

Slide 1

**SUPPORTING  
BREASTFEEDING  
PEOPLE IN THE  
LEGAL SYSTEM**



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Slide 2

**HOW ARE BREASTFEEDING  
PEOPLE INVOLVED IN THE  
LEGAL SYSTEM?**

- Public Accommodations  
Discrimination
- Workplace Discrimination
- Called for Jury Duty
- Custody Disputes

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Slide 3

**HOW ARE BREASTFEEDING  
PEOPLE INVOLVED IN THE  
LEGAL SYSTEM?**

- Called as Witness
- Criminal Defendant
- Immigration
- Birth-related Court  
Involvement

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Slide 4

**RULE ONE: THE COURTROOM AS FIEFDOM**

Judge O'Brien v. Judge Summers  
Or  
The Day Jake Wore Handcuffs



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Slide 5

**CIVIL RIGHTS ACT OF 1964  
PUBLIC ACCOMMODATIONS**

TITLE II--INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment ... of any place of public accommodation, ... , without discrimination or segregation on the ground of *race, color, religion, or national origin.*

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Slide 6

**CIVIL RIGHTS ACT OF 1964  
EMPLOYMENT**

Title IV - Equal Employment Opportunity: Discrimination Because of Race, Color, Religion, *Sex*, or National Origin Prohibited in Employment.

Definition of what "discrimination on the basis of sex" means is left to case law and subsequent legislative amendment.

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Slide 10

**JURY DUTY**

Check for procedure for “exemption” or “excuse” on basis of breastfeeding OR primary responsibility for minor child or relative.

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Slide 11

**MISSISSIPPI JURY DUTY EXEMPTION**

2013 Mississippi Code, Title 13 - EVIDENCE, PROCESS AND JURIES, Chapter 5 - JURIES  
 § 13-5-23 - Exemptions; length of service of tales and grand jurors  
 (1) All qualified persons shall be liable to serve as jurors, unless excused by the court for one (1) of the following causes:  
 ...  
 (b) When the juror's attendance would cause undue or extreme physical or financial hardship to the prospective juror or a person under his or her care or supervision; or  
 (c) When the potential juror is a breast-feeding mother.

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**CUSTODY**

- Parents should (and sometimes must) try negotiating unless there is history of physical or emotional violence.
- Parent should have her own lawyer – even if just to review agreement.
- Generally joint custody is assumed.

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Slide 13

**“BEST INTERESTS OF THE CHILD”**

Some of the things a judge may look at (depending on state law) include:

- The age and physical and mental condition of the child;
- The age and physical and mental condition of each parent;
- The relationship existing between each parent and each child, and the ability of each parent to meet the emotional and physical needs of the child.

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**“BEST INTERESTS OF THE CHILD”**

- The needs of the child, including other important relationships in the child’s life such as siblings, friends and other family relatives;
- The preference of the child, if the child is old enough to understand and express such a preference.

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**“BEST INTERESTS OF THE CHILD”**

- Any history of family abuse or sexual abuse; and
- Any other factor the court feels is necessary and proper in order to make a decision about custody.

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**CUSTODY**

- Breastfeeding does not confer special legal status in custody.
- Few states require that breastfeeding be considered in deciding custody and is never more than one factor among many.

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Slide 17

**CUSTODY**

**Should You Testify**

Who is an expert and who is a fact witness and do you want to be either one?

- Health care professional?
  - Licensed?
  - Degrees?
  - Your patient?
- What do you know?

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Slide 18

**CRIMINAL DEFENDANTS OR TRIAL WITNESSES**

Remember the fiefdom.



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Slide 19

**INCARCERATED WOMEN**

- Ability to either nurse or pump is decision of facility.
- Ability to keep child born in prison with mom is protected by law in New York State only but Nebraska started second nursery program in 1994 and CA has a facility.
- Mom must have lawyer if facility doesn't have program in place.

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Slide 20

**GIVING BIRTH IN PRISON**

**"Between 1985 and 1997, the number of incarcerated American women tripled: the rate has increased by more than 11% each year compared with 8% among men. In 2001, the chance of a woman going to prison was 6 times greater than in 1974.<sup>2</sup> Most women (85%) are incarcerated for nonviolent crimes, including drug offenses."**

2006 Health Care, Reproductive Health Care and Family Planning Needs Among Incarcerated Women  
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**"Nationally, at any point in time, between 6% and 10% of incarcerated women are pregnant."**

**"However, in 1997-98 alone, BJS [Bureau of Justice Statistics] did document that more than 2,200 pregnant women were incarcerated and more than 1,300 babies were born in prison."**

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Slide 22

**DETENTION AND DEPORTATION  
OF NON-U.S. CITIZENS  
BREASTFEEDING U.S. CITIZENS**

According to a report by the Inspector General's Office of DHS, at least 108,434 undocumented parents of US citizen children were removed from the US between 1998 and 2007.

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Slide 23

**BIRTH-RELATED COURT  
INVOLVEMENT**

Refusal to have C/Section  
Refusing other birth interventions  
Refusing medical care or interventions for baby

- vaccination
- bili-lights
- circumcision

Co-sleeping

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**BIRTH-RELATED COURT  
INVOLVEMENT RESOURCES**

- National Advocates for Pregnant Women (<http://www.NAPW.com>)
- Legal Advocates for Birth Options and Rights (LABOR), <https://www.facebook.com/pages/Legal-Advocates-for-Birth-Options-and-Rights-LABOR/193509190665227?fref=ts>
- The Rebecca Project

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