

YOUNG LAWYERS

BY JAMIE K. COMBS, ESQ.



ABA Adopts Policy Encouraging Courthouses to Establish Lactation Rooms

As a law mom, I know firsthand the struggle faced by nursing moms in the legal field when it comes to adequate places to pump breastmilk. The American Academy of Pediatrics encourages mothers to breastfeed their babies exclusively for the first six months, followed by continued breastfeeding accompanied by the introduction of complementary food for a year or longer.¹ This is not necessarily easy to do as a busy attorney, especially when faced with long hearings or trials.

The legal field is making great strides as law firms and law schools establish lactation rooms for their lawyers, students and staff. As a breastfeeding law student, I was incredibly grateful when the William S. Boyd Law School put a small lactation room in its building. I no longer had to bother the professor or spend my entire break between classes trekking across the UNLV campus to the lactation room in the women's center. When I had my last baby, I was equally grateful that the firm I worked for had just put in a lactation room.

But there is still a lot of progress to be made. Many nursing women in the legal field are not provided with an adequate space to express breastmilk for their babies—especially in courthouses. Nursing lawyer moms who have trials or long evidentiary hearings are put in a difficult spot. She may be placed in the awkward position of asking court staff if the court might be able to offer an extra room in the back for the mom to express milk.

Those rooms may not have a locking door, a sink, a refrigerator, or a comfortable place to sit. For example, one female litigator first-chairing a jury trial found herself using an empty conference room with no lock to pump during trial breaks—only to be interrupted by a bailiff who accidentally walked in on her.² She may choose to use the restroom—also not a great option, for obvious reasons. Or, she may feel forced to forego a trial opportunity altogether. In one instance in Florida in 2015, a judge told a female attorney she would not be provided with the requested breaks during trial to pump, and instead should “get another attorney to try the case.”³

This problem does not just affect female attorneys. It also affects nursing law clerks, court staff, litigants, witnesses and potential jurors. Should an entire segment of the population be excluded from the ability to serve on a jury simply because they are a nursing mom? One juror from Minnesota shared her experience of being provided a spot in a restroom next to a urinal to pump during trial breaks.⁴ These are not acceptable solutions.

The American Bar Association recently recognized this problem when it adopted a policy encouraging all federal, state, local, territorial and tribal legislatures and court systems to support and assist with the establishment and maintenance of lactation areas in courthouses.⁵ Following the provisions of the Friendly Airport for Mothers Act,⁶ the policy explains that lactation areas should:

- Be shielded from view and free from intrusion from the public;
- Have a door that can be locked;
- Include a place to sit, a table or other flat surface, and an electrical outlet;
- Be readily accessible to and usable by individuals with disabilities; and
- Not be located in a restroom.⁷

To that list, I would add the area should also have a sink and a small refrigerator/freezer to allow a breastfeeding mother to store milk.

There have already been a few states that have added lactation rooms to their courthouses, for example, Illinois, Michigan and Florida.⁸ In addition, Puerto Rico and Louisiana require certain state and government buildings to provide suitable areas for breastfeeding and/or pumping that are not bathrooms.⁹ That leaves a lot of states left, including Nevada, to establish clean, private spaces in courthouses for breastfeeding moms to pump milk for their babies. Let's make Nevada the next place to keep this trend going.

PRO BONO *Honor Roll*

1. AAP Policy on Breastfeeding, *Breastfeeding and the Use of Human Milk*, 129 PEDIATRICS 3 (March 2012), available at <http://pediatrics.aappublications.org/content/129/3/e827.full#content-block>
2. Young Lawyers Division, *Report to the House of Delegates*, AMERICAN BAR ASSOCIATION, p. 3, fn. 2 (Jan. 2019), <https://www.americanbar.org/content/dam/aba/images/news/2019mymhodres/101a.pdf>.
3. Staci Zaretsky, *Breastfeeding is Against the Law in This Judge's Courtroom*, Above The Law (Jun. 23, 2015, 1:30 PM), <https://abovethelaw.com/2015/06/breastfeeding-is-against-the-law-in-this-judges-courtroom/?rf=1>
4. Staci Zaretsky, *Breastfeeding Mom Told to Pump Next to Courthouse Urinal*, Above the Law (Mar. 21, 2017 at 11:15 AM), <https://abovethelaw.com/2017/03/breastfeeding-mom-told-to-pump-next-to-courthouse-urinal/?rf=1>
5. Young Lawyers Division, *Report to the House of Delegates*, AMERICAN BAR ASSOCIATION, (Jan. 2019), <https://www.americanbar.org/content/dam/aba/images/news/2019mymhodres/101a.pdf>.
6. On October 5, 2018, the President signed a five-year reauthorization of the Federal Aviation Administration (FAA), which included language requiring airports to provide lactation rooms accessible to the public. See 49 U.S.C. 47107(w); see also *Friendly Airports for Mothers (FAM) Act*, UNITED STATES BREASTFEEDING COMMITTEE (2018) (discussing H.R. 2375 and S. 1110), <http://www.usbreastfeeding.org/fam-act>.
7. Young Lawyers Division, *Report to the House of Delegates*, AMERICAN BAR ASSOCIATION (Jan. 2019), <https://www.americanbar.org/content/dam/aba/images/news/2019mymhodres/101a.pdf>.
8. See *Lactation Room*, State of Illinois--Circuit Court of Cook County (2018), <http://www.cookcountycourt.org/ABOUTTHECOURT/CountyDepartment/CountyDivision/LactationRoom.aspx> (last accessed Feb. 22, 2019); Ann Zaniewski, *Detroit's Third Circuit Court Adds Rooms for Breastfeeding Moms*, DETROIT FREE PRESS (Feb. 2, 2018 6:36 PM) <https://www.freep.com/story/news/local/michigan/detroit/2018/02/02/third-circuit-court-breastfeeding-moms/302437002/>; *Tampa's Courthouses Offer Lactation Rooms*, THE FLORIDA BAR NEWS (June 1, 2017), <https://www.floridabar.org/the-florida-bar-news/tampas-courthouses-offer-lactation-rooms/>; Eileen Kelley, *Duval Courthouse Joins Miami, Orlando and Tampa to Offer Room for Breastfeeding Mothers*, THE FLORIDA TIMES-UNION JACKSONVILLE.COM (Nov. 24, 2017 at 5:57 PM) <https://www.jacksonville.com/news/metro/2017-11-24/duval-courthouse-joins-miami-orlando-and-tampa-offer-room-breastfeeding>; Rafael Olmeda, *Broward Courthouse to Open Room for Nursing Mothers*, SOUTH FLORIDA SUN SENTINEL (Oct. 22, 2018 6:00 PM) <https://www.sun-sentinel.com/local/broward/fl-ne-broward-courthouse-lactation-room-20181022-story.html>.
9. See 23 L.P.R.A. § 43-1 (2018); La. Stat. Ann. § 49:148.4.1 (2018).

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JAMIE K. COMBS is an attorney at the law firm of Akerman, LLP practicing in the area of consumer finance litigation. She is a native of Las Vegas, and she graduated from the William S. Boyd School of Law in 2013. She has three young children between the ages of 2 and 8.