



Committee: Joint
Committee Review: Completed
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #righttonurish

AGENDA ITEM #6C
July 26, 2022
Action

SUBJECT

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

Lead Sponsor: Councilmember Friedson

Co-Sponsors: Councilmembers Hucker, Albornoz, Katz, Navarro, Glass, Rice, Riemer, and Jawando

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Roll call vote on whether to enact Bill 11-22 with amendments, as recommended unanimously by the Health & Human Services (HHS) & Government Operations & Fiscal Policy Committees.

DESCRIPTION/ISSUE

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.

SUMMARY OF KEY DISCUSSION POINTS

- The GO and HHS Committee voted (6-0) to recommend approval of Bill 11-22, with amendments to:
 - Require all new construction to include a sink with running water; existing buildings would require at least nearby access to running water.
 - Extend the implementation timeline for the Department of General Services (DGS) by permitting the following:
 - 6 months after enactment, DGS would have completed its assessment of all County buildings for the inclusion of a lactation room.
 - 12 months after bill enactment, DGS would complete the planning, design, construction/installation of lactation rooms in the highest occupancy buildings; and
 - 24 months after bill enactment, all other lactation rooms would be complete.
 - Require at 3, 9, and 21 months a report to the Council on the assessment and outcome of DGS' progress.
 - Clarify "reasonable break time" may not be compensated outside of normal paid breaks.

- Require lactation rooms to be secured or locked from the inside
- Require a method for OHR to communicate the location and availability of a lactation room.

This report contains:

Staff Report	Pages 1-9
Bill 11-22	©1
Legislative Request Report	©6
Councilmember Friedson’s Memo	©8
Economic Impact Statement	©10
Racial Equity and Social Justice Impact Statement	©13
Fiscal Impact Statement	©20
Public Testimony	
Jacquelyn Williams (African American Health Program)	©23
Zelda-Wafer Jones (Community Action Board)	©25
Dr. Jane Balkam	©27
Charlene Day	©30
Linda Plummer (NAACP)	©31
Luisa Cardona	©32
Selena Singleton (RESJ Advisory Committee)	©33
CASA	©35
29 U.S.C 207(r)(1)(A)	©36

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

July 21, 2022

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

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

PURPOSE: Final action – Council roll call vote expected

**Government Operations and Fiscal Policy and Human & Health Services Committee
recommendation (6-0) to enact Bill 11-22 with amendments.**

Bill 11-22, Buildings - Lactation Rooms in County Buildings – Required sponsored by Lead Sponsor Councilmember Friedson, and Co-sponsors Councilmembers Huckler, Alborno, 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. A Joint Government Operations & Fiscal Policy (GO) and Health & Human Services (HHS) Committee worksession was held on July 14, 2022.

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).” (©23).

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. (©25).

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 suggests 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.” (©33).

SUMMARY OF THE JOINT COMMITTEE’S WORKSESSION

1. What is the Racial Equity and Social Justice (RESJ) Impact Statement of Bill 11-22?

A RESJ Impact Statement was not available for the Committee’s review and consideration during the worksession on July 14. Subsequently, the Council received the RESJ statement prepared by the Office of Legislative Oversight (OLO). (©13).

OLO could not determine the RESJ impact of Bill 11-22 without additional information on where lactating employees work in the Montgomery County Government (MCG) by race and ethnicity. Available data suggest that Bill 11-22 could help narrow racial and social inequities in breastfeeding as Black, Indigenous, and Other People of Color (BIPOC) are over-represented among women in the County workforce and thus are likely to benefit more from enhanced lactation rooms and policies than White women. Data disaggregated by race and ethnicity on where women work in the County (e.g., offices, warehouses) is required to offer a more definitive RESJ assessment. (©13).

Suggested amendments provided by OLO to improve the anticipated RESJ among a few were: convene BIPOC stakeholder communication; develop a peer consultation program for BIPOC employees and contractors, and recommended changes by ChangeLab Solutions (©17).

