

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 3280 (Committee on Judiciary)

Version: May 16, 2024

Hearing Date: July 2, 2024

Fiscal: Yes

Urgency: No

AWM

SUBJECT

Superior court: lactation rooms: Judicial Council report

DIGEST

This bill requires Judicial Council to report annually on the status of its efforts to provide court users with lactation room access, and on its expenditure of funds appropriated for the purpose of meeting its obligation to provide lactation room access to court users by January 1, 2026; and clarifies that a court may, where appropriate, install a portable lactation room to provide lactation room access to court users.

EXECUTIVE SUMMARY

Current law requires employers to provide to their breastfeeding employees (1) reasonable break time in which to express breast milk, and (2) a lactation room or other space in which to do so. Current law also requires courts, beginning July 1, 2026, to give breastfeeding court users access to lactation spaces provided to court employees or to designate some other space for court users to express breast milk. The Legislature also appropriated \$15 million to the Judicial Council for the purpose of providing lactation room access to court users. The deadline to provide court users with access to lactation rooms was originally July 1, 2024, but it was extended by two years in 2023.

This bill is intended to give the Legislature additional information about the courts' progress on meeting its impending obligation to provide lactation room access to court users and the Judicial Council's use of the funds appropriated for that purpose. The bill requires the Judicial Council to submit an annual report, beginning March 1, 2025, setting forth information about the number of lactation rooms that have already been constructed, installed, or provided; the plan for future lactation rooms; the estimated date by which all courts will be in compliance with the lactation room requirement; and specified information relating to the use of the appropriated funds. The bill also clarifies that a court may install a portable lactation room, where appropriate, due to the operational, financial, or space limitations of the court.

This bill is supported by the California Employment Lawyers Association, the California Work and Family Coalition, Equal Rights Advocates, and Legal Aid at Work. This Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child each time the employee has need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee; if it does not run concurrently as specified, the break time may be unpaid. (Lab. Code, § 1030.)
- 2) Requires an employer to provide an employee with the use of a room or other location (room) for the employee to express milk in private, which must satisfy the following conditions:
 - a) The room may include the place where the employee normally works, provided that it meets the requirements of b)-j).
 - b) The room may not be a bathroom.
 - c) The room must be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
 - d) The room must be safe, clean, and free of hazardous materials, as defined.
 - e) The room must contain a surface to place a breast pump and personal items.
 - f) The room must contain a place to sit.
 - g) The room must have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump.
 - h) There must be access to a sink with running water and a refrigerator or other equipment suitable for storing milk in close proximity to the employee's workspace.
 - i) When a multispace room is used for lactation, the use of the room for lactation must take precedence over the other uses, but only for the time it is in use for lactation purposes.
 - j) An employer that employs fewer than 50 employees may be exempt from the requirement if it can demonstrate that the requirement would impose an undue hardship, as specified. (Lab. Code, § 1031.)
- 3) Requires, beginning July 1, 2026, a superior court to provide any court user access to a lactation room in any courthouse in which a lactation room is also provided to court employees in compliance with 2).

- a) The lactation room for court users shall be located within the court facility in an area that is accessible to the public or reasonably accessible to the public using the court facility.
 - b) The lactation room shall meet all of the requirements of 2). (Gov. Code, § 69894 (operative July 1, 2026).)
- 4) Permits a superior court to comply with 3) without providing access to a sink with running water and a refrigerator or other cooling device suitable for storing milk if it is unable to provide such access due to operational, financial, or space limitations. In such a case, the lactation room shall not be a bathroom, shall be shielded from view and free from intrusion while it is being used by a court user to express milk, and shall otherwise be compliant with 2). (Gov. Code, § 69894(b).)

