

# BREASTFEEDING/CHESTFEEDING: WHAT MINNESOTA LAW SAYS

## A Fact Sheet



**Breastfeeding/chestfeeding brings profound health benefits for both babies and parents.**

The American Academy of Pediatrics and the World Health Organization recommend exclusive breastfeeding/chestfeeding for the first six months of a baby's life (supplemented with formula use, if needed), and continued breastfeeding/chestfeeding as the baby grows older and is introduced to family foods.

Yet, many people in the United States — particularly people of color — are not able to achieve these benchmarks due to systemic barriers. Laws requiring employers to provide lactation accommodations can help. This fact sheet explains the Minnesota and federal laws that protect breastfeeding/chestfeeding parents at work and other places, including changes that went into effect in 2023.



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In 1998, Minnesota adopted the nation’s first law requiring employers to provide lactation accommodations (break times and suitable, non-bathroom location) for workers.<sup>1</sup> Since that time, many states have passed similar laws. Minnesota’s law has continued to evolve and remains one of the most robust in the nation. Congress adopted similar federal protections for many types of workers in 2010, which were incorporated into the Fair Labor Standards Act (FLSA).<sup>2</sup> At the end of 2022, Congress passed the “Providing Urgent Maternal Protections for Nursing Mothers Act” (“PUMP Act”), which amended the FLSA again to include many workers who were previously left out of the federal law — such as teachers, nurses, and farmworkers; to clarify the protections; and provide the full range of legal remedies for covered workers who are improperly denied their rights.<sup>3</sup> Federal law and many states, including Minnesota, do not limit cities or counties from requiring additional lactation accommodations that go beyond state or federal standards. This means that if there are overlapping local, state, and federal protections, employers must follow the most protective standard. Many Tribes have also exercised their Tribal sovereignty to adopt their own lactation accommodations laws.<sup>4</sup> Tribal, federal, and state lactation accommodations laws continue to evolve and improve.

### A Word About Words

There is growing awareness that the term “breastfeeding/chestfeeding” and related phrases are helpful to use to represent the full range of human experiences of providing human milk to babies and children. “Bodyfeeding” is another term that can be used.\* To support an inclusive approach, this resource uses the term “breastfeeding/chestfeeding” unless referring to research or quoting language that uses a different term.

## Why Lactation Accommodations Laws and Policies Matter for Health and Businesses

Breastfeeding/chestfeeding brings many short and long-term health benefits for both babies and parents.<sup>5</sup> Because of this, the American Academy of Pediatrics (AAP) and the World Health Organization (WHO) recommend exclusive breastfeeding/chestfeeding for the first six months of a baby’s life (supplemented with formula use, if needed), continuing until the

\* To learn more about this topic, please see Azura Goodman, *It’s Time to Add “Chestfeeding” to Your Vocabulary*, TODAY’S PARENT, June 9, 2021, <https://www.todayparent.com/baby/breastfeeding/chestfeeding-faq> and Mara Santilli, *Here’s How Lactation Experts Are Working to Redefine and Decolonize Breastfeeding*, WELL + GOOD, Dec. 7, 2020, <https://www.wellandgood.com/decolonizing-breastfeeding>.

child is two years or older (while introducing family foods).<sup>6</sup> Yet, many parents in the United States — particularly parents of color — are not able to achieve these evidence-based health recommendations due to systemic barriers.

**Although workplace lactation accommodation policies can't eliminate all barriers to breastfeeding/chestfeeding, they can make a big difference, especially for parents of color.**

One common barrier is the need to return to paid work. Returning to paid work, especially full-time work, is linked to lower rates of starting breastfeeding and to women stopping breastfeeding/chestfeeding (especially exclusive breastfeeding/chestfeeding) sooner than they intended.<sup>7</sup> The type of job also makes a big difference. Non white-collar jobs are more likely to be hazardous, inflexible, low-wage, lacking paid leave, and may lack sufficient lactation accommodations.<sup>8</sup> So while relatively few women continue breastfeeding/chestfeeding for as long as recommended, women working in service, administrative, manual labor jobs, and other non white-collar or non managerial roles tend to breastfeed for even shorter periods of time compared to women who are not employed or who work in white-collar or managerial jobs.<sup>9</sup>