2. Amendments Proposed by Councilmember Friedson to Extend Implementation Timeline

As introduced, Section 2 of the Bill would require the County Executive and respective departments to implement and make available lactation rooms in every applicable County building within 6 months after the bill becomes effective. The County Executive raised concerns related to the ability to timely meet the bill requirements without first the opportunity to assess each County building. (©32). The assessment would determine the actual costs, and more importantly, determine whether a County building:

- 1) has the capacity to retrofit a room with a sink, running water, and plumbing systems;
- 2) does not have the capacity to retrofit plumbing systems, but a lactation room would be reasonably close to a sink with running water; or
- 3) where plumbing systems or nearby access is infeasible, an alternative accommodation, such as a lactation pod or station would be required.

Amendment #1

Further, the Committee heard testimony from David Dise, Director of DGS, who explained there are some complexities with requiring all County buildings to include sinks with running water because plumbing systems, vent systems, and other mechanical systems would also be required. Therefore, it was suggested that new construction should include sinks with running water, but the existing buildings should have different parameters. Councilmember Friedson proposed an amendment, as follows:

Amend line 25, and insert the following:

(b) Lactation room – required.

(1) New Construction. ~~[[Except as provided in subsection (c) or (d),]] [the] The Department must provide at least one lactation room that includes a sink with running water in each newly constructed County building that is available for use by any County employee to express breast milk.~~

(2) Existing Buildings. Except as provided in subsection (c) or (d), the Department must provide, where feasible, at least one lactation room in an existing County building that includes a sink with running water and plumbing systems. If a sink with running water and plumbing systems cannot be provided, the lactation room must have nearby access to running water.

Decision Point: Whether to amend the requirement for a lactation room? **The Committee voted 6-0 to amend the requirement for lactation room to include provisions specifically for newly built and existing buildings.**

Amendment #2

In an effort to understand and assess over 400 County buildings that may include different structural challenges, the bill would be amended to extend timeline requirements for new construction and existing buildings and for the Council to receive periodic reporting. Councilmember Friedson, in coordination with DGS, on behalf of the County Executive, proposed the following amendment to extend the timeline to implement the requirements under Bill 11-22:

Amend lines 52-56, as follows:

(f) Assessment. The Department must complete, or cause to be complete, an assessment and survey of all applicable County buildings for the inclusion of a lactation room.

(g) Reporting. The Department must report to the County Council any findings, outcomes, and progress of the assessment and installation of lactation rooms.

Staggered Implementation Timeline

Amend lines 74-76, as follows:

Sec 2. Effective Date.

- Subsection (f) of Section 8-14(C), added under Section 1 of this Act, an assessment must take effect 3 months after the Act becomes law.
- Subsection (b)(2) and (c) of Section 8-14(C), added under Section 1 of this Act, requires complete planning, design, construction, or installation of lactation rooms in the highest occupancy buildings, as identified in the assessment report, this must take effect 9 months after the Act becomes law.
- Subsection (b)(2) of Section 8-14(C), added under Section 1 of this Act, requires all remaining existing buildings to include a lactation room, this must take effect 21 months after the Act becomes law.
- Subsection (g) of Section 8-14(C), added under Section 1 of this Act, periodic reporting must occur at 3 months, 9 months, and 21 months after the Act becomes law.

Decision Point: The Committee voted (6-0) to adopt the staggered implementation timeline.

3. How is an employee’s reasonable break time determined? Is the County required to 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), ©36. The recommendation from Council staff is to amend lines 49-51.

Nursing employees may require different amounts of time to pump, and it is important that the County takes into consideration varying circumstances and job types; so, while flexibility is strongly encouraged, the intent of the legislation is not to require the County to compensate breastfeeding employees for breaks to express breast milk outside of normal allotted time.

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 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 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? **Committee voted 6-0 to adopt amendments related to reasonable break time.**

4. 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**.

