

# Custody and Breast/Chestfeeding

TOOLKIT 2021

## Contents

Introduction and Purpose . . . . .	2
<b>Medical Justification</b>	
Importance of Breast/Chestfeeding . . . . .	4
<b>Legal Justification</b>	
Breast/Chestfeeding Protections in California Law . . . . .	5
Breast/Chestfeeding in Custody Plans . . . . .	6
Recommendations . . . . .	6
<b>How to Create a Plan for Children Under 3 Years Old . . . . .</b>	<b>7</b>
<b>Sample Schedule . . . . .</b>	<b>8</b>
Birth Through Age 6 Months . . . . .	8
Age 7 Months Through 12 Months . . . . .	8
Age 13 Months Through Age 18 Months . . . . .	9
Age 19 Months Through 36 Months . . . . .	9
Tips to Make Your Parenting Plan Successful. . . . .	10

<b>Template Letters . . . . .</b>	<b>11</b>
Letter to a Judge: Breastfeeding Support in Child Custody . . . . .	11
Letter to a Judge: Breastfeeding Past Infancy in Child Custody . . . . .	13
<b>Collection of True Stories . . . . .</b>	<b>15</b>
The Power of Self-Advocacy . . . . .	15
The Power of Child-Led Weaning . . . . .	16
The Power of Persistence . . . . .	17
<b>Resources for the Lactating Parent . . . . .</b>	<b>20</b>
<b>Resources for the Non-Lactating Parent and Caregiver . . . . .</b>	<b>20</b>
<b>Reference List . . . . .</b>	<b>22</b>

# Introduction and Purpose

ACLU SoCal, BreastfeedLA, and the California Women’s Law Center could not be more thrilled to bring this toolkit to you!

Since 1994, BreastfeedLA has served as a trusted resource for breast/chestfeeding information and resources. As the local lactation task force, BreastfeedLA is dedicated to improving the health and wellbeing of infants and families through education, outreach, and advocacy to promote and support breast/chestfeeding.

When creating child custody, support, visitation, and dependency plans among a family, it is important to prioritize the health and well-being of all children and infants. Placing the needs of human-milk fed infants at the forefront means finding solutions that accommodate a successful breast/chestfeeding journey. To serve all children and infants’ health needs, the ability to regularly receive human milk without limitations or early cessation is necessary.

Throughout this toolkit, you may see alternative language used when possible, such as below:

<b>Traditional Gender Specific Terms</b>	<b>Consider using these gender-neutral terms<sup>1</sup></b>
Mother, mom, father, dad	Parent, birth parent, gestational parent
Pregnant woman	Birthing parent, birthing person, gestating parent, parent carrying the pregnancy, pregnant person
She, her, hers he, him, his	They/them, theirs (if gender is not specified)
Breastfeeding woman	Lactating person, lactating parent, lactating individual
Breastfeeding, nursing	Chestfeeding, breast/chestfeeding, bodyfeeding, chestfeeding, lactating, expressing, pumping, human milk feeding
Breast	Chest, breast/chest, mammary gland
Breastmilk, mother’s own milk	Milk, human milk, parent’s milk

Gender plays a large role in our lives whether we realize it or not. Gender is related to sex but is separate. Sometimes, the sex assigned to people at birth does not match their sex or gender. Others may reject gender norms. If someone isn’t female or a woman, they may still want to provide their milk to their infant and may feel excluded from terms such as breastfeeding or mother. Gender is complex but what we know is: no matter how you identify, you matter and are entitled to resources and support.

It is encouraged to use gender-neutral terms whenever possible. On the individual level, however, all parents should be addressed with the pronouns and gender-specific terms they use themselves.

BreastfeedLA uses the terms “breastfeeding” and “chestfeeding” interchangeably to describe the action of feeding an infant human milk. The term “chestfeeding” is intentionally offered as an alternate term for lactating persons that prefer not to use the term “breast” when referring to their own bodies. This linguistic shift is part of BreastfeedLA’s overt commitment



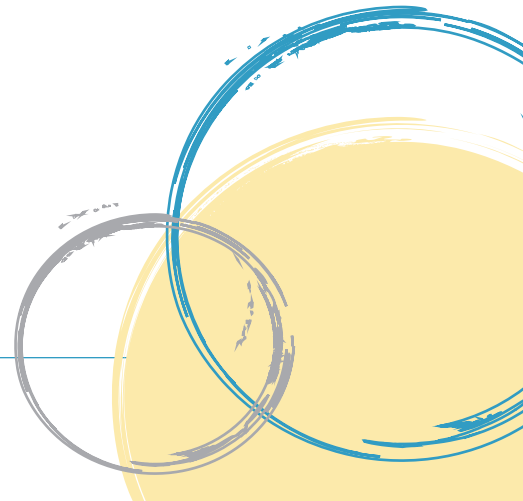
to our organizational values of diversity and inclusion. We use gender-inclusive language because breast/chestfeeding and lactation rights apply to everyone. Inclusive language in no way diminishes traditional language or identities. Words matter. Language evolves and it is essential we do as well.

This toolkit describes many laws, however, these laws are the minimum standards to which organizations must adhere. Organizations can and should provide better accommodations than the law requires.