This bill:

- 1) Modifies the courts' obligation to provide lactation room access to court users as of July 1, 2026, to require, in order to provide the greatest number of court users with access to the greatest number of lactation rooms in the greatest number of courthouses, a superior court to use the most cost-effective means possible to construct or renovate lactation rooms in courthouses, including by installing portable lactation rooms, provided that the portable lactation rooms comply with the requirements of Labor Code section 1031(c).
- 2) Requires the Judicial Council, on or before March 1, 2025, and by March 1 of each year thereafter, to submit a report to the Legislature regarding how all funds previously appropriated by the Legislature for the purpose of complying with its obligation to provide lactation rooms to court users, including, but not limited to, the funds appropriated pursuant to Item 020-001-0001 of Section 2.00 of the Budget Act of 2022, have been expended by the superior courts.
- 3) Requires the report in 2) to include at least all of the following information:
 - a) The number of lactation rooms that have been constructed, installed, or renovated to comply with their obligation to provide lactation rooms to court users.
 - b) The plan for future construction, installation, or renovation of lactation rooms to comply with the obligation to provide lactation rooms, including the average cost per lactation room, detailing the average cost for new construction, renovation of an existing court facility, and installation of portable lactation rooms as permitted under this bill.
 - c) How many lactation rooms are estimated to be constructed, installed, or renovated upon expenditure of all funds previously appropriated by the Legislature.
 - d) The funds necessary for courts to fully comply with their obligation to provide lactation rooms by July 1, 2026, and provide to any court user access

- to a lactation room in any courthouse in which a lactation room is also provided to court employees.
- e) The estimated dates, according to the Judicial Council, by which (1) courts will fully comply with the lactation room obligation, and (2) all funds previously appropriated by the Legislature for that purpose will be expended.
- 4) Provides that the report in 2) shall:
- a) Comply with Government Code section 9795, which provides for the submission and publication of government reports.
 - b) Be required only until courts either fully comply with their lactation room obligation or until all funds previously appropriated by the Legislature for the purpose of compliance with that obligation are expended.
- 5) Provides that, in order to provide the greatest number of court users with access to the greatest number of lactation rooms in as many courthouses as possible, the superior court shall use the most cost-effective means possible to construct or renovate lactation rooms in courthouses, including by installing portable lactation rooms that comply with 1).

COMMENTS

1. Author's comment

According to the author:

It is critically important that court users have access to lactation rooms in courthouses. Courthouses are different than other types of public buildings because of how much time the public spends there. Witnesses, crime victims, jurors, and family members of litigants spend many hours, days, or even weeks in court. Attorneys, interpreters, and court reporters spend a considerable part of the day at the courthouse. For court users who need to express milk, most do not have a right to use lactation rooms that courts make available to court employees. Therefore, many lactating court users end up having to use unsanitary bathrooms that lack privacy, hallways, closets, or even their vehicles in public parking lots, in order to express breast milk.

AB 3280 would provide additional accountability for funds provided by the Legislature to the courts for construction, installation, and renovation of lactation rooms in courthouses to ensure that as many courts as possible provide court users with these vitally important accommodations.

2. This bill requires Judicial Council to report annually on its efforts to comply with its obligation, beginning July 1, 2024, to provide court users with lactation room access, and on its expenditure of funds appropriated for that purpose

Current law requires employers to provide to their breastfeeding employees (1) reasonable break time in which to express breast milk, and (2) a lactation room or other space in which to do so.¹ These provisions protect parents who choose – or have no choice but – to go back to work while breastfeeding.

Current law also requires courts, beginning July 1, 2026, to give breastfeeding court users access to lactation spaces provided to court employees or to designate some other space for court users to express breast milk.² The Legislature also appropriated \$15 million to the Judicial Council for the purpose of providing lactation room access to court users.³ The original deadline for the courts to provide court users with access to lactation rooms was July 1, 2024, but it was extended by two years in 2023.⁴

This bill is intended to give the Legislature additional information about the courts' progress on meeting its impending obligation to provide lactation room access to court users and the Judicial Council's use of the funds appropriated for that purpose. The bill requires the Judicial Council to submit an annual report, beginning March 1, 2025, setting forth information about the number of lactation rooms that have already been constructed, installed, or provided; the plan for future lactation rooms; the estimated date by which all courts will be in compliance with the lactation room requirement; and specified information relating to the use of the appropriated funds. The bill also clarifies that a court may install a portable lactation room, where appropriate, due to the operational, financial, or space limitations of the court.

