expressing breastmilk may require 15-30 minutes per session. During a typical 8 hour work day, breast milk may need to be expressed at least twice. Needless to say, over the course of a day, a woman could easily use up the time she is allotted for her lunch in order to provide milk for her baby. Such a situation would not promote breastfeeding but would require a woman to either carry an additional burden or neglect her own dietary needs. **Therefore, we urge the Council to amend this bill to provide time accommodations which enable a woman to truly benefit from the important objectives this bill seeks to advance.**

CASA urges a favorable report on bill 11-22 from the Montgomery County Council.

¹ https://web.uri.edu/worklife/files/BF_entire_toolkit_FINAL.pdf