Because structural sexism and racism limits economic and educational opportunities for women of color, Black women and other women of color are disproportionately concentrated in hazardous, low-wage, manual labor, service and other non white-collar jobs.<sup>10</sup> Additionally, low-income women of color are more likely to need to return to work sooner after childbirth because of lack of paid leave,<sup>11</sup> and earlier returns to work are linked to shorter exclusive breastfeeding/chestfeeding duration.<sup>12</sup> These and other structural inequities (such as historical and ongoing trauma) contribute to persistent and significant racial disparities in breastfeeding rates. For example, the Minnesota Department of Health reports that Hmong, American Indian, and African American women are less likely to start breastfeeding compared to other racial groups in Minnesota, with East African women having the highest initiation rates at 94.2%, followed closely by white women (92.3%), and Hmong women having the lowest (62.8%), and American Indian women being second lowest (77.7%).<sup>13</sup> National data shows different and often larger racial disparities. For example, looking at exclusive breastfeeding at six months, according to a 2019 report, only 17.2% of Black babies were exclusively breastfed at six months, compared to 29.5% of white babies.<sup>14</sup>



Emerging studies show, however, that Black women in professional or managerial jobs — which are more likely to provide paid leave, flexibility and lactation accommodations — breastfeed for longer compared to white women in non white-collar jobs or who are not doing paid work (even though a significant number still do not achieve public health recommendations). Effective laws requiring employers to accommodate workers' lactation needs are key to healthier outcomes for parents and babies because evidence shows that breastfeeding/chestfeeding workers are more than twice as likely to continue the practice at six months when they have the time and space to pump.<sup>15</sup>

Although workplace lactation accommodations laws and policies can not eliminate all barriers to breastfeeding/chestfeeding, these laws and policies can make a difference, especially for parents of color and their families. These policies are also good for employers; it is well-established that workplaces with comprehensive lactation supports report higher rates of worker productivity, retention, and morale. And the health benefits associated with breastfeeding/chestfeeding means lower healthcare costs and absenteeism rates for employers, too.<sup>16</sup> So when lactation accommodations requirements are implemented well, it makes things better for everyone at the worksite.

## **Q: What laws protect breastfeeding/chestfeeding parents in Minnesota workplaces?**

**A:** Laws that require lactation accommodations and provide parental leave are necessary for supporting breastfeeding/chestfeeding workers. Minnesota and federal law provide similar protections, but Minnesota's law goes beyond federal law in several key aspects. In Minnesota, employers are required to provide breastfeeding/chestfeeding workers with reasonable break times and appropriate space that is not a bathroom to express milk as part of their paid work time (unless they are pumping during a time that is not usually paid time, such as lunch), regardless of the age of their babies.<sup>17</sup> Federal law allows possible exemptions for certain employers, limits the break time and space requirements to one year after the child's birth, and does not require break times to be part of the worker's paid workday.<sup>18</sup> In Minnesota, employers must follow Minnesota's more protective standards.

Parental leave laws provide crucial time to bond with a baby and establish good breastfeeding/chestfeeding routines. Minnesota's parenting leave law is similar to the federal Family Medical Leave Act but also goes beyond it. Minnesota's law currently allows workers to take up to 12 weeks of unpaid leave in connection with a pregnancy, birth, or adoption of a child, regardless of how long the worker has been with the employer or the size of the employer.<sup>19</sup> The law also requires employers to allow the employee to return to the same position or a comparable one, with the same/comparable duties and same pay.<sup>20</sup> In 2023, the Minnesota Legislature expanded on these supports and passed a law that goes into effect on January 1, 2026, which will allow employees to take up to 20 weeks of partially paid leave in a year for family or medical reasons, including to recover from a birth and bond with a new baby or child.<sup>21</sup>

## **Q: How long do these protections last?**

**A:** For Minnesota workers, there is no time limit on how long an employer must provide lactation accommodations. Previously, Minnesota's workplace lactation accommodations law applied only up to 12 months after a child's birth (similar to current federal law); however effective July 1, 2023, the language referring to 12 months and birth was eliminated.<sup>22</sup>

## **Q: What kind of lactation space must employers provide?**

**A:** When read together, Minnesota and federal law require employers to make reasonable efforts to provide a space that is clean, private, and secure. It must be shielded from view, near the employee's work area, free from intrusion, and include access to an electrical outlet.



The space cannot be a bathroom.<sup>23</sup> To make sure the lactation accommodations are practically available, the space must be available to employees for pumping breaks as needed.

