

COUNCIL OF THE DISTRICT OF COLUMBIA
D.C. Law 20-121, effective July 15, 2014
(Delayed Applicability)

20 DCSTAT 3570

AN ACT

Bill 20-410
Act 20-340
Effective
May 28, 2014

Codification
District of
Columbia
Official Code
2001 Edition

To increase positive health outcomes for infants and mothers and to promote, facilitate, and encourage breastfeeding and breastmilk donation by creating a Lactation Commission, requiring the Department of Health to establish a public breastmilk bank and lactation support center, requiring the Department of Health to conduct a comprehensive public education and outreach campaign about the benefits of breastfeeding and breastmilk, and providing the Department of Health with regulatory authority over the licensure and operation of breastmilk banks located in the District of Columbia.

Breastmilk
Bank and
Lactation
Support Act
of 2014

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Breastmilk Bank and Lactation Support Act of 2014”.

Sec. 2. Definitions.

For the purposes of this act, the term:

New
Chapter 8F
New
§ 7-881.01

(1) “Breastfeeding” means the method of providing milk to a child by allowing the child to take breastmilk directly from a woman’s breast.

(2) “Breastmilk” means human milk obtained from female mammary glands for the purpose of nourishing a child.

(3) “Center” means the Breastmilk Bank and Lactation Support Center.

(4) “Commission” means the Lactation Commission established by section 6.

(5) “Culturing” means the scientific testing of breastmilk for harmful bacteria.

(6) “Department” means the Department of Health.

(7) “Foreign milk bank” means a facility located outside of the District that collects, processes, stores, or distributes breastmilk.

(8) “Maternal health facility” means hospitals and birthing centers providing perinatal services.

(9) “Maternal health provider” means a physician, midwife, or other authorized practitioner attending a pregnant woman.

(10) “Milk bank” means a facility that is licensed by the Department to collect, process, store, and distribute breastmilk.

(11) “Pediatric health facility” means hospitals and other facilities providing either pediatric or neonatal services.

(12) “Pediatric health provider” means a physician, midwife, or other authorized practitioner attending infants and children.

(13) “Qualified donor” means a living individual from whom breastmilk is expressed, obtained, processed, and stored at a milk bank.

(14) “Qualified milk” is milk from a qualified donor that has met all screening criteria established by the Department.

(15) “Pasteurization” means the act of eliminating harmful bacteria while retaining the beneficial components in breastmilk.

(16) “Processing” means the process of pasteurizing, culturing, and screening breastmilk that has been collected by the Center.

(17) “Sanitization” means the reduction of the population of microorganisms to safe levels as determined by the Department.

(18) “Screening” refers to any testing of breastmilk or breastmilk donors determined necessary by the Department for the purpose of identifying breastmilk that is suitable for collection and donation at a milk bank.

(19) “Storage” means the storage of breastmilk at a milk bank.

Sec. 3. Establishment of the Breastmilk Bank and Lactation Support Center.

New
§ 7-881.02

(a) Within 90 days of transmittal of the comprehensive plan to the Council pursuant to section 5(b), the Mayor shall establish the Breastmilk Bank and Lactation Support Center to promote and support breastfeeding during the first year of life, facilitate the donation of breastmilk for medically needy and other infants and children, and stimulate and facilitate community support for breastfeeding. The Center shall pursue, at a minimum, the following objectives and provide the following services to the public:

(1) Devise strategies to reduce infant mortality and increase infant and child health outcomes through promotion, awareness, and support of breastfeeding and lactating mothers;

(2) Provide access to a library of comprehensive and current breastfeeding and lactation educational material;

(3) Provide access to adequate supplies, equipment, and accessories for lactating women, including electric breast pumps, sterilization equipment, and breastmilk storage supplies;

(4) Provide access to lactation consultants and breastfeeding support classes for all stages of breastfeeding, including the prenatal preparatory stage;

(5) Provide on-site access to private and communal breastfeeding areas and lactation stations where breastfeeding and lactating women can nurse or express breastmilk;

(6) Collect, process, and store donated breastmilk;

(7) Provide adequate information regarding the screening criteria for donors;

(8) Provide infants and children with access to qualified breastmilk and adequate information regarding the process for obtaining qualified breastmilk;

(9) Provide outreach and education regarding the availability of donated breastmilk and the breastfeeding and lactation services available at the Center;

(10) Provide outreach and education to potential qualified donors, and provide them with reasonable access to Center facilities and equipment; and

(11) Operate a breastfeeding support hotline.

(b) The Department shall establish the criteria and screening mechanisms for qualified donors and qualified breastmilk, with respect to the Center.