Councilmember Katz and Rice suggested the Committee consider the phrase “locked or secured from the inside.” Council staff recommends the following clarifying amendment:

Insert line 20, as follows:

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

- (A) is shielded from view;
- (B) is free from public or coworker intrusion;
- (C) can be locked or secured from the inside;

* * *

Decision Point: Whether to adopt a clarifying amendment that a lactation room can be secured from the inside? **The Committee adopted this amendment by a 6-0.**

5. Availability and location of lactation rooms

Councilmember Friedson proposed an amendment for the Executive to develop an app-based system or website where breastfeeding County employees can readily locate an available lactation room. The purpose would be to improve communication and access for employees. Councilmember Rice suggested Ignite Hub as a possible partner that could implement a program.

Insert the following on line 81:

(c) The Director of the Office of Human Resources, by use of existing or potential resources, must establish a method to communicate with County employees:

(1) the location of a lactation room in a County building; and

(2) the availability of that room for use.

The Committee voted 6-0 to support language that would inform a breastfeeding County employee on locating a lactation room.

NEXT STEPS: Whether to enact Bill 11-22 with amendments, as recommended by the GO and HHS Committee?

This packet contains:

	<u>Circle #</u>
Bill 11-22	©1
Legislative Request Report	©6
Councilmember Friedson's Memo	©8
Economic Impact Statement	©10
Racial Equity and Social Justice Impact Statement	©13
Fiscal Impact Statement	©20
Public Testimony	
Jacquelyn Williams (African American Health Program)	©23
Zelda-Wafer Jones (Community Action Board)	©25
Dr. Jane Balkam	©27
Charlene Day	©30
Linda Plummer (NAACP)	©31
Luisa Cardona	©32
Selena Singleton (RESJ Advisory Committee)	
©33	
CASA	©35
29 U.S.C 207(r)(1)(A)	©36

Bill No. 11-22
Concerning: Buildings – Lactation Rooms
in County Buildings - Required
Revised: 7/15/2022 Draft No. 3
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	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

~~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 can be locked or secured from the inside;
 - 22 (D) a small refrigerator;
 - 23 (E) a microwave;
 - 24 (F) at least one or more electrical outlets; and
 - 25 (G) any other related supplies as provided in regulations.

26 (b) Lactation room – required.

27 (1) New Construction. ~~[[Except as provided in subsection (c) or (d),]]~~
 28 [the] The Department must provide at least one lactation room that
 29 includes a sink with running water in each newly constructed County
 30 building that is available for use by any County employee to express
 31 breast milk.

32 (2) Existing Buildings. Except as provided in subsection (c) or (d), the
 33 Department must provide at least one lactation room in an existing
 34 County building that includes a sink with running water and plumbing
 35 systems. If a sink with running water and plumbing systems cannot be
 36 provided, the lactation room must have nearby access to running water.

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

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

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

- 48 (1) is solely a warehouse;
- 49 (2) is primarily used for archives; or
- 50 (3) would require new construction to create a room and the cost of
 51 such construction is unfeasible.

- 52 (e) Regulations. The Director may promulgate Method (2) regulations to
 53 implement the requirements of this Section.
- 54 (f) Assessment. The Department must complete, or cause to be complete, an
 55 assessment and survey of all applicable County buildings for the
 56 inclusion of a lactation room.
- 57 (g) Reporting. The Department must report to the County Council any
 58 findings, outcomes, and progress of the assessment required under
 59 subsection (f).

60 **33-27. [Reserved] Break Time for Lactation.**

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

66 **33-28. [Reserved] Lactation Accommodation Policy.**

- 67 (a) Personnel regulations. The County Executive must adopt personnel
 68 regulations under Method (1) to establish a lactation accommodation
 69 policy. The policy, at a minimum, must contain guidelines regarding:
- 70 (1) the process to request the use of a lactation room, as provided
 71 under Section 8-14C(b);
- 72 (2) the process to request break time under Section 33-27;
- 73 (3) the availability of the lactation room as required under subsection
 74 (c); and
- 75 (4) best practices for maintenance of room, including recommended
 76 general cleaning of milk expression areas and storage of breast
 77 milk in the designated refrigerator.

78 **(b) Outreach and Education.** The Director of the Office of Human Resources
 79 must provide, or cause to be provided, on its website informational
 80 materials related to prenatal and postpartum breastfeeding for County
 81 employees.