**Q: How many milk expression breaks can a worker take per day and can an employer dictate when they can take them?**

**A:** A worker should be able to take as many breaks as they need, and to have flexibility around when to take the breaks based on their needs. After July 1, 2023, Minnesota law changed to clearly give workers flexibility to take lactation breaks at the same time as other paid or unpaid breaks, or some other time. Neither Minnesota nor federal law limit the number, frequency, or length of breaks that employers must provide. Instead, they require employers to provide a “reasonable” amount of breaks, which means that workers should be allowed to have as much time as they need to express milk as they normally would outside of work, including the time for steps reasonably necessary to pump, such as time it takes to get to the lactation space, set up, pump, clean and put away pump parts, and store the milk.<sup>24</sup>

## **Q: Are employers able to require workers to take unpaid breaks to pump, or to use Paid Time Off (PTO) or vacation time to cover these breaks?**

**A:** No. Minnesota law prohibits employers from reducing workers' compensation for milk expression breaks. Minnesota law also does not allow employers to require workers to take PTO or vacation time to cover the break times.<sup>25</sup>

## **Q: Do the laws and accommodation requirements apply to all workplaces in Minnesota?**

**A:** In Minnesota, employers who have one or more employees must provide lactation accommodations and provide reasonable accommodations to an employee for any pregnancy or childbirth-related reason.<sup>26</sup> Prior to July 1, 2023, Minnesota law stated that employers who could show that providing reasonable lactation accommodations would "unduly disrupt" their operations did not have to provide the accommodations. This exemption was removed by the Minnesota Legislature in 2023.<sup>27</sup>

## **Q: Are workers required to inform employers in advance if they will need to take breaks during work to express milk?**

**A:** No. However, it is a good idea for a worker to talk to their supervisor before going on parental leave and before coming back to work, so that the employer can ensure an appropriate lactation space is available and take other necessary steps to provide the break times and plan for covering any needed work when the worker returns.<sup>28</sup>

## **Q: Do employers need to inform workers about their rights to lactation accommodations?**

**A:** Yes. Minnesota law requires employers to advise employees of their rights to lactation accommodations at the time of hire, as well as when an employee asks about or requests parental leave. This information needs to be provided in English, as well as the employee's identified primary language. The employer must include information about the employee's rights to lactation accommodations (and remedies) in the employee handbook, if one is provided.<sup>29</sup>

## Q: What if a worker encounters problems in getting break times or space to express milk?

**A:** Understanding the law can be complicated for both workers and employers. The Minnesota Department of Labor and Industry has a [webpage](#)<sup>30</sup> with helpful resources for supervisors and employers (as well as workers) to help people understand employers' legal responsibilities. These resources could be helpful for employees to refer to when talking to their managers. Regarding federal law, the U.S. Department of Labor has a [fact sheet](#)<sup>31</sup> and a list of [frequently asked questions](#)<sup>32</sup> to assist parents and employers in understanding both long-standing and new federal law requirements.

It also may be helpful to contact someone for ideas on how to talk to a supervisor about the need for space and break times to express milk in the workplace. The national Center for Work Life Law has a [guide](#)<sup>33</sup> with helpful pointers. (For Minnesota workers, keep in mind that this guide is focused on federal law, and Minnesota law offers additional protections (including no baby age limits, no hardship exemption, and employers can not require workers to use uncompensated time for breaks)).

Representatives at a local [La Leche League](#)<sup>34</sup> group may be able to help with specific questions. The [Minnesota Breastfeeding Coalition website](#)<sup>35</sup> may also have helpful information and contacts. The Minnesota Breastfeeding Coalition also has [information](#)<sup>36</sup> about other statewide and regional coalitions, including the Hmong Breastfeeding Coalition and the Indigenous Breastfeeding Coalition of Minnesota.

## Q: What if an employer refuses to provide an accommodation?

**A:** To file a complaint or report a violation under Minnesota law, workers can contact the [Minnesota Department of Labor and Industry](#)<sup>37</sup> (DLI) at (651) 284-5075, or toll-free at 1-800-342-5354, or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us). The Division of Labor Standards will investigate and attempt to resolve the complaint. DLI can take complaints from workers or from third parties, such as health care providers or advocacy organizations. DLI also takes anonymous complaints, although identifying affected employees may become necessary. To file a complaint or report a violation under federal law, visit the [U.S. Department of Labor's Wage and Hour Division](#)<sup>38</sup> website.

