

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1518

INTRODUCER: Senator Berman

SUBJECT: Lactation Space

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1518 requires each county courthouse to provide, by January 1, 2023, at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private. The bill requires the lactation space be hygienic, shielded from public view, free from intrusion while occupied, and it must contain an electrical outlet.

The bill authorizes the person responsible for the operation of the facility housing each district court of appeal, to use state-appropriated funds or private funding to provide a dedicated lactation space.

The requirements to provide a dedicated lactation space do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that the courthouse does not contain a lactation space for employees which may be used by the members of the public or new construction would be required to create the lactation space.

The bill contains a legislative finding that the bill fulfills an important state interest.

Each county and the state may incur costs associated with funding a dedicated lactation space.

This bill takes effect July 1, 2022.

II. Present Situation:

Funding Requirements for Court Related Functions

Article V, Section 14 of the State Constitution requires counties to fund the cost of communication services, existing radio systems, existing multi-agency information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial

courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.¹ Counties are not required to fund the state courts system, state attorney's office, public defenders offices, court-appointed counsel or the offices of the clerks of the circuit performing court related functions.² Section 29.008, F.S., defines the term "facility" to mean reasonable and necessary buildings, office space, equipment, furnishings, structures, real estate, easements, and related interests in real estate.³ The county is responsible for the funding of physical modifications and improvements to all facilities in order to comply with the American with Disabilities Act.

Section 29.004, F.S., provides that the construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court are funded through state revenues.⁴ The state currently funds district courts of appeal (DCA) facility upgrade expenses through Specific Appropriation 3212 – District Courts of Appeal Expenses.⁵

Courthouse Lactation Room Handbook

The Florida Association of Women Lawyers (FAWL) established guidelines to provide accessibility to lactation rooms for women in the legal field. These guidelines are being used across the state by local governments in order to implement lactation rooms for courthouses. The FAWL handbook establishes best practices for implementing lactation rooms, such as room access, room naming, room specifications, amenities, and ways to fund the room. The implementation of these rooms allows access to women jurors, witnesses, and other actors who partake in the legal process.⁶

According to the Florida Bar, 38 percent of Florida attorneys are women,⁷ and 39 percent of Florida judges are women.⁸ The percentage of women attorneys in the state is expected to rise over the coming years due to women accounting for almost 50 percent of the total number of law school students in Florida.⁹

Breastfeeding in Florida

Florida became one of the first states to pass legislation that supports women breast feeding in any location. Section 383.015, F.S., provides that the breastfeeding of a baby is an important and basic act of nurture which must be encouraged in the interests of maternal and child health and family values. A mother may breastfeed her baby in any location, public or private, regardless of whether the nipple of the mother is uncovered during or incidental to the breastfeeding.¹⁰

¹ Section 29.008, F.S.

² Fla. Const. art. V, s. 14

³ Section 29.008(1), F.S.

⁴ Section 29.004(4), F.S.

⁵ See Florida Legislature, *General Appropriations Act SA-3212*, available at <https://www.flsenate.gov/Session/Bill/2020/5001/BillText/er/PDF>, (last visited January 21, 2022).

⁶ *Id.*

⁷ The Florida Bar, *Board Issue Paper – Women in the Law/Gender Bias*, (Feb. 13, 2017), available at <https://www.floridabar.org/news/resources/issue-04/#IV.%20Facts%20and%20Statistics> (last visited January 21, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 383.015, F.S.

Further, any facility providing maternity services such as breastfeeding can be designated as “baby-friendly.”