Sec. 4. Education and outreach campaign.

New
§ 7-881.03

(a) The Department shall conduct an education and outreach campaign targeted to reach the public, health care providers, and potential qualified donors, with particular emphasis on areas with high incidences of premature birth and infant mortality. The purpose of the campaign will be to promote and raise awareness of the following:

- (1) The benefits of breastfeeding and breastmilk;
- (2) The services available at the Center for breastfeeding mothers; and
- (3) The availability of breastmilk for infants and children and the criteria for qualified donors.

(b) The Department shall develop written educational material for the physicians, health care providers, and community-based and other organizations that come into regular and frequent contact with pregnant and lactating women, and other parents whose children might benefit from breastfeeding. The materials shall be written in terms that are understandable by the general public.

(c) The Department shall establish partnerships with maternal and pediatric health providers and maternal and pediatric health facilities to facilitate breastfeeding awareness programs.

(d) (1) The Department shall seek the advice and assistance of community-based organizations that can accommodate the specific cultural and linguistic needs of various populations and use the most effective methods to educate and provide support to those populations. The Department may issue grants to individuals and organizations to achieve this end, but any grants issued shall prioritize:

(A) Organizations with expertise in breastfeeding and lactation promotion and awareness, providing individual and communal support to breastfeeding and lactating women, and developing breastfeeding and lactation educational material and breastfeeding courses;

(B) Organizations with expertise in identifying and analyzing racial, ethnic, and socio-economical health disparities associated with breastfeeding ideals, and possessing the cultural competency to effectively communicate to a targeted group; and

(C) Maternal health facilities serving a disproportionate number of low-income and underserved patients.

(2) The purpose of the grant issued to an organization under paragraph (1)(A) of this subsection shall be to assist the Department with planning and executing its education and outreach campaign.

(3) The purpose of the grant issued to an organization under paragraph (1)(B) of this subsection shall be to evaluate populations and their perceptions about breastfeeding, develop a communication strategy, and provide collaborative support to the Department in developing and executing its outreach plan for those groups.

(4) The purpose of the grant issued to an organization under paragraph (1)(C) of this subsection shall be to initiate a lactation awareness program and provide breastfeeding consultation to patients.

Sec. 5. Comprehensive plan.

New
§ 7-881.04

(a) The Department shall develop a comprehensive plan for the Center and a breastfeeding education and outreach campaign. The objectives of the plan shall be to:

(1) Guide the development of the Center and other services that meet the needs of breastfeeding and lactating mothers and medically needy infants;

(2) Collect and assess relevant, objective, and accurate data on breastfeeding breastmilk donation;

(3) Assess the community and cultural and local attitudes and perceptions toward breastfeeding;

(4) Identify the barriers to breastfeeding in populations where there are low-breastfeeding rates;

(5) Assess the unique needs of breastfeeding mothers and underinsured and uninsured breastfeeding mothers; and

(6) Assess the existing resources that can be utilized to promote breastfeeding and breastmilk donation.

(b) The Department shall prepare and submit the comprehensive plan to the Council and make it available to the public no later than January 1, 2016.

Sec. 6. Establishment of the Lactation Commission.

New
§ 7-881.05

(a) There is established a Lactation Commission to advise the Mayor, the Council, and the public on the state of breastfeeding in the District, identify strategies to promote breastfeeding, and encourage breastmilk donation to the Center.

(b) The Commission shall conduct studies, review progress, and provide recommendations with respect to all programs and initiatives promoting breastfeeding and support lactation activities in the District, including:

(1) Assisting the Mayor with developing a comprehensive plan for implementing the Center and a breastfeeding education and outreach campaign, including recommendations for written material and community-based initiatives;

(2) Providing regular and consistent review of the Center's standards, policies, and procedures, assessing whether sufficient progress is being made and whether resources are sufficient to meet the goals of the Center, and recommending policy changes and strategies for recruiting milk donors and their breastmilk; and

(3) Identifying any unmet needs of breastfeeding mothers, recommending methods for meeting community needs, and assessing whether current resources are consistent with the needs identified through the planning process.

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New
§ 7-881.06

Sec. 7. Lactation Commission members, procedures, and meetings.

(a) The Commission shall consist of 14 members, 11 of whom shall be appointed by the Mayor with the advice and consent of the Council, in accordance with section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)).

(b) There shall be 3 ex-officio, nonvoting members, consisting of a representative from the Department of Health, a representative from the Department of Human Services, and a representative from the Department of Health Care Finance.