Minnesota law also prohibits employers from retaliating or discriminating against workers who assert their rights under the law. A worker who is injured by a violation of Minnesota's law may bring a civil action to recover any and all damages, costs and disbursements (including reasonable attorney's fees), and to obtain injunctive and other equitable relief.<sup>39</sup>





The 2022 PUMP Act expanded the federal remedies available to workers whose employers have denied them reasonable break time and space to express milk, making the full range of remedies available under the FLSA to them as of April 28, 2023.<sup>40</sup> These remedies may include employment, reinstatement, promotion and payment of lost wages as well as liquidated damages, compensatory damages, payment to cover economic losses, and punitive damages if appropriate. An employee may file a complaint with the federal Wage and Hour Division, or may file a lawsuit.<sup>41</sup> However, if the complaint is about an employer's failure to provide an appropriate space to pump, the worker must first give their employer notice of the failure and allow the employer 10 days to comply with the law (unless the employer has said it has no intention of providing the space). If the employer does not comply, then the employee can move forward with a civil action.<sup>42</sup>

A person wishing to explore the option of a lawsuit should contact an attorney who can represent them.

## Q: What additional resources are available to help me understand the lactation accommodation requirements for breastfeeding/chestfeeding workers?

**A:** The Minnesota Department of Labor and Industry is a great place to start for employees who are governed by Minnesota law. It has produced several resources, such as [this poster](#)<sup>43</sup> that explains workers' rights.

## Q: How else can employers support their breastfeeding/chestfeeding workers?

**A:** Employers must follow state and federal requirements of course, but they can also do more through their own human resources policies and procedures. And as noted above, research shows that having a workplace that supports breastfeeding/chestfeeding parents benefits employers in many ways, so being proactive is a good idea. For example, in addition to providing the notices required by state law, supervisors could initiate conversations with pregnant employees or new parents about their anticipated needs, and to ask what they can do to ease the transition back to the workplace, such as scheduling group meetings around the times the employee needs to express milk. Employers should ensure that all supervisors receive regular, periodic training about their responsibilities to provide lactation accommodations, and the benefits of doing so. Training and education for all staff can also be important for building a supportive culture in the workplace, across supervisors and co-workers, to ensure that everyone understands how the policy works and why it matters for the success of the business or organization.

Minnesota workplaces who have shown a commitment to creating a supportive environment for lactating employees can [apply](#) to the Minnesota Department of Health's Breastfeeding Friendly Workplace program to receive recognition for their efforts. This could be a positive tool for employee recruitment and retention.

## Q: In addition to workplace protections, does Minnesota law allow breastfeeding/chestfeeding in public?

**A:** Yes. Minnesota law allows a mother to breastfeed in any location, public or private, where the mother and child are allowed to be. A mother may breastfeed her child anywhere even if her nipple or breast is uncovered while breastfeeding/chestfeeding.<sup>44</sup> This means a person is allowed to breastfeed in restaurants, stores, parks, malls, and other locations. Breastfeeding/chestfeeding in public is not a violation of Minnesota's indecent exposure laws.<sup>45</sup>

## Q: Are there any laws that protect incarcerated pregnant women and new parents?

**A:** Yes. Minnesota law allows pregnant inmates and inmates who have recently given birth to be eligible for conditional release as an alternative to incarceration for up to one year after birth. This is so that they can receive prenatal and postnatal support, and be with their infants, consistent with healthy infant development recommendations.<sup>46</sup>

## Q: Are there any public benefits programs that assist breastfeeding/chestfeeding parents?

**A:** Yes. The Women, Infants, and Children (WIC) program provides foods, health care referrals, and nutrition (including breastfeeding/chestfeeding) education to eligible pregnant women, new mothers, babies, and young children.<sup>47</sup>

## Q: Is there financial support available to help with costs of breastfeeding/chestfeeding supplies, equipment, and counseling?

**A:** Yes. Under the Affordable Care Act, health insurance plans are required to provide a breastfeeding/chestfeeding pump. This might mean a manual pump, however, which may not be practical. However, the cost of breast pumps and supplies that assist lactation are medical expenses that may be eligible for tax deduction in certain circumstances or may be reimbursable under flexible spending accounts and other health savings accounts.<sup>48</sup>

## Additional Resources

### For more information about the health benefits of breastfeeding/chestfeeding for parents and for children:

- *Why Breastfeed: Benefits for You & Your Baby*, [HealthyChildren.org](https://www.healthychildren.org/English/ages-stages/baby/breastfeeding/Pages/Why-Breastfeed.aspx), <https://www.healthychildren.org/English/ages-stages/baby/breastfeeding/Pages/Why-Breastfeed.aspx> (last updated Aug. 31, 2022).
- *Reclaiming the Tradition of Breastfeeding: The Foundation of a Nation*, 2018 Native Nutrition Conference Presentation by Camie Jae Goldhammer, Oct. 13, 2018, <https://www.youtube.com/watch?v=YSGggdXqj2s>.