Please note, this toolkit is intended to be a source of general information only. This toolkit is not a substitute for legal advice. Please consult a lawyer for advice specific to your situation or if you have any questions that are not answered in this toolkit.

We hope that you find this a useful resource!

Sincerely,



---

# Medical Justification

## *Importance of Breast/chestfeeding*



Extensive research in maternal and child health continues to demonstrate feeding a baby human milk is an optimal public health strategy to reduce short and long-term poor health outcomes for both the lactating parent and the infant. Recommendations from the American Academy of Pediatrics suggest exclusive human milk feeding for the first 6 months and continued breast-milk feeding with the introduction of complementary foods until at least 12 months of age.<sup>2</sup>



Breast/chestfeeding is the biological norm for human babies, and not breast/chestfeeding is associated with increased risk of developing: lower respiratory tract infection, gastrointestinal infections, food allergies, excessive infant weight gain, childhood obesity, Type-1 and Type-2 Diabetes, autoimmune disorders, Sudden Infant Death Syndrome (SIDS), asthma, and childhood cancers.<sup>2,3,7,8,10</sup> Breast/chestfeeding also reduces the risk of maternal illnesses including postpartum depression and anxiety.<sup>2,3,7,11, 22</sup>

Research demonstrates strong associations between exclusive breast/chestfeeding and an infant's improved cognitive and motor development, which include problem-solving skills, memory performance, early language skills, and verbal intelligence.<sup>22</sup> The child receives much more than just nutrition from direct feeding. With the increased opportunity to touch, share a mutual gaze, and respond to infants during breast/chestfeeding, the lactating parent-child attachment is positively influenced

by increased exclusive breast/chestfeeding.<sup>22</sup> Children nurse for comfort and security as the skin-to-skin contact during direct feeding enhances parent-child bonding and an increase in infant neuro development.<sup>2,6-9</sup>

In order to maintain lactation, the parent needs to feed the baby at 2-3 hour intervals. Feeding at fewer intervals - even cutting out 1-2 sessions a day - can jeopardize milk supply and production.

The alternative of feeding pumped milk (or "bottle-feeding") is often offered as a compromise, but it is not without consequences. In the weeks following birth, the appropriate way to stimulate adequate milk production and long-term supply is through direct breast/chestfeeding. Moreover, the skin-to-skin contact that takes place during direct feeding stimulates the child's natural feeding and attachment behaviors. Bottle-feeding should not be introduced until direct breast/chestfeeding is well-established (usually around 4-6 weeks) because babies tend to develop a preference for the too-fast flow of the bottle. In general, pumping removes less milk than what the child gets from direct breast/chestfeeding; so over time, milk supply drops.<sup>12</sup> It's important to point out that not every lactating person's body responds well to pumping; some even experience pain and nipple damage.<sup>13</sup> Pumping is also very time-consuming, and requires washing, sterilizing, and storage. When milk is pumped and stored instead of fed directly, immunological and nutritional component levels are diminished. These complications are linked to a much shorter breast/chestfeeding duration.<sup>14</sup>

Breast/chestfeeding also benefits families financially because formula-feeding is incredibly expensive. In one year, a formula-fed baby will consume up to 620 gallons. At a cost of \$20-50 per can, families can expect to spend \$1,200-1,800 on formula.<sup>4</sup> Even for families utilizing the formula that the federal supplemental nutrition program WIC provides, they will spend an additional \$400 for the first year to purchase what is not covered. Additionally, formula-fed babies typically require more medical care due to higher rates of acute infectious disease. As a result, they need more pediatrician visits and prescription medication, and parents of formula-fed infants typically use more sick time to care for their infants.<sup>5</sup>



# Legal Justification

## *Breast/chestfeeding Protections in California Laws*

In the United States, breast/chestfeeding rights are typically either federal laws or state laws. Because BreastfeedLA, ACLU SoCal, and California Women's Law Center are based in California, this toolkit will discuss California state laws. If you are not in California, our laws might give you some ideas about protections that you have or could win in your state.

At least five federal laws provide protections for breast/chestfeeding: Title VII, Title IX, the Family Medical Leave Act (FMLA), the Affordable Care Act (ACA), and the Right to Breastfeed Act. These laws provide protections to breast/chestfeeding people in all 50 states.

California has the strongest protections for breast/chestfeeding rights in the country. When state and federal law differ, typically the law with greater protection prevails over the law with weaker protections.

California protections include:

- Work: employers must provide a private lactation room with a chair, table, and access to a power source that's in close proximity to a fridge and sink.
- Middle and high school: public schools must provide a private lactation room with a power source and storage space.
- California community colleges and California State University system: the school must provide a private lactation room with a chair, table, and access to a power source.
- Public: a lactating parent may breastfeed in any location in which they and their infant are authorized to be.
- Jury duty: California jurors may request a postponement of jury service during the period of time that they are lactating.



## Breast/chestfeeding in Custody Plans

If a lactating parent is negotiating custody with the other parent, it is important to create a custody plan that acknowledges the importance of human milk feeding and direct breast/chestfeeding, as well as shared parenting. A custody plan that moves from frequent shorter visits to longer visits as the child gets older can balance the needs of human milk feeding and secure attachment to both parents.