82 **(c) The Director of the Office of Human Resources, by use of existing or**
 83 potential resources, must establish a method to communicate with County
 84 employees:

85 **(1) the location of a lactation room in a County building; and**

86 **(2) the availability of that room for use.**

87 **Sec. 2. [[Implementation]] Effective Date.** The County Executive must issue
 88 any policy and regulations required under this Act[[, and make available the required
 89 lactation rooms,]] within 6 months after the effective date of this Act. Subsection (f)
 90 of Section 8-14(C), added under Section 1 of this Act, an assessment must take effect
 91 3 months after the Act becomes law. Subsection (b)(2) and (c) of Section 8-14(C),
 92 added under Section 1 of this Act, requires complete planning, design, construction, or
 93 installation of lactation rooms in the highest occupancy buildings, as identified in the
 94 assessment report, this must take effect 9 months after the Act becomes law.
 95 Subsection (b)(2) of Section 8-14(C), added under Section 1 of this Act, requires all
 96 remaining existing buildings to include a lactation room, this must take effect 21
 97 months after the Act becomes law. Subsection (g) of Section 8-14(C), added under
 98 Section 1 of this Act, periodic reporting must occur at 3 months, 9 months, and 21
 99 months after the Act becomes law.

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:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	Office of Legislative Oversight
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

STELLA B. WERNER OFFICE BUILDING • 100 MARYLAND AVENUE, 5TH FLOOR, ROCKVILLE, MARYLAND 20850
240-777-7828 OR 240-777-7900, TTY 240-777-7914, FAX 240-777-7989
WWW.MONTGOMERYCOUNTYMD.GOV



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.

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.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 11-22: BUILDINGS – LACTATION ROOMS IN COUNTY BUILDINGS - REQUIRED

SUMMARY

The Office of Legislative Oversight (OLO) cannot determine the racial equity and social justice (RESJ) impact of Bill 11-22 without additional information on where lactating employees work in Montgomery County Government (MCG) by race and ethnicity. Available data suggests that Bill 11-22 could help narrow racial and social inequities in breastfeeding as Black, Indigenous, and Other People of Color (BIPOC) are over-represented among women in the County workforce and thus are likely to benefit more from enhanced lactation rooms and policies than White women. Data disaggregated by race and ethnicity on where women work in the County (e.g., offices, warehouses) is required to offer a more definitive RESJ assessment. To improve the anticipated RESJ impact of this Bill, OLO offers several recommended amendments for consideration.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of racial equity and social justice (RESJ) impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 11-22

As explained by the Centers for Disease Control and Prevention (CDC), “[b]reastfeeding has health benefits for both babies and mothers. Breast milk provides a baby with ideal nutrition and supports growth and development.”³ Among numerous benefits, breastfeeding is associated with reduced risk for various infections, sudden infant death syndrome, type 1 diabetes, obesity among infants, as well as reduced risk for high blood pressure, type 2 diabetes, ovarian cancer, and breast cancer among mothers.⁴ The American Academy of Pediatrics recommends exclusively breastfeeding infants for six months.⁵

The goal of Bill 11-22 is to promote breastfeeding by supporting County employees that wish to express milk during the workday. Toward this end, if enacted, the Bill would require the County to:⁶

- Provide lactation rooms or alternative accommodations for County employees in County buildings,
- Provide County employees break time for lactation needs,
- Establish personnel regulations for certain accommodations, and
- Post educational materials about the Bill on the County’s website.

July 15, 2022

RESJ Impact Statement

Bill 11-22

The Bill expands support for County employees to express milk in the workplace currently guaranteed under federal law. The Affordable Care Act (ACA) requires employers to provide a private, functional, and usable space that is not a bathroom for employees to express milk.⁷ However, employers are not required to create a permanent space for lactation. The ACA also requires employers to provide reasonable break time for employees to express milk for a nursing child up to one year after the child's birth,⁸ as well as for health insurers to offer breast pumps to new parents.⁹

Overall, the Bill seeks to create consistency in County employees' access to lactation rooms, if feasible, and to extend break time support for parents seeking to express milk beyond their nursing child's first birthday. Bill 11-22 was introduced to the Council on June 14, 2022.

