

REFERENCE TITLE: breast-feeding; juries; workplace privacy

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2356

Introduced by
Representatives Lopez, Bradley, Saradnik, Schapira, Sinema: Ableser,
Campbell CL, DeSimone, Farley, Garcia M, Lujan, Miranda, Pancrazi, Rios P

AN ACT

AMENDING SECTION 21-202, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13; RELATING TO BREAST-FEEDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 21-202, Arizona Revised Statutes, is amended to
3 read:

4 21-202. Persons entitled to be excused from jury service

5 A. It is the policy of this state that all qualified citizens have an
6 obligation to serve on juries when summoned by the courts of this state,
7 unless excused.

8 B. On timely application to the court, the following persons shall be
9 excused temporarily from service as a juror if the judge or jury commissioner
10 finds that any of the following ~~apply~~ APPLIES:

11 1. The prospective juror has a mental or physical condition that
12 causes the juror to be incapable of performing jury service. The juror or
13 the juror's personal representative shall provide to the court or jury
14 commissioner a medical statement from a physician who is licensed pursuant to
15 title 32 that explains an existing mental or physical condition that renders
16 the person unfit for jury service. If a prospective juror does not have a
17 physician, the prospective juror or the juror's personal representative shall
18 provide a sworn statement from a professional caregiver for the prospective
19 juror that is deemed acceptable by the court or jury commissioner and that
20 explains the mental or physical condition that renders the prospective juror
21 incapable of performing jury service. For the purposes of this paragraph:

22 (a) The statement shall be in writing and shall contain a description
23 and duration of any mobility restrictions, the specific symptoms that make
24 the prospective juror mentally or physically unfit for jury service and their
25 duration, the employment status of the prospective juror and the printed
26 name, signature, professional license number if applicable, area of specialty
27 and contact information of the authorizing physician or professional
28 caregiver.

29 (b) A form that complies with this paragraph shall be made available
30 at courthouses, the Arizona medical board web site and other appropriate
31 locations that are identified by the court or jury commissioner.

32 (c) These documents are not public records and shall not be disclosed
33 to the general public.

34 2. Jury service by the prospective juror would substantially and
35 materially affect the public interest or welfare in an adverse manner.

36 3. The prospective juror is not currently capable of understanding the
37 English language.

38 4. Jury service would cause undue or extreme physical or financial
39 hardship to the prospective juror or a person under the prospective juror's
40 care or supervision. For the purposes of this paragraph:

41 (a) A judge or jury commissioner of the court for which the person was
42 called to jury service shall determine whether jury service would cause the
43 prospective juror undue or extreme physical or financial hardship.

1 (b) A person who requests to be excused under this paragraph shall
2 take all actions necessary to obtain a ruling on the request before the date
3 on which the person is scheduled to appear for jury duty.

4 (c) Undue or extreme physical or financial hardship is limited to the
5 following circumstances in which a person:

6 (i) Would be required to abandon a person under the potential juror's
7 care or supervision due to the impossibility of obtaining an appropriate
8 substitute caregiver during the period of participation in the jury pool or
9 on the jury.

10 (ii) Would incur costs that would have a substantial adverse impact on
11 the payment of the person's necessary daily living expenses or on those for
12 whom the potential juror provides regular employment or the principal means
13 of support.

14 (iii) Would suffer physical hardship that would result in illness or
15 disease.

16 (d) Undue or extreme physical or financial hardship does not exist
17 solely based on the fact that a prospective juror will be required to be
18 absent from the prospective juror's place of employment.

19 (e) A person who requests to be excused under this paragraph shall
20 provide the judge or jury commissioner with documentation that supports the
21 request to be excused, such as federal and state income tax returns, payroll
22 records, medical statements from physicians licensed pursuant to title 32,
23 proof of dependency or guardianship or other similar documents. The judge or
24 jury commissioner may excuse a person if the documentation clearly supports
25 the request to be excused. These documents are not public records and shall
26 not be disclosed to the general public.