The following resources may be helpful in establishing a fair custody plan. It is important to balance both shared parenting, the benefits to human milk, and the physiology of maintaining milk supply when creating a shared parenting plan.

### Recommendations

- Discuss with other parent as early as possible what their beliefs and positions are about chest/breastfeeding.
- Talk to other parents who have faced similar kinds of issues.
- If at all possible, come to a shared custody agreement parent-to-parent without involving the courts. Parents can also use attorneys and mediators to come to a shared custody agreement.
- When choosing an attorney or mediator, ask about their personal belief and experience in creating shared custody agreements that include breast/chestfeeding. Find an advocate that supports your views.
- If the attorney or mediator you are already working with is not aware of the importance of breast/chestfeeding, educate them about it, using the resources provided in this toolkit.
- If the non-lactating parent requests lengthy custody hours that conflict with a child's human milk feeding schedule or demands early weaning, consider seeking a court report written by a lactation consultant. Reasons often given by the non-lactating parent include the child being "too old" to breast/chestfeed, inconvenience to the non-lactating parent, or other non-evidence-based reasons. The expert's report should stress the importance of breast/chestfeeding and the health costs of early weaning.<sup>15</sup>



# How to Create a Plan for Children Under 3 Years



Los Angeles County Family Court Services has issued guidelines for creating a parenting plan for children under 3. The following information has been adapted from the Los Angeles County Family Court Services.<sup>16</sup>

- As infants, children learn to trust and love through developing attachments to those who care for them. Consistent responses from their caregivers in the day-to-day activities of feeding, changing, bathing, and holding foster this sense of security that is the cornerstone for later development. Parents who have participated in these routines are also more attuned to the child's needs and cries and are more able to soothe and comfort the child when distressed.
- When parents separate during a child's early years, it is especially important for them to consider the patterns of caregiving prior to the separation when planning for custody to minimize the stress on the child. If one parent has been more involved in an infant's care, the parents may wish to maintain that arrangement in the short term, but ensure that the other parent has frequent contact as suggested in the sample schedules below.
- For families in which all parents have been highly involved in the hands-on care of the child, these patterns of care should be maintained as much as possible and may include overnight time for the child in all parents' homes. Maintaining a regular sleeping and feeding cycle in both homes will help the child feel more secure. It is critical that an infant be afforded ample opportunity to maintain and develop reciprocal attachments to all parents through these measures.

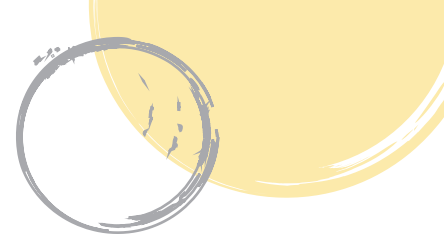
- Infants and young children have not yet developed a sense of time so they have a limited ability to recall persons not directly in front of them. An infant should not be separated from any parent for long periods of time. At some points, infants may show little resistance to transitions between caregivers, while at other points, they may cry or cling to one caregiver. These behaviors are typical and not necessarily indicative of problems in the relationship with a parent.
- While protecting children from exposure to parental conflict is important for all ages, this age group is especially vulnerable to physical injury and emotional trauma if exposed to domestic violence. Often parents are unaware of how deeply affected these very young children are by exposure to tension and arguing between their parents."<sup>16</sup>

Consider the following factors when creating a parenting plan for children in this age group:

- Provide your child the opportunity to bond with all parents.
- Protect your child from exposure to adult conflict.
- Learn how to soothe your infant when they are distressed and especially at the transitions between caregivers.
- Create a plan that ensures all parents have the opportunity to participate in the child's day-to-day care.
- Maintain a similar sleeping and feeding schedule in all homes.<sup>16</sup>
- When co-parents physically separate, they should make every effort to live in close proximity. This will allow for frequent but brief custodial visits.



# Sample Schedule



These examples, adapted from the Los Angeles County Family Court Services, serve as a reference for two-parent families in which the infant has a history of care with one parent primarily and the parents are seeking to ensure that the other parent has an opportunity to deepen their bond with the child.<sup>16</sup> Since very young children have less capacity to remember, the focus of visits by the non-lactating parent should be frequent, not longer. This is why we recommend three short visits per week instead of one longer visit per week.

## Birth Through Age 6 Months

### Suggested schedule:

- Three non-consecutive days per week for two hours each day.

### Justification:

- At this age, babies feed every 1 ½ to 2 hours. They also sleep often. Newborns wake only to feed, while 2 - 6 months old nap 2 or 3 times a day.

### Recommendations:

- If at all possible, time with the non-residential parent should aim at not disrupting the infant's nap and feeding pattern.
- If the co-parents are amicable, it will maximize the time that the non-residential parent has if the lactating parent can breast/chestfeed the child at the start and end of the custody time.

### Recommendations:

- If a parent has not been involved in caregiving previously, these short and frequent visits will help to develop a mutually secure relationship and allow the parent to master the tasks and sensitivity required to care for an infant.
- As the caregiving skills are mastered, the parent-child bond strengthens and the time with the infant may increase.