BREASTFEEDING AND RACIAL EQUITY

Racial disparities in breastfeeding reflect systemic racism, past and present. Historically, Black women were enslaved and many were often forced to serve as wet nurses for White families.^{10,11} After the Civil War, many Black women faced occupational segregation and had to continue to work as wet nurses. Unaddressed historical trauma from slavery and racism likely contributes to lower rates of breastfeeding among Black women and perhaps diminished support for breastfeeding among Black families and communities.¹² Other systemic forces driving breastfeeding disparities include:

- Government policies and programs that hindered Black women from breastfeeding. For instance, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) launched in 1974 provided Black women with less support for breastfeeding than White women, pushing them to formula-feeding.¹³
- Lack of access to quality health care among BIPOC. For instance, research has demonstrated that staff in hospitals serving more Black patients are less likely to help Black women to initiate breastfeeding or offer lactation support after giving birth.¹⁴ Further, Black infants are nine times as likely to receive formula in hospitals than White infants.¹⁵
- Continuing occupational segregation and the racial wealth divide where new BIPOC mothers cannot afford to take meaningful maternity leave (of at least 12 weeks) and tend to have inflexible work schedules that prevent nursing and expressing milk consistently.¹⁶

Research has shown that current workplace breastfeeding policies tend to yield more benefits to White, affluent, and highly educated mothers,¹⁷ likely because they have the resources to take advantage of them.

While breastfeeding is an optimal source of nutrition for most infants, racial and ethnic disparities in breastfeeding persist.¹⁸ In 2019, breastfeeding was initiated for 73.6 percent of Black infants, compared to 85.5 percent of White infants, 87.4 percent of Latinx infants and 90.3 percent of Asian infants. Breastfeeding initiation rates in Maryland were slightly higher, though the pattern of disparity was similar to the nation, with Black infants having the lowest rate of breastfeeding initiation (82.0) and Asian, Latinx, and White infants having the highest rates (95.4, 94.1, 86.4).¹⁹

The ACA includes legal protections for breastfeeding in the workplace. However, social, economic, and legal barriers to breastfeeding continue and are compounded for BIPOC.^{20,21} Research suggests that workplace supports – including paid leave, flexible work schedules, and lactation supports and interventions – can improve breastfeeding outcomes.^{22,23} As described by researchers at Yale, “[r]elatively low-cost interventions such as lactation rooms and nursing breaks may reduce absenteeism and improve workforce performance, commitment, and retention, while also improving breastfeeding outcomes.”²⁴ They also share the three best practices for breastfeeding interventions in the workplace: ²⁵

RESJ Impact Statement

Bill 11-22

- Raise awareness of available programs among working mothers and the general work environment,
- Change the workplace culture, and building manager/supervisor and co-worker support, and
- Provide enough time and adequate space and facilities for employees to breastfeed or express breast milk during the workday.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 11-22 on racial equity and social justice in the County, OLO staff considered two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of the County workforce overall and by position category. Data in Table 1 shows that both White and Black people are overrepresented among County employees compared to their shares of the adult population in Montgomery County. The high level of over-representation of Black people among County employees suggests this Bill could especially benefit them. Moreover, the significant benefits to Black workers could potentially offset the lesser benefits experienced among Latinx and Asian persons who are under-represented in the County workforce and in turn would experience fewer benefits than other racial and ethnic groups. If the magnitude of benefit to Black workers was especially high, Bill 11-22 could potentially improve RESJ in the County.

