**REPORT ON LEGISLATION BY THE SEX & THE LAW AND THE CIVIL RIGHTS COMMITTEES**

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| **A.1607-A** | **M. of A. Rosenthal** |
| **S.2666-A** | **Sen. Salazar** |

AN ACT to amend the correction law, in relation to providing breast pumps to certain incarcerated nursing birth parents

**THIS BILL IS APPROVED**

## I. PURPOSE

The Sex & Law, Civil Rights, and the Children & the Law Committees of the New York City Bar Association supports the enactment of the New York State bill A.1607-A/S.2666-A to enable incarcerated birth parents to breastfeed and formula-feed their newborns, to allow them to retain essential postpartum care items provided by the hospital, and to require comprehensive data reporting on metrics related to the health of incarcerated pregnant people and their children.

Breastfeeding advances long-term parent-child bonding and is inextricably linked to superior health outcomes for both the infant and the nursing parent.[1] To deny an incarcerated postpartum person the opportunity to provide essential nourishment to their child through breastfeeding is a punitive measure that undermines both parental and neonatal health.

Currently, New York's jails and prisons operate without uniform requirements regarding lactation and infant nutrition; whether a person can provide breast milk to their child too often depends on an individual facility's discretion. In addition, while NY Correction Law § 611(3) requires that postpartum people who are breastfeeding can reside with their infants in prison nursery programs for a designated period, there is no requirement under current law that birthing parents can keep newborn- related supplies and equipment with them for the purposes of breastfeeding, or that they are provided a private space to breastfeed or express milk. Additionally, current law does not provide breastfeeding parents with the right to express and store milk for their

[1] Camille Kramer et al., *Maternal Health and Incarceration: Advancing Pregnancy Justice Through Research,* 13 Health & Just. 36 (2025); Nat'l Comm'n on Corr. Health Care, *Breastfeeding in Correctional Settings* (rev. 2023), https://ncchc.org/position-statements/breastfeeding-in-correctional-settings-2023/; *Abstracts from the Academy of Breastfeeding Medicine 26th Annual International Meeting,* 16 Breastfeeding Med. S-1 (2021); Ankita Modak et al., *The Psychological Benefits of Breastfeeding: Fostering Maternal Well-Being and Child Development,* 15 Cureus 1 (2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC10631302/.

**About the Association**
*The mission of the New York City Bar Association, which was founded in 1870 and has over 20,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

child if the child does not reside with them in the correctional facility. The Act would rectify the systemic, arbitrary application of rules around parental infant feeding and ensure that incarcerated birthing parents have access to necessary supplies and resources to promote secure, dignified, and uniform practices for breastmilk and formula feeding. As a result, the Act, in conjunction with the New York State Compassion and Reproductive Equity (CARE) Act (A.4879-A /S.4583-A)[2],brings New York law into closer alignment with recommendations of medical providers and equal protection guarantees under the New York Constitution. [3]

## II. REASONS FOR SUPPORT

### A. Establishing a Statutory Right to Provide Breast Milk

Feeding one's newborn is a critical component of parent-infant bonding and positive health outcomes for the birthing parent and child.[4] Medical professional organizations recommend that infants be breastfed through six months or more after birth; continued milk supply requires that the birth parents are given the opportunity to express breast milk regularly through direct feeding or other methods such as pumping their milk.[5] Well-documented benefits of breastfeeding to the child include reduction of incidence of diarrhea, respiratory tract infection, necrotizing enterocolitis, SIDS, atopic dermatitis, asthma, celiac disease, Crohn's disease and ulcerative colitis, late-onset sepsis in preterm infants, type 1 and type 2 diabetes, leukemia, and childhood overweight and obesity.[6]

For the postpartum individual, lactation facilitates physiological recovery with decreased excessive menstrual blood loss and decreased long-term risk of Type 2 diabetes, rheumatoid arthritis, high blood pressure, and cancers of the ovaries, breasts, endometrium and thyroid.[7]

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[2] N.Y. State Senate, *S4583 (2025–2026) Amendment A*, https://www.nysenate.gov/legislation/bills/2025/S4583/amendment/A and N.Y. State Assembly, *A4879 (2025–2026) Amendment A*, https://www.nysenate.gov/legislation/bills/2025/A4879/amendment/A

[3] The Sex & Law, Civil Rights, Children & the Law and Corrections & Community Reentry Committees have issued a simultaneous report in support of the passage of the CARE Act, which provides additional protections for incarcerated persons who are pregnant, in labor or delivery, or postpartum, including related to breastfeeding. See it here, https://www.nycbar.org/reports/supporting-the-new-york-care-act/.