## Age 7 Months Through 12 Months

### Suggested schedule:

- Three non-consecutive days per week for three hours each day.
- Overnight, if appropriate.

### Justification:

- Babies do not typically sleep through the night (which is considered 5-6 hours). Therefore, they are not ready for overnights until they can sleep through the night without feeding.





## Age 19 Months Through 36 Months

### Suggested schedule:

- One weekend day for ten hours.
- One mid-week day for three hours.
- Overnight, if appropriate.

### Justification:

- Children of this age go through many changes, such as weaning from the bottle, toilet training, beginning preschool, and adjusting to new siblings.

### Recommendations:

- Parents should avoid choosing a plan that requires the child to change routines frequently.

## Beyond 36 Months

### Suggested schedule:

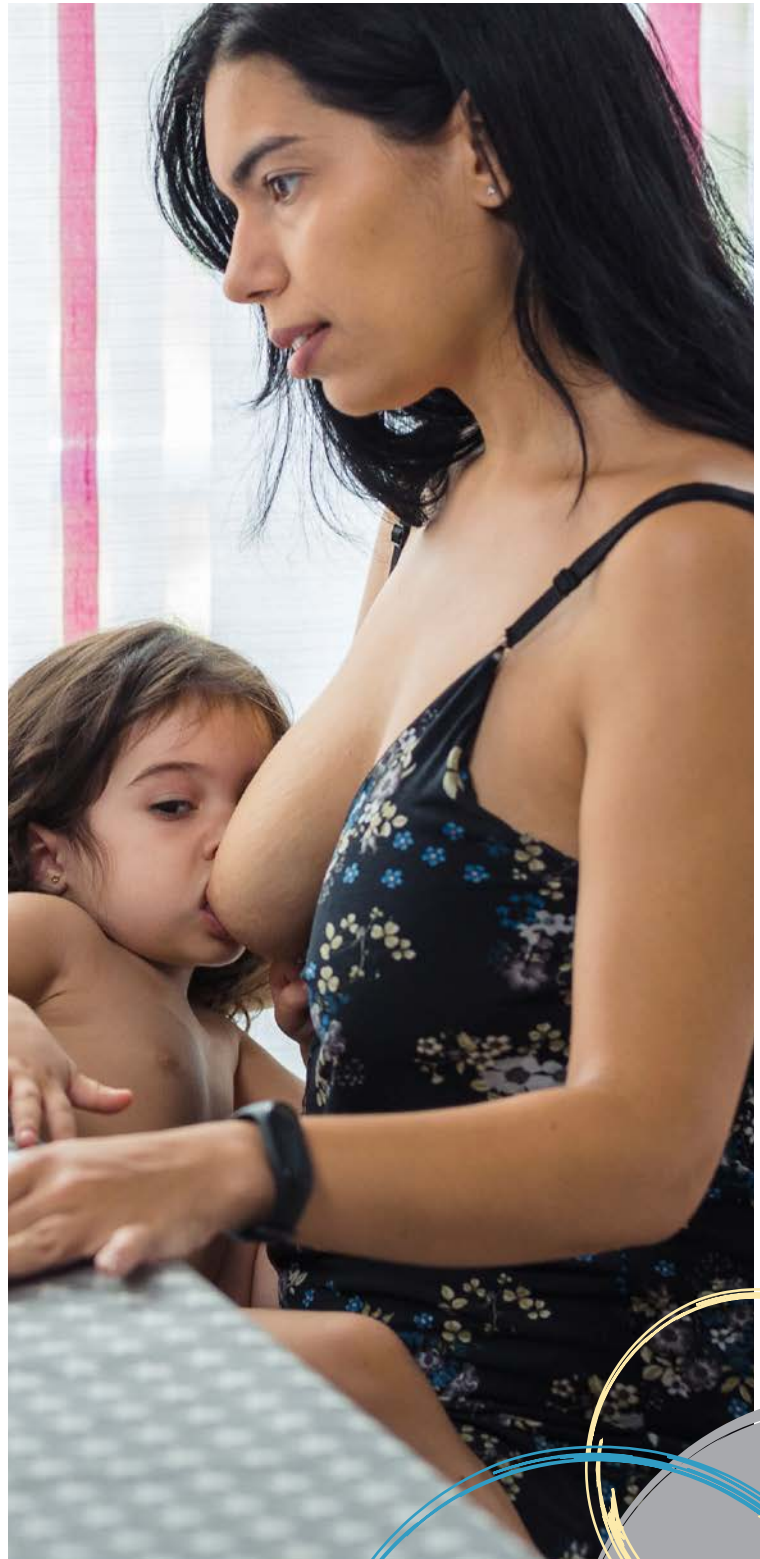
- Two mid-week days for three hours (such as an early dinner).
- 48 hours on alternating weekends.
- No more than two consecutive 24-hour days at a time.
- Alternate weekends such as Friday afternoon - Sunday morning.

