



California Laws that Protect and Enforce a Mother's Right to Breastfeed in Public

Hey breastfeeding mamas! Did you know that there is a law in California that protects your right to breastfeed in public?

California's nursing in public law states:

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present. Cal. Civ. Code 43.3 (1997).

<http://www.californiabreastfeeding.org/laws.html>

Note that this law does not require you, the breastfeeding mother, to move to another location or to cover up! It is your right to feed your baby however you see fit!

So, what can you do if you are breastfeeding in a public place, such as a restaurant, store, library, hotel, hospital, office, or school, and someone refuses to serve you, or asks you to leave, stop breastfeeding, move to the bathroom (or other location), or cover up?

1. Breathe deeply.
2. If the other person is an employee of the establishment, ask,
 - a. "Are you refusing to serve me because I am breastfeeding?" or,
 - b. "Are you asking me to leave because I am breastfeeding?" or,
 - c. "Are you asking me to move to the bathroom (or other location) [or cover up] because I am breastfeeding?"
3. If they respect your right, thank them and keep on nursing!
4. If they answer 'yes' to one of the above questions, document their response and avoid being confrontational. Then inform them that under California law, you have the right to breastfeed in any public or private place you are authorized to be, and the law does not require you to move locations or cover up. (See Cal. Civ. Code 43.3 above.) You may wish to hand them a California Breastfeeding Law Card. You can download and print these business-size cards for free at (need to insert link to our new law card.)
5. If they insist on refusing to serve you, or insist that you leave, move locations, or cover up, tell them that you are disappointed with the way in which they handled this situation and that you will be filing a sex discrimination complaint under the Unruh Civil Rights Act. [<http://www.dfeh.ca.gov/res/docs/publications/DFEH-250.pdf>].

See our handout, **Scenarios for Ways to Handle a Nursing in Public Harassment Incident (PDF)**, for tips on to handle a harassment situation proactively and immediately.





Remedying a Nursing in Public Harassment Incident

There are many options for remedying a nursing in public harassment incident.

1. You can contact the business or organization where the incident occurred and attempt to remedy the situation. Here is a template letter you can modify to describe the incident and your desire to resolve it peacefully.
2. It might be worth it to contact your local breastfeeding coalition to see if they have someone who can contact the business or organization as your mediator to resolve this situation. All forms of discrimination are based in ignorance and this is a perfect learning opportunity to share education about the law and women's rights.
3. If you live in San Diego, the San Diego NIP Task Force will contact the business or organization to set up a meeting to resolve the incident on your behalf. This mediator will discuss possible employee education and the request for a formal written apology to the mother. It is our hope that with education and discrimination training that this type of behavior will cease to exist for this company. To contact the San Diego NIP Task Force, send an email to NIPTaskForce@gmail.com
4. If advocating for yourself fails, or the San Diego NIP Task Force is unable to mediate the situation, you can file a sex discrimination complaint under the Unruh Civil Rights Act. Cal. Civ. Code 51-53 (1959). [<http://www.dfeh.ca.gov/res/docs/publications/DFEH-250.pdf>]. The California Department of Fair Employment and Housing (DFEH) [<http://www.dfeh.ca.gov>] is the agency that enforces your right to breastfeed in public (as well as other important civil rights) and investigates and mediates such complaints. You may also file a complaint with DFEH, but then choose to directly sue the discriminating or harassing party in state court rather than pursue the matter further with DFEH. In addition, DFEH can also directly sue discriminating or harassing businesses in state court, on your behalf with no cost to you. Enforcement of a mother's right to nurse in public is still virtually untested, despite the fact that California's nursing in public law has been on the books since 1997.
 - a. To file a complaint online, go to the DFEH's online system at <http://esq5.houdiniesq.com/dfeh2/esq/req/>. Under the Unruh Civil Rights Act, you may be able to recover out-of-pocket expenses, cease-and-desist orders, damages for emotional distress, exemplary (punitive) damages, and reimbursement for your attorney fees. Court-ordered damages may include a minimum of \$4,000.00 and a maximum of three times the amount of your actual damages. Of course, these remedies are not guaranteed. You must file a complaint with DFEH within one year of the act of discrimination or harassment.
 - b. To find an attorney in your county, you may contact the Lawyer Referral Services Program of the California State Bar [<http://www.calbar.ca.gov/Public/LawyerReferralServicesLRS.aspx>]. NOTE: This web site provides general information about nursing in public law and does not



constitute legal advice. State and federal law change often, and you should try to consult with a civil right attorney or legal agency to get the most recent information. Also, you can represent yourself before DFEH or in state court, but it is always better to get help from a lawyer or legal agency if possible.

Disclaimer: Nothing on this site should be interpreted as legal advice. We are not attorneys. We are breastfeeding advocates. The purpose is to educate our community about the laws that protect a mother's right to breastfeed in public, as well as provide supporting documents for mothers when a nursing in public harassment incident must be remedied.