[4] Positive Parenting Tips: Infants (0-1 Year), Ctrs. for Disease Control & Prevention, https://www.cdc.gov/child-development/positive-parenting-tips/infants.html (noting that a baby's bonds with parents in the first year of life set the foundation for their future interactions and development); see also Care Coalition Meeting, New Hour for Women and Children LI (Apr. 11, 2026), https://newhourli.org/news-events/event-calendar.html/event/2026/03/11/1773248400/care-coalition-meeting; Ankita Modak et al., The Psychological Benefits of Breastfeeding: Fostering Maternal Well-Being and Child Development, 15 Cureus 1 (2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC10631302/.

[5] Nat'l Comm'n on Corr. Health Care, Breastfeeding in Correctional Settings (rev. 2023), https://ncchc.org/position-statements/breastfeeding-in-correctional-settings-2023/*; Abstracts from the Academy of Breastfeeding Medicine 26th Annual International Meeting, 16 Breastfeeding Med. S-1* (2021).

[6] Breastfeeding Overview, AM. ACAD. PEDIATRICS (Mar. 9, 2021), https://www.aap.org/en/patient-care/breastfeeding/breastfeeding-overview/.

[7] *Id.*

The ability to breastfeed should not be suspended by incarceration. To help ensure this, the Act:

- *Protects Frequency and Location*: Ensures that breastfeeding parents are allowed to breastfeed or breast pump at their own frequency and in any location where they are permitted to be;

- *Mandates Equipment and Support*: Requires prisons and jails to provide personal pumping equipment, sanitation supplies, privacy and comfort supports, and consultation with credentialed lactation professionals;

- *Guarantees Safe Storage*: Requires that facilities follow New York State Department of Health guidelines for safe storage and refrigeration of breast milk; and

- *Facilitates Community Delivery:* Permits a designated friend or family member to gather breast milk from the facility and deliver it to the incarcerated person's child in the community.

**B. Supporting Parents in Formula Feeding**

To supplement breastfeeding and/or for non-breasting feeding parents, the Act ensures sound infant nutritional alternatives by:

- Providing access to infant formula upon an incarcerated parent's request, which must meet the standards and nutritional requirements set forth by the United States Food and Drug Administration;

- Requiring facilities to provide alternative formulas if the parent determines that their child is intolerant to the one previously provided; and

- Permitting incarcerated parents to consult with lactation and pediatric care personnel in the prison or jail regarding formula-related concerns or requirements.

**C. Providing Retention of Essential Postpartum Medical Supplies**

Under the Act, a postpartum individual must be permitted to keep all health and newborn care items provided by the hospital when returning to a New York prison or jail. This includes items such as diapers, breast pumping equipment, breast pads, breastfeeding supplies, sanitary napkins, heating pads, perineal squirt bottles, sitz baths, and necessary medicinal ointments. In this way, the Act supports postpartum recovery and breastfeeding for New York's incarcerated birthing parents by providing them with supports in closer alignment with those available to non-incarcerated parents during the postpartum period.

**D. Mandating Comprehensive Data Reporting**

Given the limited information currently available about New York's incarcerated pregnant population relating to their health, pregnancy outcomes, and what happens to their children after

birth, the Act requires thorough, deidentified reporting on parent and infant health metrics. This is essential to inform policy implementation and development around pregnancy and postpartum periods in New York's prisons and jails moving forward.

### E. Addressing Equal Protection Constitutional Guarantees

The Act more closely aligns New York's treatment of incarcerated people with the guarantees of New York's Equal Rights Amendment, which prohibits discrimination based on "pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy."

## III. CONCLUSION

By codifying requirements of access to parent-child feeding opportunities and much-needed supportive medical supplies, this legislation helps to protect the vital parent-child bond, promote breastmilk and formula feeding opportunities, and provide the stable foundation necessary to support both parental health and child long-term health and developmental trajectory.

For these reasons, the Committees urges the passage of the Act.

Sex & the Law Committee
Natalie Birnbaum, Co-Chair
Susan Cersovsky, Co-Chair [8]

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