Table 1: Percent of Residents 18 Years and Over and MCG Full-Time Workforce by Race and Ethnicity, Montgomery County²⁶

Race and ethnicity ²⁷	Residents 18 Years and Over	MCG Full-Time Employees	Difference
American Indian or Alaska Native	0.1	0.4	+0.3
Asian	15.9	6.8	-9.1
Black	17.7	29.0	+11.3
Latinx	18.6	11.1	-7.6
Native Hawaiian/Other Pacific Islander	0.0	0.1	+0.1
Two or more races	3.4	1.2	-2.2
White	43.4	51.4	+8.0

Sources: 2020 Decennial Census (Table P4), Census Bureau. OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

A review of Office of Human Resources data also suggests that BIPOC employees will especially benefit from Bill 11-22. Using the share of BIPOC employees among all women in the County workforce as a proxy for BIPOC employees who nurse, OLO anticipates that lactating BIPOC employees will benefit most from Bill 11-22 since BIPOC women account for 56.3 percent of all women in the County’s full-time workforce and 59.4 percent of women full-time workers between the ages of 20 and 45. The benefits of Bill 11-22 for BIPOC employees also suggests that this Bill could help reduce racial disparities in nursing initiation and continuation that would derive additional health benefits for BIPOC parents and their children.

RESJ Impact Statement

Bill 11-22

Table 2: Distribution of Women in MCG Full-Time Workforce by Age Group, Race and Ethnicity²⁸

Race and ethnicity	All Women	Ages 20-29	Ages 30-39	Ages 40-45
American Indian or Alaska Native	0.2	0.0	0.5	0.0
Asian	8.9	6.2	7.3	9.9
Black	31.8	22.8	30.3	32.1
Latinx	13.8	22.8	17.0	18.3
Native Hawaiian/Other Pacific Islander	0.0	0.0	0.0	0.3
Two or more races	1.5	3.4	3.8	1.3
White	43.7	44.8	41.1	38.1

Sources: OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

Of note, the majority of women full-time employees in the County are over 45 years of age (61.3 percent, 1788 employees), which suggests that this Bill is most likely to impact a smaller subset of employees (38.7 percent, 1129 employees).

Given the percentage of women employees in the County that are BIPOC, OLO finds that BIPOC women are likely to accrue greater benefits from Bill 11-22 than White women employees. As such, in response to the second question, OLO finds the Bill could narrow gaps in breast/chest feeding initiation and continuation by race and ethnicity. It is important to note, however, that additional data regarding the distribution of County women workers by race and ethnicity among office-, warehouse-, and field-based positions is required to offer a more definitive assessment of the anticipated RESJ impact of the Bill. In practice, it may be that BIPOC women are concentrated in warehouse- and field-based positions that are exempt from providing dedicated lactation rooms or make the use of such rooms impractical. Office-based staff will be the primary beneficiaries of the Bill but the race, ethnicity, and gender demographics of employees with work sites located in County office buildings remains unknown. In the absence of this data, OLO's assessment of the RESJ impact of Bill 11-22 is indeterminate.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁹ OLO cannot determine the RESJ impact of Bill 11-22 without additional information on which employees by race and ethnicity will have regular access to lactation rooms located in County office buildings. An analysis of available data suggests that the Bill could have a favorable impact on RESJ in the County as its benefits could disproportionately accrue to BIPOC employees.

Should the Council seek to improve the RESJ impact of Bill 11-22 through incorporating amendments or introducing companion legislation, they could consider partnering with BIPOC stakeholders to identify opportunities to support nursing among BIPOC employees and communities. As stated by the authors of *Achieving Breastfeeding Equity and Justice in Black Communities: Past, Present, and Future*, “[p]ublic health and policy priorities need to center on listening to Black women, and funding [BIPOC] organizations and researchers conducting innovative projects and research.”³⁰

More specifically, the Council could consider extending funding to the County Minority Health Initiatives (African American Health Program, Asian American Health Initiative, and Latino Health Program) to lead the projects that:

- Convene BIPOC stakeholders to offer recommendations for the Council to consider on how to improve breastfeeding initiation and duration rates for BIPOC parents and employees.

RESJ Impact Statement

Bill 11-22

- In addition to posting lactation program information on the County’s website, develop a peer consultation program for BIPOC employees and contractors (and Black women employees in particular) to support breastfeeding in the workplace and increase awareness of available services.