Lactation Space in Florida Courthouses

The courthouses that contain a dedicated lactation space include:

- 1st Judicial Circuit Court (Okaloosa County Courthouse);
- 2nd Judicial Circuit Court (Leon County Courthouse);
- 4th Judicial Circuit Court (Duval County Courthouse);
- 5th Judicial Circuit Court (Lake County Courthouse);
- 6th Judicial Circuit Court (St. Petersburg Judicial Building);
- 7th Judicial Circuit Court (St. Johns County Courthouse);
- 8th Judicial Circuit Court (Alachua County Courthouse);
- 9th Judicial Circuit Court (Orange County Courthouse);
- 10th Judicial Circuit Court (Polk County Courthouse);
- 11th Judicial Circuit Courts (including the Coral Gables Courthouse, Dade County Courthouse, Joseph Caleb Center, Lawson E. Courthouse Center, Miami Dade Children’s Courthouse, Richard E. Gerstein Justice Building, and the South Dade Justice Center)¹¹;
- 12th Judicial Circuit Court (Sarasota County Courthouse and Manatee County Judicial Center);
- 13th Judicial Circuit Court (Edgecomb Courthouse);
- 15th Judicial Circuit Court (West Palm Beach Main Courthouse and Delray Beach South County Courthouse);
- 17th Judicial Circuit Court (Broward County Central Courthouse);
- 18th Judicial Circuit Court (Brevard County Courthouse and Seminole County Courthouse);
- 19th Judicial Circuit Court (Martin County Courthouse); and
- 20th Judicial Circuit Court (Lee County Courthouse and Collier County Courthouse).

Counties Designated as Headquarters for District Courts of Appeal

The following is location of the headquarters for each DCA:

- First Appellate District in the Second Judicial Circuit, Tallahassee, Leon County;
- Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County;
- Third Appellate District in the Eleventh Judicial Circuit, Miami-Dade County;
- Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and
- Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.¹²

A DCA may designate other locations within its district as branch headquarters to conduct the business of the court and as the official headquarters of its officers or employees.¹³

Currently, there is only one DCA that has an established space dedicated to lactation within its courthouse.

¹¹ Florida’s Eleventh Judicial Circuit, *Courthouse Amenities – Lactations Rooms*, available at <https://www.jud11.flcourts.org/About-the-Court/Courthouse-Amenities/Lactation-Rooms>, (last visited January 21, 2022).

¹² Section 35.05, F.S.

¹³ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 29.24, F.S., to require each county courthouse to provide at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private by January 1, 2023. The dedicated space must be hygienic, shielded from public view, free from intrusion while occupied, and contain an electrical outlet.

This section authorizes the person responsible for the operation of the facility housing each district court of appeal to use state-appropriated funds or private funding to provide a dedicated lactation space.

This section establishes that the requirements to provide a dedicated lactation space do not apply to a courthouse if the person who is responsible for the operation of the courthouse determines that:

- The courthouse does not contain a lactation space for employees which may be used by the members of the public and the courthouse does not have:
 - A space that could be repurposed as a lactation space open to the public; or
 - A space that could be made private at a reasonable cost using portable materials, contingent upon private funding being made available for those costs.
- New construction would be required to create the lactation space.

Section 2 contains a legislative finding that the bill fulfills an important state interest.

Section 3 provides the bill take effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the legislature....

Counties will incur costs in complying with the space requirements set forth in the bill. As drafted, the bill contains a finding that the bill fulfills an important state interest.

The mandate requirements do not apply to laws having an insignificant impact which, for Fiscal Year 2021-2022, is forecast at \$2.2 million.^{14,15,16} The fiscal impact of this bill on cities or counties is indeterminate. If costs imposed by the bill do not exceed \$2.2 million, then the mandate requirements (legislative finding and 2/3 vote) do not apply and the bill will be binding on the counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If a county courthouse or a District Court of Appeal (DCA) uses private funding to provide a dedicated lactation space, the private entity providing the funds will incur a negative fiscal impact.

C. Government Sector Impact:

Each county will incur costs associated with providing a dedicated lactation space in its county courthouses. Also, the state may incur costs associated with providing a dedicated lactation space within the DCA courthouses.

¹⁴ FLA. CONST. art. VII, s. 18(d).

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), *available at*: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 21, 2022).

¹⁶ Based on the Florida Demographic Estimating Conference's November 3, 2020, population forecast for 2021 of 21,830,364. The conference packet is *available at*: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited January 21, 2022).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 29.008 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.