

By: Representatives Banks, Summers

To: Public Health and Human Services

HOUSE BILL NO. 939

1 AN ACT TO AMEND SECTIONS 41-135-1 AND 41-135-3, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE LEGISLATIVE FINDINGS AND INTENT AND
3 DEFINITIONS FOR THE PURPOSES OF THE STATUTES SUPPORTING AND
4 PROMOTING BREASTFEEDING; TO AMEND SECTION 41-135-5, MISSISSIPPI
5 CODE OF 1972, TO REQUIRE MATERNAL HEALTH CARE FACILITIES TO ADOPT
6 AN INFANT FEEDING POLICY THAT SUPPORTS AND PROMOTES BREASTFEEDING;
7 TO AMEND SECTION 41-135-7, MISSISSIPPI CODE OF 1972, TO REQUIRE
8 ALL MATERNAL HEALTH CARE FACILITIES TO POST A COPY OF THE
9 "BREASTFEEDING IN MISSISSIPPI: GUIDELINES" CONSPICUOUSLY IN A
10 PUBLIC PLACE ON THEIR PREMISES; TO REQUIRE THAT THOSE GUIDELINES
11 INCLUDE CERTAIN STATEMENTS; TO AMEND SECTION 41-135-9, MISSISSIPPI
12 CODE OF 1972, TO REQUIRE THE STATE DEPARTMENT OF HEALTH TO PROVIDE
13 THE VIDEO PREPARED BY THE DEPARTMENT WHICH CONTAINS INFORMATION
14 ABOUT THE IMPORTANCE OF BREASTFEEDING INFANTS TO OTHER STATE
15 AGENCIES THAT PROVIDE BENEFITS TO WOMEN OF CHILDBEARING AGE; TO
16 CREATE NEW SECTION 41-135-11, MISSISSIPPI CODE OF 1972, TO REQUIRE
17 EMPLOYERS TO PROVIDE EMPLOYEES WITH A REASONABLE BREAK TIME AND A
18 PRIVATE SPACE TO EXPRESS MILK DURING WORK HOURS; TO AMEND SECTION
19 17-25-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT IS A
20 MISDEMEANOR FOR ANY PERSON TO VIOLATE A MOTHER'S RIGHT TO
21 BREASTFEED HER CHILD IN ANY LOCATION WHERE SHE IS OTHERWISE
22 AUTHORIZED TO BE; TO AMEND SECTIONS 43-20-31 AND 71-1-55,
23 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
24 ACT; AND FOR RELATED PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** Section 41-135-1, Mississippi Code of 1972, is
27 amended as follows:

28 41-135-1. (1) The Legislature of the State of Mississippi
29 acknowledges that extensive research demonstrates the wide-ranging



30 and compelling benefits of breastfeeding for infants, mothers,
31 families * * *, communities, businesses and the state, including:

32 (a) Numerous health benefits to the child, such as
33 lower incidences of SIDS, childhood obesity, asthma, allergies and
34 diabetes as well as increased intelligence and parental
35 attachment;

36 (b) Numerous health benefits to the mother, such
37 as * * * significantly reduced risk of breast cancer, ovarian
38 cancer, uterine cancer, postpartum * * * depression, osteoporosis
39 and reduced rates of obesity through increased postpartum weight
40 loss; * * *

41 (c) Significant economic and social benefits to the
42 state, such as reduced health care costs * * * and reduced
43 employee absenteeism for care attributable to child illness, as
44 well as * * * significant economic benefits to families, as the
45 United States Surgeon General estimates that the average family
46 can save * * * nearly One Thousand Five Hundred Dollars
47 (\$1,500.00) during a baby's first year of life * * * using optimal
48 breastfeeding * * * practices, in addition to reduced medical
49 costs and lost wages attributable to child illness;

50 (d) Significant benefits to businesses and employers,
51 including reduced health care costs, reduced employee absenteeism
52 attributable to child illness, improved employee productivity,
53 higher morale, and improved ability to attract and retain valuable
54 employees;



55 (e) Significant economic benefits to the state through
56 health care savings, estimated between Thirty-six Million Dollars
57 (\$36,000,000.00) to One Hundred Thirty Million Dollars
58 (\$130,000,000.00) annually, if Mississippi adopts recommended
59 breastfeeding practices.

60 (2) The Legislature also recognizes that, despite these
61 numerous benefits provided at no cost, * * * Mississippi still has
62 one of the lowest breastfeeding rates in the country, and * * *
63 mothers in Mississippi face many barriers to breastfeeding,
64 including social stigma, lack of * * * education, * * * and lack
65 of support.