## For more information about the underlying causes of racial and ethnic disparities in breastfeeding/chestfeeding rates, see:

- *Race/ethnicity-specific Associations Between Breastfeeding Information Source and Breastfeeding Rates Among U.S. Women*, Stephanie M. Quintero et al., 23 BMC PUBLIC HEALTH 520 (2023), <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-023-15447-8>.
- *Beyond Statistics: Uncovering the Roots of Racial Disparities in Breastfeeding*, Bethel R. Mieso et al., 147 PEDIATRICS: e2020037887, May 1, 2021, <https://publications.aap.org/pediatrics/article/147/5/e2020037887/180853/Beyond-Statistics-Uncovering-the-Roots-of-Racial?autologincheck=redirected>.
- *From Breastfeeding To Beyoncé, ‘Skimmed’ Tells A New Story About Black Motherhood*, Beandrea July, NPR, Feb. 11, 2020, <https://www.npr.org/sections/health-shots/2020/02/11/801343800/from-breastfeeding-to-beyonc-skimmed-tells-a-new-story-about-black-motherhood>.
- *Chocolate Milk: The Documentary* (exploring the racial divide in breastfeeding rates for Black women), <http://www.chocolatemilkdoc.com/film> (2018).
- *Breastfeeding Is Food Sovereignty*, Camie Jae Goldhammer, Food Sovereignty Conference, SD, (discussing importance of breastfeeding and role of colonization in disrupting breastfeeding by Native women), <https://www.youtube.com/watch?v=IZN7zANzybo&t=521s>.

## For more information about some of the business benefits of providing supportive environments for breastfeeding/chestfeeding workers:

- *The Business Case for Breastfeeding*, U.S. Department of Health & Human Services Office on Women’s Health <https://www.womenshealth.gov/breastfeeding/breastfeeding-home-work-and-public/breastfeeding-and-going-back-work/business-case> (last updated Feb. 18, 2021).

## For more information about relevant laws:

- The Minnesota Department of Labor and Industry has a [webpage](#) with helpful resources for supervisors and employers (as well as workers) to help people understand employers’ legal responsibilities under Minnesota law.
- Information about Minnesota’s new Paid Family and Medical Leave law that will go into effect in 2026 can be found on the Minnesota Department of Employment and Economic Development’s Paid Family and Medical Leave [webpage](#).

- The U.S. Department of Health & Human Services Office on Women’s Health (OWH) also provides helpful information for parents and employers on its [Supporting Nursing Moms at Work webpage](#). In addition, the OWH’s [webpage](#) has information tailored to different industries, including the service, hospitality, construction, and transportation industries, and more.
- The U.S. Department of Labor’s Wage & Hour Division issued a helpful [Bulletin](#) explaining federal lactation accommodation requirements and the 2023 changes, which includes examples of how these requirements can play out in real world examples.<sup>49</sup>

**For additional resources to support breastfeeding/chestfeeding, please visit the Public Health Law Center’s [breastfeeding/chestfeeding webpage](#).**

This resource was prepared by the Public Health Law Center (PHLC) with support from the Minnesota Department of Health’s Statewide Health Improvement Partnership. PHLC provides educational information and technical assistance on issues related to chronic disease prevention policy and health equity. PHLC does not lobby, nor does it provide legal representation or advice. This information is for educational purposes only.

## Endnotes

- 1 Minn. Legis. Reference Libr., Minnesota Women’s Legislative Timeline, *Significant Legislation Passed by the Minnesota Legislature Since Suffrage (1919–2020), 1998 — Accommodations for Nursing Mothers*, <https://www.lrl.mn.gov/womenstimeline/details?recid=61> (accessed July 19, 2023).
- 2 The National Conference of State Legislatures has a database that provides summaries of state lactation accommodation laws, available at <https://www.ncsl.org/health/breastfeeding-state-laws> (last updated Aug. 26, 2021). The federal protections were first adopted as part of the 2010 Affordable Care Act (ACA) — see the combined full text of Public Laws 111-148 and 111-152. Section 4207 of the law amended the Fair Labor Standards Act (FLSA) of 1938 (the FLSA is codified at 29 U.S.C. ch. 8) to require many employers to provide lactation accommodations for many types of workers. 29 U.S.C. § 218(d) (2023).
- 3 Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act), Pub. L. No. 117-328 (2022), [https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-act\\_hr2617.pdf](https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-act_hr2617.pdf) (codified in part at 29 U.S.C. § 218d).
- 4 For more information about Tribal breastfeeding/chestfeeding support laws and policies in the Great Lakes Region (Michigan, Minnesota, Wisconsin and related urban-American Indian health centers), see PUB. HEALTH L. CTR AND GREAT LAKES INTER-TRIBAL EPIDEMIOLOGY CTR, *GIFTS ACROSS GENERATIONS: POLICIES AND LAWS IN SUPPORT OF BREASTFEEDING IN BEMIDJI AREA AMERICAN INDIAN COMMUNITIES* (2021), <https://www.publichealthlawcenter.org/sites/default/files/resources/Gifts-Across-Generations.pdf>.
- 5 Ctrs for Disease Control and Prevention, Division of Nutrition, Physical Activity, and Obesity, *Breastfeeding Benefits Both Baby and Mom*, <https://www.cdc.gov/nccdphp/dnpao/features/breastfeeding-benefits/index.html> (last reviewed July 12, 2023). More sources on this topic are also listed in the Additional Resources section.

