

SPECIAL ISSUE

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MANDERA COUNTY BILLS, 2019

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2019**

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THE MANDERA COUNTY BREASTFEEDING MOTHERS BILL, 2019

A Bill for

AN ACT of the County Assembly of Mandera to make provision for breastfeeding and childcare facilities in the work place and in public places, to provide for employers' obligations towards breastfeeding working mothers in the workplace, to provide for infant changing facilities for use by the public and for connected purposes

ENACTED by the County Assembly of Mandera as follows—

PART I—PRELIMINARY

1 This Act may be cited as the Mandera County Breastfeeding Mothers Act, 2019 Short title

2 In this Act, unless the context otherwise requires— Interpretation

“infant” means a child of between zero to twenty four months of age,

“breastfeeding” means the act of feeding an infant directly from the mother’s breast,

“County executive committee member” means the County executive committee member for the time being responsible for public service, cohesion and integration,

“employer” has the meaning assigned to it under the Employment Act No 11 of 2007

“expressing milk” means the act of extracting human milk from the breast by hand or by pump into a container,

“flexible working arrangement” means the change of an employer’s terms and conditions of employment that provides ease in assisting the employee’s responsibilities of breastfeeding the infant,

“lactation place” means a room or rooms that is designated for breastfeeding,

“public indecency” means to acts involving nudity or sexual activity in view of the public,

“workplace” means work premises, whether private

enterprise or government agencies, including their subdivision,

PART II—PROVISIONS RELATED TO BREASTFEEDING MOTHERS

3 The act of breastfeeding of an infant in public is not an act of public indecency

Breastfeeding
not indecency

4 An employee may breastfeed or express breast milk at a lactation place in the work place

Breastfeeding at
the work place

5 (1) Every employer shall establish a lactation place in the manner prescribed under this Act

Lactation place

(2) An employer shall ensure that a lactation place or places at such distance as is reasonably accessible to the employees

(3) A lactation place shall—

(a) be shielded from view and be free from intrusion from all men including co-workers,

(b) be clean, quiet, private and warm,

(c) not be a bathroom or toilet,

(d) have a lockable door,

(e) have a wash basin,

(f) have a fridge for storing expressed milk,

(g) have a provision for an electric outlet and lighting,
and

(h) have a chair, table and a clean space to store equipment

(4) An employer shall in addition to the requirements provided for under subsection (2)—

(a) provide and maintain a physical environment that is safe for the infant and that meets the health requirements under the relevant law,

(b) provide information on breastfeeding, use of a breast pump or methods of expressing and storage

of breast milk

(5) An employer shall establish a daycare facility for the employees' children

(6) In addition to the day care facility established under this Act, the employer shall—

- (a) facilitate appropriate programs that develop an infant's cognitive, emotional, social and language abilities,
- (b) employ an adequate number of trained staff, and
- (c) provide nutritionally balanced meals and snacks daily

(7) Any employer who does not comply with this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to an imprisonment for a term not exceeding one year, or to both

6 (1) A breastfeeding mother shall only use the lactation place during working hours

Breastfeeding
time

(2) An employer shall allow the employee to take reasonable breaks for the purpose of breastfeeding the infant or expressing breast milk for the infant

(3) The break time provided for breastfeeding and expressing milk under subsection (2) shall—

- (a) be within working hours, and
- (b) not exceed forty minutes in every four hours worked

(4) Where circumstances require an infant to be breastfed for a long period exceeding the time prescribed under this Act, the mother may with the written instructions from a registered medical practitioner breastfeed the infant for a longer period

7 (1) Unless otherwise provided for in the employment contract or in a workplace policy, a breastfeeding mother may in the prescribed manner apply for a flexible work arrangement from the employer

Flexible work
arrangement

(2) The flexible work arrangement under subsection (1) shall specify—

- (a) the number of hours the employee is to work,
- (b) the type and number of work assignments, and
- (c) the exact location of where the employee is to work

(3) Where the employer rejects the application, the employer shall give a written statement

(4) A flexible working arrangement may be revoked where—

- (a) there is abuse of the terms of the agreement, or
- (b) either party decision to terminate the agreement

(5) A revocation of grant of a flexible working arrangement shall be in writing

8 (1) A person who owns, leases, or rents a public or private building accessible to the public, which has a maximum occupancy of thirty persons, shall designate a section of the building as an infant changing facility

Infant changing facility

(2) A infant changing facility shall—

- (a) be clean and private,
- (b) have a changing table,
- (c) have a waste bucket, and
- (d) have signs indicating its location

(3) A person who is accompanied by an infant in public may use any infant changing facility within reasonable distance for the purposes of cleaning and changing the infant

9 (1) Every employer shall ensure that the employees are made aware of this Act

Access to Breastfeeding Information

(2) An employer shall advice or put in place measures to ensure that every pregnant employee is provided with information on how to combine breastfeeding and work once they return to work

10 (1) Any health and non-health facility establishment or institution satisfying the requirements of Section 4 of this Act relative to a proper lactation place shall get certification from department of public health

(2) The DOH shall issue the guidelines for establishment of working mother infant friendly establishments

11 A person convicted of an offence under this Act shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to an imprisonment for a term not exceeding one year, or to both

General penalty

12 The County executive committee member for public service, cohesion and integration, in consultation with the County executive committee member for Health, may, make regulations generally for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing, may make regulations—

Regulations

- (a) prescribing the requisite standards and contents of the rooms or buildings contemplated under this Act,
- (b) prescribing the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace,
- (c) prescribing the standards of safety for the breastfeeding mother and the infant at the work place,
- (d) prescribing the conduct and obligations of an employer at the workplace with respect to a breastfeeding mother,
- (e) prescribing the manner and conduct of inspection and certification of lactation rooms as mother infant friendly, and
- (f) forms to be used in application for the flexible work arrangement

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a legal framework for mothers to breastfeed their children at the work place

The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breastfeed or express their milk for their children.

Breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother-infant relationship. Presently, female employees exit the work force or stop breastfeeding in order to secure their job security. This Act is intended to ensure that no woman should be forced to compromise the health of her child in order to make a living.

PART I of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.

PART II (Clauses 3-10) of the Bill provides for the fundamental principles and rights at work for a breastfeeding mother. It provides for the right to freely breast feed or express one's milk for the infant. It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either breastfeed or express their milk. It also provides for the standards of such rooms. The Bill further provides for infant changing tables. This is important because the greater majority (public) finds it unsanitary to change an infant in a public setting such as a restaurant. This provision will also cater for persons who are travelling long distances in the accompaniment of babies, ensuring that in each public restroom an infant changing facility is provided.

This part also provides for the power of the County Executive Committee to make regulations for the better carrying out of the proposed Act.

This Bill is a Bill affecting Mandera County and is an ordinary Bill.

The enactment of this Bill may occasion additional expenditure of public funds to be provided through the estimates.

Dated the 4th February, 2019

SOKOREY MAALIM ,
Member of County Assembly