### Justification:

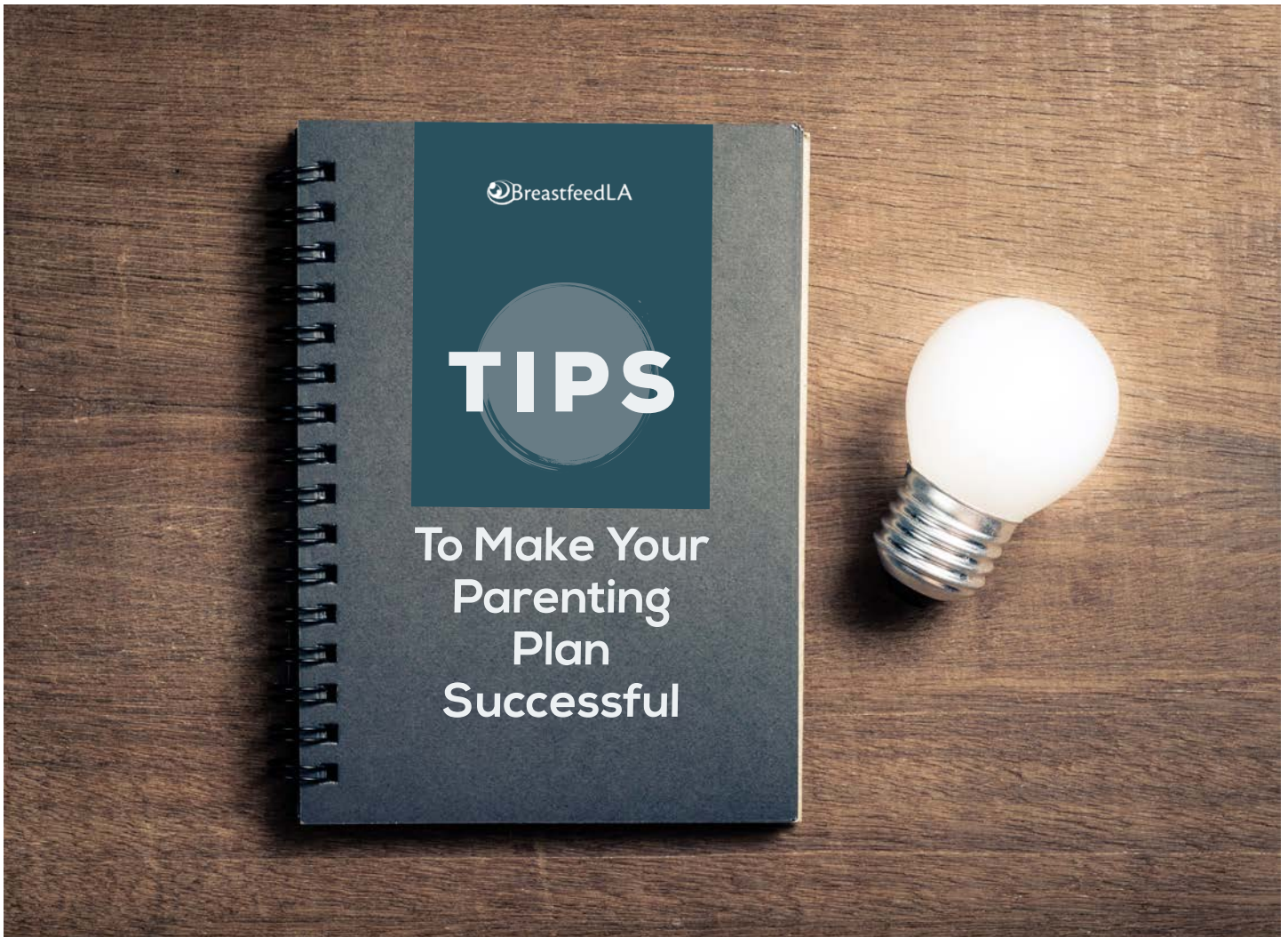
- At this age, children generally breast/chest-feed for comfort. Human milk also continues to support a healthy immune system. They may be able to go longer than one or two days without breast/chestfeeding but they shouldn't be forced if they are not ready. Many custody plans for toddlers recommend no more than two consecutive days for developmental reasons.<sup>16</sup>

### Recommendations:

- If parents are amicable, the non-residential parent can put the child to bed in the residential parent's home.



## *Tips to Make Your Parenting Plan Successful*



1. **Communicate.** Keep each other informed of your child's needs.
2. Make your best effort to create similar **routines** in both households.
3. Allow your child to take a **favorite blanket or teddy bear** when going between the households.
4. Shield your child from any **conflict** between you and the other parent.
5. Stick to the **schedule.** Last-minute changes should be minimized.
6. If the co-parent is unable to see the child during their scheduled time, they should not be cared for by another person without first offering that time back to the residential parent (also known as "**right of first refusal**").
7. Consider **holidays**, Mother's/Father's Day, birthdays, and vacations when creating the schedule.

---

# Template Letters

The following template letters have been adapted from the Michigan Breastfeeding Network.<sup>17</sup>



## *Letter to a Judge: Breastfeeding Support in Child Custody*

[Date]  
[Judge's Name]  
[Address of the Court]

[Child Name]  
[Court Case Number]

Dear Honorable Judge [Insert Name Here]:

I am writing to you as a parent on behalf of my child who is currently breastfeeding. The intention of this letter is to ask you to protect and preserve the breastfeeding relationship when determining allocation of parenting time. I have briefly outlined some information that may be helpful to you in this case.