- 6 Ctrs for Disease Control and Prevention, *Breastfeeding, Frequently Asked Questions, How long should a mother breastfeed?*, <https://www.cdc.gov/breastfeeding/faq/index.htm#:~:text=The%20American%20Academy%20of%20Pediatrics%20and%20the%20World%20Health%20Organization,years%20of%20age%20or%20longer> (last reviewed Aug. 4, 2022). See also, Lisa Black, *American Academy of Pediatrics Calls for More Support for Breastfeeding Mothers Within Updated Policy Recommendations*, AM. ACAD. 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/>.
- 7 Eric A. Lauer et al., *Identifying Barriers and Supports to Breastfeeding in the Workplace Experienced by Mothers in the New Hampshire Special Supplemental Nutrition Program for Women, Infants, and Children Utilizing the Total Worker Health Framework*, 16 INT'L J. ENV'T RSCH. & PUB. HEALTH 529 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6406909/pdf/ijerph-16-00529.pdf>.
- 8 Margaret D. Whitley et al., *Work, Race and Breastfeeding Outcomes in the United States*, PLOS ONE (May 5, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8099119/pdf/pone.0251125.pdf>.
- 9 See Margaret D. Whitley et al., *Work, Race and Breastfeeding Outcomes in the United States*, PLOS ONE (May 5, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8099119/pdf/pone.0251125.pdf>; Eric A. Lauer et al., *Identifying Barriers and Supports to Breastfeeding in the Workplace Experienced by Mothers in the New Hampshire Special Supplemental Nutrition Program for Women, Infants, and Children Utilizing the Total Worker Health Framework*, 16 INT'L J. ENV'T RSCH. & PUB. HEALTH 529 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6406909/pdf/ijerph-16-00529.pdf>.
- 10 See, e.g., Janet Dill & Mignon Duffy, *Structural Racism and Black Women's Employment in the US Health Care Sector*, 41 HEALTH AFFAIRS 265 (2022), <https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2021.01400>; Sarah Jane Glynn and Diana Boesch, *Connecting the Dots: "Women's Work" and the Wage Gap*, U.S. DEP'T OF LABOR BLOG (Mar. 14, 2022), <https://blog.dol.gov/2022/03/15/connecting-the-dots-womens-work-and-the-wage-gap>; Mathilde Roux, *Five Facts About Black Women in the Labor Force*, U.S. DEP'T OF LABOR BLOG (Aug. 3, 2021), <https://blog.dol.gov/2021/08/03/5-facts-about-black-women-in-the-labor-force>; Evelyn Nakano Glenn, *Cleaning Up/Kept Down: A Historical Perspective on Racial Inequality in "Women's Work,"* 43 STANFORD L. REV. 1333 (1991).
- 11 See, e.g., MINN. DEP'T OF HEALTH, MATERNITY LEAVE AFTER CHILDBIRTH: ACCESS AND BARRIERS TO PAID AND UNPAID MATERNITY LEAVE, MINNESOTA PREGNANCY RISK ASSESSMENT MONITORING SYSTEM 2016–2020 (Mar. 2022), <https://www.health.state.mn.us/docs/people/womeninfants/prams/maternityleave.pdf>.
- 12 See Jennifer L. Beauregard et al., *Racial Disparities in Breastfeeding Initiation and Duration Among U.S. Infants Born in 2015*, 68 MORBIDITY AND MORTALITY WKLY REP. 745, 747 (2019), <https://www.cdc.gov/mmwr/volumes/68/wr/pdfs/mm6834a3-H.pdf>.
- 13 MINN. DEP'T OF HEALTH, BREASTFEEDING: NURSING OR FEEDING A BABY WITH HUMAN MILK (Aug. 1, 2019), <https://www.health.state.mn.us/docs/communities/titlev/breastfeeding.pdf> (using 2018 data). 2019 national data shows a similar but slightly different picture. Based on 2019 data, American Indian/Alaska Native women have the lowest rate of initiating breastfeeding (67.5%), followed by Asian women (not disaggregated) (78.9%); Black women (not disaggregated) (87.5%); and Hispanic women (90.2%). These rates are all lower than the rate for white women (91.9%). Katelyn V. Chiang et al., *Racial and Ethnic Disparities in Breastfeeding Initiation — United States 2019*, 70 MORBIDITY AND MORTALITY WEEKLY REPORT 769, 771 (2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7021a1-H.pdf>. The Minnesota Department of Health also collects breastfeeding data by race and ethnicity for participants in the Women, Infants, and Children (WIC) program, which is available at <https://www.health.state.mn.us/people/wic/localagency/reports/bf/unduppublic.html#summary>.
- 14 Jennifer L. Beauregard et al., *Racial Disparities in Breastfeeding Initiation and Duration Among U.S. Infants Born in 2015*, 68 MORBIDITY AND MORTALITY WKLY REP. 745, 747 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6715261/pdf/mm6834a3.pdf>.

