

HOUSE BILL NO. 5640

December 14, 2021, Introduced by Reps. Stone, Kuppa, Hood, Sneller, Brixie, Brenda Carter, Rogers, Cavanagh and Anthony and referred to the Committee on Commerce and Tourism.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 3. As used in this act:

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

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

4 (c) "Employer" means a person, this state, or a political
5 subdivision of this state that employs 1 or more employees.

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

8 (e) "Person" means an individual, partnership, corporation,
9 association, or other legal entity.

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

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

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

16 (i) Is shielded from view.

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

19 (iii) Is not a restroom.

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

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

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

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

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

3 (i) Opposes a violation of this act.

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 11. (1) An individual aggrieved by a violation of this
28 act may, within 3 years after the alleged violation, do either of
29 the following:

1 (a) File a complaint with the commission.

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

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

11 (a) Damages for mental distress.

12 (b) Damages for emotional distress.

13 (c) Injunctive relief.

14 (d) Lost wages.

15 (e) Costs, including reasonable attorney fees.

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

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

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

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

27 (d) Promulgate rules to implement this act pursuant to the
28 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
29 24.328.

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