Breastfeeding is a public health issue for parents and children. Numerous health organizations including The World Health Organization (WHO)<sup>1</sup>, UNICEF<sup>2</sup>, the U.S. Surgeon General<sup>3</sup>, American Academy of Pediatrics<sup>4</sup>, The American Academy of Family Physicians<sup>5</sup>, and the Academy of Breastfeeding Medicine<sup>6</sup> recommend exclusive breastfeeding for the first six months of life and that breastfeeding continue throughout the first year of life based on the considerable benefits breastfeeding imparts to the child.

The benefits of breastfeeding include both nutrition<sup>7</sup> and disease protection for as long as it continues.<sup>8</sup> Breastfeeding supports the immune system<sup>9,10</sup> through the cells, hormones, and antibodies found in breastmilk. Additionally, these immunity benefits improve the longer a child breastfeeds. An additional benefit of human milk is its ability to protect against COVID-19. Human milk produced by infected or vaccinated lactating parents contains antibodies that neutralize SARS-CoV-211 and pass on immunity to protect breastfeeding infants and children from acquiring the disease.

Lengthy separations are difficult to navigate for both the lactating parent and child and puts the breastfeeding relationship into jeopardy. For families going through difficult changes, especially with the impacts of the COVID-19 pandemic, breastfeeding is a loving connection that offers security and stability to the child.<sup>12</sup>

[Insert personal story here, including how long you've been breast/chestfeeding, how long you hope to continue, and why it is important to you.]

Limiting the other parent's access to their child, however, is not the intent of this request. I ask the court to support the irreproducible breastfeeding relationship and recommend shorter periods of separation from me, including no overnight visits until after the child has weaned. I ask that you please consider the research presented within when making recommendations on the custody agreement for this particular case. Thank you for your time and consideration.

Sincerely,

[Insert name here]



## References:

1. Breastfeeding. World Health Organization. <https://www.who.int/health-topics/breastfeeding>.
2. Breastfeeding. UNICEF. <https://www.unicef.org/reports/breastfeeding>. Published May 1, 2018
3. The Surgeon General's call to action to support breastfeeding. Centers for Disease Control and Prevention. <https://www.cdc.gov/breastfeeding/resources/calltoaction.htm>. Published May 11, 2021.
4. Breastfeeding and the use of human milk. *Pediatrics* Feb 2005, 115 (2) 496-506; DOI: 10.1542/peds.2004-2491
5. Breastfeeding, family physicians supporting (position paper). American Academy of Family Physicians. <https://www.aafp.org/about/policies/all/breastfeeding-position-paper.html>. Published December 12, 2019.
6. Chantry CJ, Eglash A, Labbok M. Academy of Breastfeeding Medicine position on breastfeeding — Revised 2015. *Breastfeeding Medicine*. 2015;10(9):407-411. doi:10.1089/bfm.2015.29012.cha
7. Lessen, R., & Kavanagh, K. (2015). Position of the academy of nutrition and dietetics: promoting and supporting breastfeeding. *Journal of the Academy of Nutrition and Dietetics*, 115(3), 444–449. <https://doi.org/10.1016/j.jand.2014.12.014>
8. Victora, CG, Bahl, R, Barros, AJ. et al. Lancet Breastfeeding Series Group. Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect. *Lancet* (London, England), 387(10017), 475–490. [https://doi.org/10.1016/S0140-6736\(15\)01024-7](https://doi.org/10.1016/S0140-6736(15)01024-7)
9. Palmeira P, Carneiro-Sampaio M. Immunology of breast milk. *Rev Assoc Med Bras*. 2016;62(6):584-593. doi:10.1590/1806-9282.62.06.584
10. Bode L et al. It's alive: microbes and cells in human milk and their potential benefits to mother and infant. *Adv Nutr*. 2014;5(5):571-573.
11. Esteve-Palau E, Gonzalez-Cuevas A, Guerrero ME, et al. Quantification of specific antibodies against SARS-CoV-2 in breast milk of lactating women vaccinated with an mRNA vaccine. *JAMA Netw Open*. 2021;4(8):e2120575. doi:10.1001/jamanetworkopen.2021.20575
12. Montgomery SM, Ehlin A, Sacker A. Breastfeeding and resilience against psychosocial stress. *Arch Dis Child*. 2006;91(12):990-994. doi:10.1136/adc.2006.096826

## Letter to a Judge: Breastfeeding Past Infancy in Child Custody

[Date]  
[Judge's Name]  
[Address of the Court]

[Child Name]  
[Court Case Number]

Dear Honorable Judge [Insert Name Here]:

We write herein today to urge you to consider [child's name] breastfeeding schedule in creating a custody schedule.