- 15 Katy B. Kozhimannil et al., *Access to Workplace Accommodations to Support Breastfeeding after Passage of the Affordable Care Act*, 26 WOMENS HEALTH ISSUES 6 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4690749/pdf/nihms715360.pdf>.
- 16 Christine Michel Carter, *Breastfeeding at Work Benefits Mom, Baby, and Employer*, FORBES, July 31, 2019, <https://www.forbes.com/sites/christinecarter/2019/07/31/breastfeeding-at-work-benefits-mom-baby-and-the-employer/?sh=7e321649675f>; Carissa M. Rocheleau et al., *Promoting Worker Well-Being through Maternal and Child Health: Breastfeeding Accommodations in the Workplace*, Feb. 11, 2019, <https://blogs.cdc.gov/niosh-science-blog/2019/02/11/breastfeeding-work/>; BRE HAVILAND ET AL., SUPPORTING BREASTFEEDING IN THE WORKPLACE (POLICY BRIEF) (2015), [https://asphn.org/resource\\_files/657/657\\_resource\\_file2.pdf](https://asphn.org/resource_files/657/657_resource_file2.pdf).
- 17 Minnesota's lactating employees law is found at Minn. Stat. § 181.939 (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023). The federal employee lactation accommodations law is found at 29 U.S.C. § 218d (2023).
- 18 Under federal law, employers with fewer than 50 employees may be exempt if complying with the requirements would amount to an "undue hardship." 29 U.S.C. § 218d(c) (2023). Employers have the burden of establishing "undue hardship" and it is a high standard to meet. Federal law also does not require employers to pay an employee during the time they use to pump; however, if the employee is not *completely relieved* from work during that time, then it is not a "break" and the employee must be paid. 29 U.S.C. § 218d(b) (2023).
- 19 Minn. Stat. § 181.941 (2022) as amended by Minn. Laws. Ch. 53, Art. 11, Sec. 30 (2023). The federal Family and Medical Leave Act has exemptions for employers with less than 50 employees and only applies to employees who have worked for the employer for a certain amount of time. 29 U.S.C. § 2611 (2)(A) and (B) (2023).
- 20 Minn. Stat. § 181.942 (2022) as amended by Minn. Laws. Ch. 53, Art. 11, Sec. 32 and Art. 12, Sec. 2 (2023).
- 21 Minn. Laws, Ch. 59, Art. 1, Sec. 10-42 (2023).
- 22 Minn. Stat. § 181.939 subd. 1(a) (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023). In contrast, federal law applies only up to one year from birth. 29 U.S.C. § 218d (a)(1) (2023).
- 23 Minn. Stat. § 181.939 subd. 1(b) (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023); 29 U.S.C. § 218d (a) (2) (2023).
- 24 Minn. Stat. § 181.939 subd. 1(a) (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023); 29 U.S.C. § 218d (a)(1) (2023); U.S. DEP'T OF LABOR, WAGE AND HOUR DIV., FACT SHEET #73: FLSA PROTECTIONS FOR EMPLOYEES TO PUMP BREAST MILK AT WORK (JAN. 2023), <https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers> (explaining that break times should factor in space location and other steps "reasonably necessary" for milk expression).
- 25 Under federal law, if the employee is not completely relieved from work duties while pumping, it is not a break and is paid time. Similarly, if the employee is entitled to paid breaks and pumps during a paid break time, then that must be treated as paid time as well. 29 U.S.C. § 218d(b) (2023).
- 26 Minn. Stat. § 181.939 subds. 1(c) and 2 (e) (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023).
- 27 In contrast with Minnesota law, under federal law, an employer with less than 50 employees could claim an exemption if they can prove that complying with the law would cause "undue hardship" (i.e., be significantly difficult or expensive to comply). 29 U.S.C. § 218d (c) (2023). The Public Health Law Center was unable to identify any documented cases where an employer successfully established an undue hardship exemption.
- 28 Reasonable Break Time for Nursing Mothers, 75 Fed. Reg. 80073 (Dec. 21, 2010), <https://www.govinfo.gov/app/details/FR-2010-12-21/2010-31959> (Notice).
- 29 Minn. Stat. § 181.939 (2022) as amended by Minn. Laws Ch. 53, Art. 11, Sec. 27 (2023) (adding new subdivision 3 which creates notice requirements).

