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**The Work Week  
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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

[Bassford Remele Employment Practice Group](#)

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**Employer Obligations Related to Employees Expressing Breastmilk**

[Beth L. LaCanne](#)

In December 2022, President Biden signed the Providing Urgent Maternal Protections for Nursing Mothers Act (“the PUMP Act”). The PUMP Act expands existing protections related to expressing breastmilk in the workplace. Although the law was effective when it was signed, it provided a short period of time for employers to come into compliance with the law. Employers have until April 28, 2023, to ensure their policies, procedures, and workspaces comply with the Act.

Employees’ right to pump breastmilk in the workplace has been in place since 2010 but did not apply to those exempt from overtime. The PUMP Act expands those protections to all employees covered by the Fair Labor Standards Act (“FLSA”). As a result, nearly all employers, even those with less than 50 employees, must provide break time and space for pumping. Although employers with less than 50 employees may be excused from providing break time and space if doing so would result in an undue hardship (significant difficulty or expense), undue hardship is a very high bar, and rarely an available defense.

Employers must provide a reasonable amount of break time to allow employees to pump breastmilk for up to one year after giving birth. Employees who are teleworking are also entitled to reasonable break time. The frequency and duration of breaks will depend upon the employee. The break time does not need to be paid, unless the employer gives paid breaks and an employee uses that time to pump. The

pumping employee must be paid just as any other employee for that break time. Additionally, the time spent pumping must be included when calculating minimum wage and overtime if the employees are not completely relieved from their work duties during the pumping break.

The space an employer must provide cannot be a bathroom. It must also be shielded from the view and intrusion of the public and coworkers. The space can be temporary, but it must be functional for pumping breastmilk.

In addition to expanding the protections to more employees, the PUMP Act provides employees a monetary remedy that was not previously available. Employees can now file a lawsuit and seek monetary damages. For violations of the lactation space requirement, an employee cannot bring a lawsuit unless the employee has notified their employer of the violation and ten (10) days have lapsed.

In addition to federal statutes, employers may be subject to state and local ordinances that regulate employees pumping in the workplace. At least thirty (30) states have existing laws related to pumping in the workplace, including Minnesota, that are similar to the PUMP Act. For the other twenty (20) states, including Wisconsin, Iowa, and the Dakotas, the PUMP Act may require some changes to employers' policies and procedures. Bassford Remele regularly advises clients on these issues, and our attorneys are available to handle any questions you have to ensure your practices are compliant.

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