Numerous health organizations including The World Health Organization (WHO)<sup>1</sup>, UNICEF<sup>2</sup>, the U.S. Surgeon General<sup>3</sup>, and American Academy of Pediatrics (AAP)<sup>4</sup>, recommend breastfeeding beyond the first year of life based on the importance of breastfeeding. The AAP recommends that "breastfeeding should be continued for at least the first year of life and beyond for as long as mutually desired by mother and child" and further states "there is no upper limit to the duration of breastfeeding and no evidence of psychological or developmental harm from breastfeeding into the third year of life or longer."<sup>4</sup> Experts have described the natural age of weaning to be anywhere from about 2.5 years to around 7 years old.<sup>5</sup>

After one year, the nutritive value of breastmilk continues to deliver protein, calcium, fat, and vitamin A among other nutrients.<sup>6</sup> Breast milk provides substantial amounts of nutritive value for the developing toddler.<sup>7</sup> Parents typically see an increase in acute illness when their baby begins daycare, so the immunity in human milk continues to protect against this exposure.<sup>8</sup>

As a child gets older, the composition of breastmilk continues to change to meet their nutritional needs. In addition, breastfeeding supports the immune system through the cells, hormones, and antibodies found in breastmilk.<sup>9</sup> Children who breastfeed have decreased incidences of illness and lower mortality rates. These immunity benefits improve the longer a child breastfeeds and the child is less likely to develop ear infections<sup>10</sup> and upper respiratory infections.<sup>11</sup> Breastfed children also have fewer allergies<sup>12</sup> and increased protection against asthma<sup>12</sup> and obesity.<sup>13</sup>

In addition to these physiological benefits, nursing children are well-adjusted socially.<sup>14</sup> There is a significant link between the duration a child is breastfed and the more socially adjusted they are as 6- to 8-year olds.<sup>15</sup> For children going through enormous changes, this connection is very important in the life of a child.

[Insert personal story here, including how long you've been breastfeeding, how long you hope to breastfeed, and why breastfeeding is important to you.]

More time with the child is needed for the breastfeeding parent for a myriad of reasons. Breast milk production is dependent on frequent removal of milk (no less than every 2-3 hours).<sup>16</sup> Holding one's child for extended periods of time stimulates milk producing hormones, which is essential to the lactating parent's milk supply.<sup>17</sup> Pumping is not an effective or efficient replacement for direct breastfeeding.<sup>18</sup>

I ask that you please consider the research presented when making recommendations on the custody agreement for this particular case. We recommend a graduated plan that includes more time with the lactating parent until the child is naturally weaned.

Sincerely,

[Insert name here]

## References:

1. Breastfeeding. World Health Organization. <https://www.who.int/health-topics/breastfeeding>.
2. Breastfeeding. UNICEF. <https://www.unicef.org/reports/breastfeeding>. Published May 1, 2018.
3. The Surgeon General's call to action to support breastfeeding. Centers for Disease Control and Prevention. <https://www.cdc.gov/breastfeeding/resources/calltoaction.htm>. Published May 11, 2021.
4. Breastfeeding and the Use of Human Milk. *Pediatrics* Feb 2005, 115 (2) 496-506; DOI: 10.1542/peds.2004-2491
5. Dettwyler, K. A. When to wean: Biological versus cultural perspectives. *Clinical Obstetrics and Gynecology*. 47 (3): 712–723. doi:10.1097/01.grf.0000137217.97573.01. PMID 15326433.
6. Lessen, R., & Kavanagh, K. Position of the academy of nutrition and dietetics: promoting and supporting breastfeeding. *Journal of the Academy of Nutrition and Dietetics*, 115(3), 444–449. <https://doi.org/10.1016/j.jand.2014.12.014>
7. Horta, BL, Bahl, R, Martinés, JC, Victora, SG & World Health Organization. Evidence on the long-term effects of 7. breastfeeding : systematic review and meta-analyses. World Health Organization. [https://apps.who.int/iris/bitstream/handle/10665/43623/9789241595230\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/43623/9789241595230_eng.pdf)
8. Schuez-Havupalo L, Toivonen L, Karppinen S, Kaljonen A, Peltola V. Daycare attendance and respiratory tract infections: a prospective birth cohort study. *BMJ Open*. 2017;7(9):e014635. Published 2017 Sep 5. doi:10.1136/bmjopen-2016-014635
9. Palmeira P, Carneiro-Sampaio M. Immunology of breast milk. *Rev Assoc Med Bras*. 2016;62(6):584-593. doi:10.1590/1806-9282.62.06.584
10. Kørvel-Hanquist A, Djurhuus BD, Homøe P. The Effect of Breastfeeding on Childhood Otitis Media. *Curr Allergy Asthma Rep*. 10.2017;17(7):45. doi:10.1007/s11882-017-0712-3
11. Frank NM, Lynch KF, Uusitalo U, et al. The relationship between breastfeeding and reported respiratory and gastrointestinal infection rates in young children. *BMC Pediatr*. 2019;19(1):339. Published 2019 Sep 18. doi:10.1186/s12887-019-1693-2
12. Oddy WH. Breastfeeding, Childhood Asthma, and Allergic Disease. *Ann Nutr Metab*. 2017;70 Suppl 2:26-36. doi:10.1159/000457920
13. Owen CG, Martin RM, Whincup PH, Smith GD, Cook DG. Effect of infant feeding on the risk of obesity across the life course: a quantitative review of published evidence. *Pediatrics*. 2005;115(5):1367–1377pmid:15867049
14. Krol, KM, & Grossmann, T. Psychological effects of breastfeeding on children and mothers. *Bundesgesundheitsblatt - Gesundheitsforschung - Gesundheitsschutz*, 61(8), 977-985. doi:10.1007/s00103-018-2769-0
15. Fergusson, DM, Horwood, LJ, and Shannon, FT. Breastfeeding and subsequent social adjustment in six- to eight-year-old children. *Journal of Child Psychology and Psychiatry*, 28: 378-386. <https://doi.org/10.1111/j.1469-7610.1987.tb01760.x>
16. Wambach, K., & Spencer, B. In *Breastfeeding and human lactation* (pp. 247–280). Jones & Bartlett Learning; 2021.
17. Qi Y, Zhang Y, Fein S, Wang C, Loyo-Berríos N. Maternal and breast pump factors associated with breast pump problems and injuries. *J Hum Lact*. 2014;30(1):62-112. doi:10.1177/0890334413507499
18. Gardner H, Kent JC, Lai CT, Geddes DT. Comparison of maternal milk ejection characteristics during pumping using infant-derived and 2-phase vacuum patterns. *Int Breastfeed J*. 2019;14:47. Published 2019 Nov 6. doi:10.1186/s13006-019-0237-6