3. Arguments in support

According to Equal Rights Advocates:

[I]n 2021, AB 1576 was signed into law, requiring that the superior court provide any court user access to a lactation room in any courthouse in which a lactation room is also provided to court employees in compliance with Section 1031 of the Labor Code. Lactation rooms, when required, must accessible be to all court users, not just attorneys and officers of the court. Courts have flexibility in meeting the lactation room requirement because AB 1576 provided that lactation rooms in courthouses are not required to meet all of the legal requirements set forth in the Labor Code if the court cannot meet those requirements due to operational, financial, or space limitations, provided that the alternative lactation

¹ Lab. Code, §§ 1030, 1031.

² Gov. Code, § 69894.

³ AB 178 (Committee on Budget, Ch. 178, Stats. 2022).

⁴ SB 133 (Committee on Budget, Ch. 34, Stats. 2023).

accommodations are not a bathroom, are shielded from view, free from intrusion while it is being used to express milk, and reasonably accessible to the public using the court facility. This would allow a court to install the same relatively inexpensive lactation “pods” that are now widely used in public buildings such as airports. Finally, AB 1576 delayed the implementation date of the lactation room requirement until July 1, 2024.

In order to provide funding for the AB 1576 requirement, the Legislature appropriated \$15 million to the Judicial Council “for the purpose of providing court users access to a lactation room in any courthouse in which a lactation room is also provided to court employees.” (See Item 0250-001-0001 of Section 2.00 of the Budget Act of 2022 (AB 178 (Committee on Budget), Chap. 178, Stats. 2022).) (*See also* Item 0250-001-0001 of Section 2.00 of the Budget act of 2022 (SB 154 (Committee on Budget) Chap. 43, Stats. 2022).)

The Judicial Council secured a further delay in the implementation date of the lactation room requirement just one year later in a Budget Trailer bill. Pursuant to SB 133 (Committee on Budget) Chap. 133, Stats. 2023, the lactation room requirement will not take effect until July 1, 2026. Although the courts have already received \$15 million dollars towards its compliance with the lactation room requirement, it is unclear what progress, if any, the courts have made towards meeting the upcoming implementation date.

AB 3280 therefore will require the Judicial Council to submit an annual report to the Legislature, detailing how the funds previously allocated in the state budget for building lactation facilities have been used. The bill also requires the Judicial Council to detail plans for future construction of these facilities and directs the Judicial Council to utilize the most cost effective means to implement AB 1576 so that as many lactation rooms as possible are made available to court users.

SUPPORT

California Employment Lawyers Association
California Work and Family Coalition
Equal Rights Advocates
Legal Aid at Work

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: SB 949 (Blakespear, 2024) requires a superior court, beginning July 1, 2026, to provide a court user with a reasonable amount of break time during a court proceeding to express breast milk, as specified; requires the Judicial Council to create rules or forms necessary to implement this requirement; and clarifies the statute allowing the superior court to designate a lactation room without certain features, as specified. SB 949 is pending before the Assembly Appropriations Committee.

Prior Legislation:

SB 133 (Committee on Budget, Ch. 34, Stats. 2023) among other things, extended the deadline for courts to provide lactation rooms for court employees until July 1, 2026.

AB 1756 (Committee on Judiciary, Ch. 200, Stats. 2022) among other things, added the requirement that superior courts, beginning July 1, 2024, provide lactation rooms for employees, as specified.

AB 178 (Committee on Budget, Ch. 178, Stats. 2022) appropriated \$15 million to the Judicial Council for the purpose of providing court users access to a lactation room in any courthouse in which a lactation room is provided to court employees.

SB 142 (Wiener, Ch. 720, Stats. 2019) expanded the requirements for an employee-provided lactation room and added exemptions for certain employers.

AB 1976 (Limón, Ch. 940, Stats. 2018) required that employers accommodate employees who wish to express milk by providing a space that is not a bathroom, and allowed employers to utilize temporary lactation spaces, with certain specifications.

PRIOR VOTES:

Assembly Floor (Ayes 72, Noes 0)
Assembly Appropriations Committee (Ayes 11, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