The Council can also consider implementing the following best practices for narrowing racial disparities in nursing as recommended by ChangeLab Solutions:³¹

- Mandate paid breaks for workers who are breastfeeding.
- Create requirements or incentives for hospitals to become Baby-Friendly³² or institute Baby-Friendly practices. This can include creating a model breastfeeding policy for hospitals and setting quality standards for maternity care to help hospitals achieve Baby-Friendly designation.
- Train or recruit more Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) breastfeeding peer educators in Black communities.
- Provide WIC counselors with training to dispel implicit and explicit racial stereotypes about Black women and breastfeeding.

Further, the Council can encourage the Montgomery County Delegation to advocate for changes to state law to help narrow racial disparities in nursing initiation and continuation as also recommended by ChangeLab Solutions:³³

- Create a government-funded paid family leave program that applies to all workplaces, including those most likely to employ groups with disproportionately low rates of breastfeeding (e.g. low-wage and hourly workers).
- Require Medicaid coverage of lactation support services, including with outpatient lactation consultants.
- Expand the types of practitioners who can provide Medicaid-reimbursable lactation counseling.
- Scale up WIC’s successful state and local breastfeeding interventions to the national level through incentives or requirements. Successful interventions include culturally relevant messaging, breast pumps available on demand, and revisions to the food package that address the for the nutritional needs of breastfeeding mothers.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than 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

OLO staffers Elaine Bonner-Tompkins, Senior Legislative Analyst, and Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

RESJ Impact Statement

Bill 11-22

APPENDIX

Table 3: Number of Women in MCG Full-Time Workforce by Age Group, Race and Ethnicity³⁴

Race and ethnicity	All Women	Ages 20-29	Ages 30-39	Ages 40-45
American Indian or Alaska Native	7	0	3	0
Asian	259	9	44	38
Black	928	33	182	123
Latinx	403	33	102	70
Native Hawaiian/Other Pacific Islander	1	0	0	1
Two or more races	44	5	23	5
White	1,275	65	247	146
Total	2917	145	601	383

Sources: OLO Analysis of 2019 Personnel Management Review, Office of Human Resources via Data Montgomery.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ “Breastfeeding Benefits Both Baby and Mom,” Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Last Updated July 27, 2021. <https://www.cdc.gov/nccdphp/dnpao/features/breastfeeding-benefits/index.html>

⁴ Katelyn Chiang, Ruowei Li, Erica Anstey, and Cria Perrine, “Racial and Ethnic Disparities in Breastfeeding Initiation – United States, 2019,” Morbidity and Mortality Weekly Review, Center for Disease Control and Prevention, May 28, 2021.

<https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7021a1-h.pdf>

⁵ “American Academy of Pediatrics Calls for More Support for Breastfeeding Mothers within Updated Policy Recommendations,” American Academy of Pediatrics, June 27, 2022. <https://www.aap.org/en/news-room/news-releases/aap/2022/american-academy-of-pediatrics-calls-for-more-support-for-breastfeeding-mothers-within-updated-policy-recommendations/>

⁶ Bill 11-22, Buildings – Lactation Rooms in County Buildings – Required, Montgomery County, Maryland, Introduced June 14, 2022.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614_3C.pdf

⁷ “Fact Sheet #73: Break Time for Nursing Mothers under the FLSA,” Wage and Hour Division, U.S. Department of Labor, Revised April 2018. <https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>

⁸ Ibid

⁹ “Health Benefits & Coverage: Breastfeeding Benefits,” HealthCare.gov, U.S. Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services, Accessed July 13, 2022. <https://www.healthcare.gov/coverage/breast-feeding-benefits/>

¹⁰ Emily West and R. J. Knight, “Mothers’ Milk: Slavery, Wet-Nursing, and Black and White Women in the Antebellum South,” Journal of Southern History, February 2017. [https://centaur.reading.ac.uk/66788/7/article%20\(1\)%20\(1\).pdf](https://centaur.reading.ac.uk/66788/7/article%20(1)%20(1).pdf)

¹¹ Laura Santhanam, “Racial Disparities Persist for Breastfeeding Moms. Here’s Why.” PBS News Hour, August 29, 2019.