27 5. The prospective juror is a peace officer who is certified by the
28 Arizona peace officer standards and training board and who is employed as a
29 peace officer by this state or any political subdivision of this state. The
30 employer of a peace officer shall not in any way influence the peace officer
31 to make or not to make an application to the court, pursuant to this section,
32 to be excused from jury service.

33 6. THE PROSPECTIVE JUROR IS BREAST-FEEDING AN INFANT. THE PROSPECTIVE
34 JUROR DOES NOT NEED TO PHYSICALLY APPEAR IN COURT TO REQUEST TO BE EXCUSED.
35 THE PROSPECTIVE JUROR SHALL BE EXCUSED FOR ONE YEAR AND, AT THE END OF THE
36 ONE YEAR PERIOD, THE PROSPECTIVE JUROR MAY BE FURTHER EXCUSED ON WRITTEN
37 REQUEST.

38 ~~6-~~ 7. A judge or jury commissioner of the court for which the person
39 was called to jury service excuses the prospective juror for good cause based
40 on a showing of undue or extreme hardship under the circumstances, including
41 being temporarily absent from the jurisdiction or a lack of transportation.

42 C. Notwithstanding subsection B, a prospective juror who is at least
43 seventy-five years of age may submit a written statement to the court
44 requesting that the person be excused from service. The prospective juror
45 may request to be excused temporarily or permanently. On receipt of the

1 request, the judge or jury commissioner shall excuse the prospective juror
2 from service.

3 D. A person who is excused temporarily pursuant to this section
4 becomes eligible for qualification as a juror when the temporary excuse
5 expires unless the person is permanently excused from jury service.

6 E. A person may be permanently excused only if the deciding judge or
7 jury commissioner determines that the underlying grounds for being excused
8 are permanent in nature or the person is permanently excused under
9 subsection C.

10 Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is amended by
11 adding article 13, to read:

12 ARTICLE 13. NURSING MOTHERS IN THE WORKPLACE

13 23-492. Definitions

14 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

15 1. "EMPLOYEE" MEANS A PERSON WHO IS CURRENTLY EMPLOYED OR SUBJECT TO
16 RECALL AFTER A LAYOFF OR LEAVE OF ABSENCE WITH A RIGHT TO RETURN AT A
17 POSITION WITH AN EMPLOYER. EMPLOYEE INCLUDES A FORMER EMPLOYEE WHO HAS
18 TERMINATED SERVICE WITHIN THE PRECEDING YEAR.

19 2. "EMPLOYER" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, LABOR
20 ORGANIZATION, UNINCORPORATED ASSOCIATION, THIS STATE AND ANY AGENCY OR
21 POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER LEGAL, BUSINESS OR
22 COMMERCIAL ENTITY THAT HAS MORE THAN FIVE EMPLOYEES. EMPLOYER INCLUDES AN
23 AGENT OF AN EMPLOYER AND EXCLUDES AN EMPLOYER'S PARENT, SPOUSE, CHILD OR
24 OTHER MEMBER OF THE EMPLOYER'S IMMEDIATE FAMILY.

25 23-492.01. Nursing mothers; break time; private area

26 A. AN EMPLOYER SHALL PROVIDE A REASONABLE UNPAID BREAK TIME EACH DAY
27 TO AN EMPLOYEE WHO NEEDS TO EXPRESS BREAST MILK FOR HER INFANT CHILD. IF
28 POSSIBLE, THE BREAK TIME MUST RUN CONCURRENTLY WITH ANY BREAK TIME THAT IS
29 ALREADY PROVIDED TO THE EMPLOYEE. AN EMPLOYER IS NOT REQUIRED TO PROVIDE A
30 BREAK TIME UNDER THIS SUBSECTION IF DOING SO WOULD UNDULY DISRUPT THE
31 EMPLOYER'S OPERATIONS.

32 B. AN EMPLOYER SHALL MAKE REASONABLE EFFORTS TO PROVIDE A ROOM OR
33 OTHER LOCATION IN CLOSE PROXIMITY TO THE WORK AREA, OTHER THAN A TOILET
34 STALL, WHERE AN EMPLOYEE CAN EXPRESS BREAST MILK FOR HER INFANT CHILD IN
35 PRIVACY.