(c)(1) Appointed members of the Commission shall consist of:

(A) Two physicians who have each spent at least 5 years in the practice of neonatology or pediatrics in the District;

(B) One physician practicing general medicine in the District;

(C) Two social services or community outreach experts who have each spent at least 5 years providing general social services to pregnant or lactating mothers in the District;

(D) Two persons with a background in public health;

(E) Two persons with a background in breastfeeding and lactation studies or academia, or who have served as a lactation or breastfeeding consultant; and

(F) Two consumer members.

(2) The consumer members shall be residents of the District of Columbia.

(3) Appointed members of the Commission shall serve 3-year terms, with the exception that of the members first appointed, 3 members shall be appointed to a one-year term, 4 members shall be appointed to 2-year terms, and 4 members shall be appointed to 3-year terms.

(4) Members of the Commission may be reappointed.

(d) A vacancy on the Commission shall be filled in the same manner that the original appointment was made. A person appointed to fill a vacancy shall serve only for the unexpired term of the original appointment, but may be reappointed.

(e) A member of the Commission whose term has expired may continue to serve until a new member is appointed.

(f) The Mayor shall appoint the chairperson of the Commission from among the voting members.

(g) All members of the Commission shall serve without compensation.

(h) The Mayor may remove, after notice and hearing, any member of the Commission for neglect of duty, incompetence, misconduct, or malfeasance in office.

(i) The Commission shall develop its own rules of procedure.

(j) The Commission shall meet at least 4 times a year. The meetings shall be held in the District and shall be open to the public. A quorum to transact business shall consist of a majority, plus one, of the voting members.

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Sec. 8. Regulation of milk banks.

New
§ 7-881.07

(a) Within 90 days of the effective date of this act, the Mayor, pursuant to section 11, shall issue rules to:

(1) Ensure each milk bank has adequate health, sanitization, sterilization, and safety methods, and procedures, equipment, and supplies, including establishing minimum requirements pertaining to:

(A) Donor screening;

(B) Methods and standards for breastmilk collection, processing, and storage; and

(C) Licensing and registration of milk banks, including any associated fee schedules; and

(2) Require that all donors to milk banks be tested for exposure to at least the following:

(A) Human immunodeficiency virus (“HIV”) or any other identified causative agent of acquired immune deficiency syndrome (“AIDS”) before the collection of breastmilk;

(B) Human T-lymphotropic virus I and II;

(C) Hepatitis B;

(D) Hepatitis C; and

(E) Syphilis.

(b) Foreign milk banks that are certified by the Human Milk Bank Association of North America may distribute milk within the District without obtaining licensure from or registering with the Department pursuant to the requirements of this act.

Sec. 9. Application.

New
§ 7-881.08

Nothing in this act shall prevent:

(1) A hospital from collecting processing, storing, or distributing breastmilk that a mother produced exclusively for her own child.

(2) A hospital from collecting, processing, storing, or distributing breastmilk that was obtained for or from a foreign milk bank.

(3) Any person from collecting, storing, or distributing her own breastmilk for the exclusive personal use of another or for a foreign milk bank.

Sec. 10. Prohibition and penalties.

New
§ 7-881.09

(a) No person shall collect, process, store, or distribute breastmilk, or represent him or herself as being engaged in collecting, processing, storing, or distributing breastmilk or as being entitled to or authorized to collect, process, store, or distribute breastmilk, unless that person is authorized to do so at a breastmilk bank that is licensed with and registered by the Department under this act.

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(b) No person shall use the word “processed,” “pasteurized,” “cultured,” or “sanitized” in connection with the sale or donation of any milk that has not been collected, process, stored, or distributed at a bank licensed with and registered by the Department under this act.

(c) No person shall intentionally, knowingly, recklessly, or negligently collect, process, store, and distribute breastmilk from anyone who has not been tested for the pathogens identified in section 8(a)(2), or tested positive for exposure to these pathogens, HIV, or any other identified causative agent of AIDS. Violation of this subsection shall be punishable by a fine of not more than \$5,000 per violation and imprisonment for not more than one year.

(d) Any person who violates subsection (a) or (b) of this section shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$1,000 or imprisonment for not more than 3 months, or both.

Sec. 11. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.

New
§ 7-881.10

Sec. 12. Conforming amendment.

Section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)), is amended as follows:

Amend
§ 1-523.01

(a) Paragraph (48) is amended by striking the word “and”.

(b) Paragraph (49) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (50) is added to read as follows:

“(50) The Lactation Commission.”.

Sec. 13. Applicability.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Delayed
Applicability

Sec. 14. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 15. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.