

**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.)

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

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BILL: CS/SB 196

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Berman

SUBJECT: Lactation Spaces in Courthouses

DATE: March 24, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 196 requires 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, 2022.

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, 2021.

## 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> The state currently funds district courts of appeal (DCA) facility upgrade expenses through Specific Appropriation 3212 – District Courts of Appeal Expenses.<sup>5</sup>

### 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.<sup>6</sup>

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

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<sup>1</sup> Section 29.008, F.S.

<sup>2</sup> Fla. Const. art. V, s. 14

<sup>3</sup> Section 29.008(1), F.S.

<sup>4</sup> Section 29.004(4), F.S.

<sup>5</sup> See Florida Legislature, *General Appropriations Act SA-3212*, available at <https://www.flsenate.gov/Session/Bill/2020/5001/BillText/er/PDF>, (last visited March 18, 2021)

<sup>6</sup> *Id.*

<sup>7</sup> 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 7, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

## **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, 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.<sup>10</sup> Further, any facility providing maternity services such as breastfeeding can be designated as “baby-friendly.”

## **Lactation Space in Florida Courthouses**

Currently, 24 counties host a courthouse with a lactation space. These courthouses include:

- 1<sup>st</sup> Judicial Circuit Court (Okaloosa County Courthouse; Santa Rosa County is currently constructing a new courthouse with a lactation space in the plans);
- 2<sup>nd</sup> Judicial Circuit Court (Leon County Courthouse);
- 4<sup>th</sup> Judicial Circuit Court (Duval County Courthouse);
- 5<sup>th</sup> Judicial Circuit Court (Hernando County Courthouse, Lake County Courthouse, and Sumter County Courthouse);
- 6<sup>th</sup> Judicial Circuit Court (St. Petersburg Judicial Building);
- 7<sup>th</sup> Judicial Circuit Court (St. Johns County Courthouse);
- 8<sup>th</sup> Judicial Circuit Court (Alachua County Courthouse);
- 9<sup>th</sup> Judicial Circuit Court (Orange County Courthouse and Osceola County Courthouse);
- 10<sup>th</sup> Judicial Circuit Court (Polk County Courthouse);
- 11<sup>th</sup> 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)<sup>11</sup>;
- 12<sup>th</sup> Judicial Circuit Court (Sarasota County Courthouse and Manatee County Judicial Center);
- 13<sup>th</sup> Judicial Circuit Court (Edgecomb Courthouse);
- 15<sup>th</sup> Judicial Circuit Court (West Palm Beach Main Courthouse and Delray Beach South County Courthouse);
- 17<sup>th</sup> Judicial Circuit Court (Broward County Courthouse);
- 18<sup>th</sup> Judicial Circuit Court (Brevard County Courthouse and Seminole County Courthouse);
- 19<sup>th</sup> Judicial Circuit Court (two of four county courthouses have lactation spaces); and
- 20<sup>th</sup> 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;

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<sup>10</sup> Section 383.015, F.S.

<sup>11</sup> 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 7, 2021).

- Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and
- Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.<sup>12</sup>

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.<sup>13</sup>

Currently, there are no DCAs that have an established dedicated lactation space within its courthouse.

### 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, 2022. 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, 2021.

### 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....

<sup>12</sup> Section 35.05, F.S.

<sup>13</sup> *Id.*

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.<sup>14,15,16</sup> 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 DCA uses private funding to provide a dedicated lactation space, the private entity providing the funds will incur a negative fiscal impact.

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<sup>14</sup> FLA. CONST. art. VII, s. 18(d).

<sup>15</sup> 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 February 25, 2021).

<sup>16</sup> 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 February 25, 2021).

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.

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 Substantial Changes:**

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

**CS by Governmental Oversight and Accountability on March 24, 2021:**

The following provisions of the CS are additions made to the underlying bill:

- The person responsible for the operation of the facility housing each DCA is authorized 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 house does not contain a lactation space for employees which may be used by the members of the public.
  - New construction would be required to create the lactation space.
- The CS contains a legislative finding that the bill fulfills an important state interest.

B. **Amendments:**

None.