66 (3) Therefore, the Legislature declares the intent of this
67 chapter is to create policies that will support and promote
68 breastfeeding in Mississippi, specifically by: * * *

69 (a) Educating mothers about the benefits of
70 breastfeeding and their rights as a breastfeeding mother * * *;

71 (b) Ensuring that maternal health care facilities and
72 employers become places of breastfeeding support and have policies
73 to facilitate a mother's choice to breastfeed; and

74 (c) Removing the social stigma of breastfeeding through
75 increased protections of existing breastfeeding rights.

76 **SECTION 2.** Section 41-135-3, Mississippi Code of 1972, is
77 amended as follows:

78 41-135-3. As used in this chapter, the following words and
79 phrases have the meanings as defined in this section:



80 (* * *a) "Breastfeeding in Mississippi: Guidelines"
81 is the statement of rights required by Section 41-135-7.

82 (b) "Employer" means a person engaged in business who
83 has one or more employees and includes the state and its political
84 subdivisions.

85 (* * *c) "Maternal health care facility" means any
86 facility that provides prenatal or perinatal care, including, but
87 not limited to, hospitals, clinics, pediatric offices, and
88 other * * * physical facilities.

89 (* * *d) "Maternal health care provider" means any
90 physician, nurse or other authorized practitioner that attends to
91 pregnant women and mothers of infants.

92 (* * *e) "Perinatal" means the period from twenty-two
93 (22) weeks of gestation to twenty-eight (28) days after birth.

94 (* * *f) "Prenatal" means the period between
95 conception to birth.

96 (* * *g) "Public place" means a place of * * * high
97 patient traffic within the maternal health care facility such as a
98 lobby area or waiting room.

99 (h) "Reasonable effort" means any effort that does not
100 impose an undue hardship on the operation of the employer's
101 business.

102 (i) "Undue hardship" means any action that requires
103 significant difficulty or expense when considered in relation to



104 factors such as the size of the business, its financial resources,
105 and the nature and structure of its operation.

106 **SECTION 3.** Section 41-135-5, Mississippi Code of 1972, is
107 amended as follows:

108 41-135-5. It is important that all Mississippi maternal
109 health care facilities become places of breastfeeding support, as
110 the information they disseminate and the support they provide to
111 their patients often determine whether or not a mother chooses or
112 is able to breastfeed. Therefore:

113 (* * *a) * * * All maternal health care facilities
114 shall adopt an infant feeding policy that promotes and supports
115 breastfeeding. * * * Infant feeding policies adopted under this
116 section shall include guidance on the use of formula: (* * *i)
117 for medically necessary supplementation; (* * *ii) if preferred
118 by the mother; or (* * *iii) when exclusive breastfeeding is not
119 advised for the mother and/or infant.

120 (* * *b) * * * This breastfeeding infant feeding
121 policy * * * shall be written down and all relevant * * * maternal
122 health care facility personnel, including, but not limited to,
123 obstetric and neonatal staff, * * * shall be trained in the
124 necessary skills to implement the adopted policy.

125 (* * *c) * * * Maternal health care facilities shall
126 make a copy of their breastfeeding infant feeding policy available
127 to the State Department of Health.



128 **SECTION 4.** Section 41-135-7, Mississippi Code of 1972, is
129 amended as follows:

130 41-135-7. (1) * * * All maternal health care facilities in
131 the state * * * shall post a copy of the * * * "Breastfeeding in
132 Mississippi: Guidelines" conspicuously in a public place * * * on
133 their premises, and the copy shall be of an adequate size and font
134 so as to be easily read by all visitors and/or patients within the
135 room or space.

136 (2) The "Breastfeeding in Mississippi: Guidelines" shall
137 include the following statements:

138 (a) Breast milk provides the best source of nutrition
139 for infants, supplying the perfect mix of vitamins and immunities
140 that a child needs to grow and thrive.

141 (b) Know the benefits:

142 (i) Breastfed babies are generally healthier and
143 have significantly lower risks of illnesses such as diabetes, ear
144 infections, allergies, asthma and obesity, and breastfeeding has
145 been linked to higher IQs in children.

146 (ii) Breastfed babies have a much lower risk of
147 sudden infant death syndrome (SIDS).

148 (iii) Mothers also benefit from breastfeeding,
149 having significantly lower risks of breast cancer, ovarian cancer,
150 uterine cancer and postpartum depression.

151 (iv) Even breastfeeding as short as the first week
152 can have a positive health impact on a child.



153 (c) Know the law:
154 (i) A mother has the right to breastfeed in any
155 location, public or private, where she is otherwise authorized to
156 be, which includes hospitals, playgrounds, restaurants, and/or
157 stores.

158 (ii) A mother may breastfeed openly without
159 covering herself if she chooses and doing so is not considered
160 indecent and is not punishable by law.

161 (iii) An employer may not discriminate against a
162 person for using their designated break time to pump or nurse a
163 child.

