

March 20, 1997

**SENATE SUBSTITUTE FOR
SENATE BILL NO. 1212 and ASSEMBLY BILL NO. 548**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Substitute for Senate Bill No. 1212 and Assembly Bill No. 548 with my recommendations for reconsideration.

A. Summary of the Bill

This bill provides that, notwithstanding any law to the contrary, a mother shall be entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement where the mother is otherwise permitted access. Existing statutory law is silent on the issue of breast feeding. The bill provides a specific exemption from jury service for mothers who are breast feeding. The bill places the authority to enforce its provisions in either the State Department of Health and Senior Services or the local boards of health or any such bodies which exercise the functions of the local boards of health. Penalties of up to \$25 for a first offense following initial notification of violation, up to \$100 for a second offense and up to \$200 for each offense thereafter may be assessed against the owner, manager or other person in control of the public place where a violation of this bill occurs.

B. Recommended Action

I support the bill's objectives to encourage mothers to breast feed their babies. As the Legislature recognized, the United States Surgeon General recommends breast feeding, unless medically contraindicated, as breast milk strengthens babies' immune systems and improves their digestion and as breast feeding helps establish a strong mother-baby bond. I applaud the bill's intent to end discrimination against women who choose to breast feed their babies in places of public accommodation.

In its present form, however, the bill is contradictory. While stating that breast feeding in public is socially acceptable and that mothers who breast feed should not be subject to discrimination, the bill singles out women who breast feed and confers upon them a specific exemption from jury service. Current law provides a hardship exemption from jury service to anyone who "has a personal obligation to care for another, including a sick, aged or infirm dependent or a minor child, who requires the prospective juror's personal care and attention, and [where] no alternative care is available without severe financial hardship on the prospective juror or the person requiring care." Mothers who breast feed their babies, as well as mothers who choose not to or cannot breast feed, would be exempted from jury service under this existing law. Thus, I recommend that the specific exemption from jury service be removed.

I further recommend that the bill's provisions vesting enforcement authority in the State Department of Health and Senior Services or the local boards of health be changed. As the local boards of health are better positioned to enforce this law in the public establishments in their municipalities, I recommend that the local boards of health have primary enforcement authority and that the State Department of Health and Senior Services have enforcement authority only in those instances where there exists no local board of health or other such board which can enforce the provisions of this bill.

Therefore, I herewith return Senate Substitute for Senate Bill No. 1212 and Assembly Bill No. 548 and recommend that it be amended as follows:

<u>Page 1, Title, Lines 1-2:</u>	Delete ", " insert "and"; delete "and amending N.J.S.2B: 20-10"
<u>Page 1, Section 3, Lines 30-31:</u>	Delete "State Department of Health and Senior Services or the"
<u>Page 2, Section 3, Line 12:</u>	After "thereafter." insert "When there exists no local

board of health or such board, body or officers having the authority to exercise the functions of the local board of health according to law in the municipality in which a violation of this act has allegedly occurred, the State Department of Health and Senior Services shall exercise the functions of the local boards of health for purposes of this act."

Page 2, Section 4, Lines 31-46:

Delete section 4 in its entirety

Page 3, Section 4, Lines 1-31:

Delete in entirety

Page 3, Section 5, Line 33:

Delete "5." and insert "4."

Respectfully,

/s/ Christine Todd Whitman

Governor

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor