

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

SB 949 (Blakespear)
Version: March 5, 2024
Hearing Date: April 2, 2024
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Superior court: lactation accommodation

DIGEST

This bill 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.

EXECUTIVE SUMMARY

For parents who choose to breastfeed their children, finding a private, sanitary location to do so can be a struggle. Since 2002, California has required workplaces to make accommodations for breastfeeding employees. (AB 1025 (Frommer, Ch. 821, Stats. 2001).) Beginning July 1, 2026, the courts will be required to provide court users access to courthouse lactation rooms provided to court employees or to another lactation space that is shielded from view and free from intrusion while being used to express milk. Current law does not, however, provide guidance as to when the courts must give breastfeeding court users time to express milk.

This bill is intended to close this gap by requiring courts to provide court users with a reasonable amount of break time during a court proceeding in which the court user is participating to allow them to express breast milk for the court user's child. The break time must be provided every time the individual has need to express breast milk. The bill also requires the Judicial Council to adopt or amend rules of court or forms to implement this requirement, including a confidential process by which a court user may request break time to express milk. These provisions are intended to ensure that breastfeeding individuals are not unfairly disadvantaged by the court system by virtue of their decision to breastfeed. Additionally, this bill corrects a drafting error in the

statute that allows the superior court to designate a lactation space without running water or a refrigerator under certain conditions.

This bill is sponsored by the author and is supported by the, the American College of Obstetricians and Gynecologists District IX, the Consumer Attorneys of California, and one individual. The 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)-x).
 - 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 due to operational, financial, or space limitations [*sic*].¹ 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).)

Existing Rules of Court:

- 1) Permit a parent who is breastfeeding a child to request that jury service be deferred for up to one year, and permits the parent to renew the request as long as they are breastfeeding. If the request is made in writing, under penalty of perjury, the jury commissioner must grant it without requiring the prospective juror to appear at court. (Cal. Rules of Ct., r. 2.1006.)

This bill:

- 1) Corrects a drafting error in the statute requiring courts to provide lactation rooms for employees, by adding the phrase “the court is unable to comply” before “due to operational, financial, or space limitations” to the provision allowing courts to use the alternatives for compliance set forth in Labor Code section 1031.
- 2) Requires, beginning July 1, 2026, a superior court to provide any court user a reasonable amount of break time during a court proceeding in which the court user is participating to allow the court user to express breast milk for the individual’s infant child each time the individual has need to express breast milk.
- 3) Requires the Judicial Council, on or before January 1, 2026, to adopt or amend rules of court or forms to implement 2), including a confidential process for the court user to request the break time.

¹ This incomplete sentence is currently in statute. This bill corrects the omission.

COMMENTS

1. Author's comment

According to the author:

Present law requires the superior court to provide employees with the use of a lactation room and beginning July 1, 2026, to have a lactation room available to the public in any courthouse that has one for court employees. Senate Bill 949 goes a step further and requires superior courts to provide courtroom breaks for a non-employee, such as a lawyer or juror, who needs to pump breast milk.

Accommodating the needs of mothers and ensuring they can breastfeed or express milk when they need to is essential for the health and well-being of both mothers and their babies. Senate Bill 949 makes it clear that courts must fully accommodate all people who must be at court, not just court employees.

The idea for this legislation came from a District 38 resident, a breastfeeding attorney who had to request a break in court proceedings and explicitly announce she needed to leave in order to pump breast milk. She wishes she had a confidential way to privately request a break. With SB 949 in place, such breaks will be treated as routine accessibility accommodations and not as discretionary disruptions to proceedings.

2. This bill requires courts to give breastfeeding court users reasonable break time during a court proceeding to pump breast milk

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.² 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.³ Current law does not, however, provide any guidance for whether, and how often, courts must provide break time for court users to express milk. Given that court proceedings can go for long hours, breastfeeding court users may be put in the untenable position of having to leave in the middle of a proceeding, having to announce publicly that they need a break, or trying to suffer through the pain of needing to express milk until the court calls a break.

² Lab. Code, §§ 1030, 1031.

³ Gov. Code, § 69894.

This bill requires, beginning July 1, 2026, a superior court to provide any court user a reasonable amount of break time in a court proceeding to express breast milk for the individual's infant. The bill also requires the Judicial Council to adopt rules or forms to implement this break requirement, including a process by which a court user can request break time confidentially. These provisions are intended to ensure that breastfeeding court users – including litigants, attorneys, witnesses, and jurors⁴ – are not forced to choose between breastfeeding and access to justice.

Additionally, the bill corrects an omission in the statute permitting the courts to give court users access to a lactation space without a sink with running water or a refrigerator or cooling system if the court cannot provide these features due to operational, financial, or space limitations, so that the statute will read “if *the court is unable to comply* due to operational, financial, or space limitations.” This addition does not substantively change the purpose of the provision; it merely adds the verbiage necessary to effectuate the subdivision.

3. Arguments in support

According to the Consumer Attorneys of California:

Existing law requires most employers, including superior courts, to provide lactating employees with a reasonable amount of break time and access to a lactation room or other appropriate space where the employee can express breastmilk in private. Lactating people called for jury duty can defer their services as long as they are breastfeeding.

However, the tens of thousands of attorneys, parties to lawsuits, witnesses, interpreters, court reporters, and others required to attend court each day are not currently entitled access to a lactation room while at court because they are not court employees. This problem is partially solved by Government Code § 69894, which requires, by July 1, 2026, any superior court with a lactation room for court employees to also provide members of the public access to a lactation room.

Unfortunately having a lactation room available does not actually guarantee a person will be able to use it. Under current law, a person must ask a judge for a break in the proceedings to use a lactation room. Not only can a public request cause people to feel discomfort, but it is also entirely up to the judge's discretion whether to approve the request.

⁴ The California Rules of Court permit a parent who is breastfeeding to defer jury service for a year, and to renew the request for as long as they continue to breastfeed. (Cal. Rules of Court, rule 2.1006.) While it seems likely that most potential jurors would choose to defer service while breastfeeding, this bill would give breastfeeding individuals the option to serve on a jury and take lactation breaks as needed.

SB 949 solves this problem by requiring courts to grant reasonable break time during court proceedings for any lactating person. SB 949 directs the Judicial Council to adopt or amend rules of the court, including any forms, for a lactating person to confidentially request breaks. The effective date coincides with the date courts must have lactation rooms available to the public. Therefore, this bill does not require any new accommodations to be built. Instead, it simply ensures that every person can use a lactation room when necessary.

SUPPORT

American College of Obstetricians and Gynecologists District IX
Consumer Attorneys of California
One individual

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 133 (Senate 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 (Assembly 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.

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.