164 (iv) Parents may request that maternal health care
165 facility staff not feed their baby formula or use pacifiers unless
166 medically necessary.

167 (v) Parents may request that their baby be brought
168 to them at any time during their maternal health care facility
169 stay for regular feedings.

170 (* * *3) The State Department of Health shall make
171 available to every maternal health care provider and maternal
172 health care facility, via its website, a template copy of
173 the * * * guidelines for use within their facilities. * * *
174 Maternal health care providers and maternal health care facilities
175 are free to choose whether to use the Department of Health
176 template or develop their own copy as long as it includes the
177 specific text outlined in subsection (2) of this section and later



178 updates and comports to the visibility requirements in subsection
179 (1) of this section.

180 (* * *4) The State Department of Health shall revise the
181 "Breastfeeding in Mississippi: Guidelines" as needed to reflect
182 advances in research regarding breastfeeding and to incorporate
183 any additional rights of breastfeeding mothers as * * * later
184 granted by the * * * Legislature, and * * * maternal health care
185 facilities shall post the revised version of the "Breastfeeding in
186 Mississippi: Guidelines" within three (3) months of its updated
187 publishing.

188 (* * *5) The State Board of Health shall adopt any rules
189 and regulations necessary to ensure the display of these * * *
190 guidelines.

191 **SECTION 5.** Section 41-135-9, Mississippi Code of 1972, is
192 amended as follows:

193 41-135-9. The State Department of Health shall prepare a
194 video in an appropriate medium for presentation in offices of the
195 department in which the department provides benefits to women of
196 childbearing age, which shall provide information about the
197 importance of breastfeeding infants. Applicants for and
198 recipients of any such benefits provided by the department may
199 view the video in the offices of the department. The
200 department * * * shall provide the video to other state agencies
201 that provide benefits to women of childbearing age, for
202 appropriate use by those agencies.



203 **SECTION 6.** The following shall be codified as Section
204 41-135-11, Mississippi Code of 1972:

205 41-135-11. Encouraging and promoting breastfeeding provides
206 significant benefits to both employees and employers. Therefore:

207 (a) All employers shall provide reasonable paid or
208 unpaid break time for an employee who needs to express breast milk
209 for her child.

210 (b) To the extent possible, break times must run
211 concurrently with any paid break time.

212 (c) An employer shall make reasonable effort to provide
213 a private, secure, sanitary room or other location in close
214 proximity to the work area, other than a bathroom or toilet stall,
215 where employees can express milk, and this space must include
216 access to an electrical outlet.

217 (d) Employers may not discriminate against, discipline,
218 or take adverse action against an employee because she has elected
219 to exercise her right under this section.

220 **SECTION 7.** Section 17-25-9, Mississippi Code of 1972, is
221 amended as follows:

222 17-25-9. (1) A mother may breastfeed her child in any
223 location, public or private, where the mother is otherwise
224 authorized to be, without respect to whether the mother's breast
225 or any part of it is covered during or incidental to the
226 breastfeeding.



227 (2) Any corporation, manager, agency or person who violates
228 this section is guilty of a misdemeanor and, upon conviction,
229 shall be fined not less than Twenty-five Dollars (\$25.00) nor more
230 than Two Hundred Fifty Dollars (\$250.00) for each offense.

231 **SECTION 8.** Section 43-20-31, Mississippi Code of 1972, is
232 amended as follows:

233 43-20-31. The Department of Health shall promulgate
234 regulations to ensure that licensed child care facilities shall be
235 required to comply with the following:

236 (a) Breastfeeding mothers, including employees, shall
237 be provided a sanitary place that is not a toilet stall to
238 breastfeed their children or express milk. This area shall
239 provide an electrical outlet, comfortable chair, and nearby access
240 to running water.

241 (b) A refrigerator will be made available for storage
242 of expressed breast milk following guidelines from the American
243 Academy of Pediatrics and Centers for Disease Control in ensuring
244 that breast milk is properly treated to avoid waste. Universal
245 precautions are not required in handling human milk.

246 (c) Staff shall be trained in the safe and proper
247 storage and handling of human milk.

248 (d) Breastfeeding promotion information will be
249 displayed in order to positively promote breastfeeding to the
250 clients of the facility.



251 (e) The requirements of Section 41-135-11 and such
252 other requirements as the Board of Health finds desirable or
253 necessary to promote and protect breastfeeding.

254 **SECTION 9.** Section 71-1-55, Mississippi Code of 1972, is
255 amended as follows:

256 71-1-55. No employer shall prohibit an employee from
257 expressing breast milk during any meal period or other break
258 period provided by the employer. In addition, each employer shall
259 comply with the requirements of Section 41-135-11.

260 **SECTION 10.** This act shall take effect and be in force from
261 and after July 1, 2023.