<https://www.pbs.org/newshour/health/racial-disparities-persist-for-breastfeeding-moms-heres-why>

¹² Amanda J. Calhoun, “Slavery and Racism Drive a Toxic Double Standard About Breastfeeding,” The Washington Post, June 8, 2022.

<https://www.washingtonpost.com/outlook/2022/06/08/slavery-racism-drive-toxic-double-standard-about-breastfeeding/>

¹³ Ibid

¹⁴ Santhanam

¹⁵ Ifeyima Asiodiu, Kimafrie Bugg, and Aunchalee Palmquist, “Achieving Breastfeeding Equity and Justice in Black Communities: Past, Present and Future,” Breastfeeding Medicine, June 7, 2021. <https://pubmed.ncbi.nlm.nih.gov/33979550/>

¹⁶ Santhanam

¹⁷ Kathrin Litwan, Victoria Tran, Kate Nyhan, and Rafael Perez-Escamilla, “How Do Breastfeeding Workplace Interventions Work?: A Realist Review,” International Journal for Equity in Health, June 25, 2021.

<https://equityhealth.biomedcentral.com/articles/10.1186/s12939-021-01490-7>

¹⁸ Chiang, Li, Anstey, and Perrine

¹⁹ Ibid

RESJ Impact Statement

Bill 11-22

²⁰ Litwan, Tran, Nyhan, and Perez-Escamilla

²¹ “Examining State Innovation to Advance Breast Feeding and Health Equity” ASTHO Report, Association of State and Territorial Health Officials, November 16, 2021. <https://www.astho.org/topic/report/examining-state-innovations-to-advance-breastfeeding-health-equity/>

²² Santhanam

²³ Litwan, Tran, Nyhan, and Perez-Escamilla

²⁴ Ibid

²⁵ Ibid

²⁶ Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce.

²⁷ The Office of Human Resources tracks Latinx as a distinct racial category; thus Latinx people are not included in other racial groups throughout this impact statement, unless where otherwise noted.

²⁸ Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce.

²⁹ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

³⁰ Asiodiu, Bugg, and Palmquist

³¹ “Changing the System to Address Racial Inequities in Breastfeeding,” Fact Sheet, ChangeLab Solutions, May 2018.

https://www.changelabsolutions.org/sites/default/files/2019-08/ChangingTheSystemToAddressRacialInequitiesInBreastfeeding_FINAL_FACTSHEET_20180529_0.pdf

³² UNICEF and WHO launched the Baby-Friendly Hospital Initiative to encourage health facilities worldwide to better support breastfeeding. There is substantial evidence that implementing the Ten Steps to Successful Breastfeeding developed by the initiative significantly improves breastfeeding rates. More information: <https://www.unicef.org/documents/baby-friendly-hospital-initiative>

³³ “Changing the System to Address Racial Inequities in Breastfeeding,” Fact Sheet, ChangeLab Solutions, May 2018.

https://www.changelabsolutions.org/sites/default/files/2019-08/ChangingTheSystemToAddressRacialInequitiesInBreastfeeding_FINAL_FACTSHEET_20180529_0.pdf

³⁴ Analysis excludes workers with unreported data on race and ethnicity, accounting for 5.5 percent of MCG full-time workforce.

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



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/>

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 om 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.



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>



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



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.
Department of Labor

200 Constitution Ave NW
Washington, DC 20210

[1-866-4-US-WAGE](tel:1-866-4-US-WAGE)

[1-866-487-9243](tel:1-866-487-9243)

www.dol.gov

FEDERAL GOVERNMENT

White House

Coronavirus Resources

Disaster Recovery Assistance Español

DisasterAssistance.gov

USA.gov

Notification of EEO ViolationsRead the DOL Newsletter

No Fear Act Data

U.S. Office of Special CounselA to Z Index

LABOR DEPARTMENT

About DOL

Guidance Search

Office of Inspector General

Subscribe to the DOL Newsletter

Emergency Accountability Status Link

WHD PORTALS

YouthRules!

Wage Determinations

Connect With DOL



[Site Map](#) | [Important Website Notices](#) | [Privacy & Security Statement](#)