- 30 Minn. Dep't of Labor and Industry, *Pregnant Workers and New Parents*, <https://www.dli.mn.gov/newparents> (accessed on July 30, 2023).
- 31 U.S. DEP'T OF LABOR, WAGE AND HOUR DIV., FACT SHEET #73: FLSA PROTECTIONS FOR EMPLOYEES TO PUMP BREAST MILK AT WORK (JAN. 2023), <https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>.
- 32 U.S. DEP'T OF LABOR, WAGE AND HOUR DIV., FREQUENTLY ASKED QUESTIONS — PUMPING BREASTMILK AT WORK, <http://www.dol.gov/whd/nursingmothers/faqBTNM.htm> (accessed on July 27, 2023).
- 33 NAT'L CTR FOR WORK LIFE LAW & A BETTER BALANCE, TALKING TO YOUR BOSS ABOUT YOUR PUMP, <https://www.pregnantatwork.org/wp-content/uploads/Talking-About-Your-Pump-National-Guide.pdf> (July 2023).
- 34 <https://illi.org>.
- 35 <https://www.mnbreastfeedingcoalition.org>.
- 36 <https://www.mnbreastfeedingcoalition.org/coalitions>.
- 37 <https://www.dli.mn.gov/about-department/about-dli/contact-us>.
- 38 <https://www.dol.gov/agencies/whd/contact/complaints>.
- 39 Minn. Stat. § 181.944 (2022) as amended by Minn. Laws, Ch. 53, Art. 13, Sec. 5 (2023).
- 40 See the PUMP Act, Pub. L. No. 117-328 (2022), [https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-act\\_hr2617.pdf](https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-act_hr2617.pdf) (codified in part at 29 U.S.C. § 218d(g)) (2023). Prior to April 28, 2023, the only remedies available to workers were unpaid minimum or overtime wages. U.S. DEP'T OF LABOR, WAGE AND HOUR DIV., FACT SHEET #73: FLSA PROTECTIONS FOR EMPLOYEES TO PUMP BREAST MILK AT WORK (JAN. 2023), <https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>.
- 41 29 U.S.C. 216(b) (2023).
- 42 29 U.S.C. § 218d(g) (2023).
- 43 [http://www.dli.mn.gov/sites/default/files/pdf/WESA\\_poster.pdf](http://www.dli.mn.gov/sites/default/files/pdf/WESA_poster.pdf).
- 44 Minn. Stat. § 145.905 (2022).
- 45 Minn. Stat. § 617.23, subd. 4 (2022).
- 46 Minn. Stat. § 244.065, subd. 2 (2022).
- 47 To determine if you are eligible for WIC, visit <https://www.health.state.mn.us/people/wic/eligibility/index.html> or contact 1-800-942-4030.
- 48 See IRS, Publication 502, Medical and Dental Expenses (Including the Health Coverage Tax Credit) at p. 6, available at <http://www.irs.gov/pub/irs-pdf/p502.pdf> (for 2021 tax year) and IRS, Pub. 969 Health Savings Accounts and Other Tax-Favored Health Plans, available at <http://www.irs.gov/pub/irs-pdf/p969.pdf> (for 2021 tax year).
- 49 U.S. DEP'T. OF LAB., WAGE AND HOUR DIV., Field Assistance Bulletin No. 2023-02, (May 17, 2023), <https://www.dol.gov/sites/dolgov/files/WHD/fab/2023-2.pdf>.