# Collection of True Stories

The following stories are a collection of truths gathered by BreastfeedLA.<sup>18</sup>

## *The Power of Self-Advocacy*

”

The father of my daughter and I were never together and I had an unexpected pregnancy. I knew we would never be together and what that would entail in terms of sharing custody, but I never imagined the challenges I would face because I decided to exclusively breastfeed my daughter, and encouraged self-weaning. Her father was supportive of exclusive breastfeeding, but when my daughter turned six months he insisted on having her overnights and that she no longer needed to be breastfed. He repeatedly expressed that if I ever sought child support, he would go for full custody, and ensuring 50/50 as soon as she turned six months was his assurance that he would not have to pay child support. He also repeatedly accused me of breastfeeding our daughter to purposely jeopardize him and so that I could manipulate the court against him. He tried to use anything against me, including accusing me of forcing my daughter to breastfeed and emotionally traumatizing her. I couldn't afford a lawyer like he could, and I felt like I was on the verge of losing my daughter because I was uncertain if the courts knew about the benefits of breastfeeding past six months, especially for emotional comfort and providing a sense of safety during times of transition.

We eventually agreed to a 50/50 custody plan with a transition plan so our daughter could slowly spend nights away. I was able to advocate for this transition plan and the benefits of continuing to breastfeed my daughter. Every time I would pick her up from her father's house I'd nurse her in the car before we'd drive away. She always asked for it. I was determined to continue expressing my milk while she was away, at times as long as 5 days, and I'd still hand express for her, crying while I did it, missing her, and knowing that I was still doing the best for her. I continued to nurture her and our breastfeeding relationship this way, and to my surprise she never weaned, and I was able to maintain a good milk supply due to frequent hand expressing.

To many moms/parents, this would be a terrible thing to have to do for many years, but for me, it was healing, and my only way of maintaining a connection with her. She is currently six years old and just began first grade. I nursed her the night before and she hasn't weaned yet. Our custody schedule is still 50/50 and unfortunately, her father continues to threaten that if she breastfeeds he will seek full custody. Unfortunately this has caused my daughter to hide the fact that she breastfeeds. He tells her that she better not be, and it is a continuous struggle to advocate for her right to breastfeed if she wants to, and for us to continue to as long as mutually desired. We have both become advocates for this, what others call "extended breastfeeding" but that to us is just breastfeeding. Although my daughter would rather not mention to her father that she still has not weaned, she is prepared to defend herself and her choice because we often go over our breastfeeding rights.



“

## The Power of of Child-Led Weaning



My two-year-old son had been nursing several times a day when his father and I separated. I had hoped he would self-wean sometime before his third birthday, but because of this momentous change, I didn't want to force weaning. So much had been taken from him in our separation that I didn't want the connection and comfort to be ripped from him at the same time. Our son (and our six-year-old daughter) acclimated to the 2-2-alternate weekend schedule we initiated. Fortunately; he wanted to breastfeed after his time with his dad. I never expected to nurse for another 2 ½ years, but somehow it worked out well. **I'm happy that we were able to wean on our child's terms.** In retrospect, I would have advocated for a schedule with more frequent visits instead of longer duration. I don't think he was ready for five days without me or his dad every other week.

## The Power of Persistence



I was only with the father of my child briefly. During the time I was with him I saw signs that he did not encourage breastfeeding. I left the father of my child due to domestic violence before I found out I was pregnant. I thought that he would change and we could peacefully co-parent. When it became apparent that I did not want to get back with him is when he started trying to remove all custody from me. The first move, even before the baby was born, was to file a motion to get our newborn on formula when she was born and immediately get overnights in this way. He hired an attorney that was very vocal about how “all children drink formula and are fine.” My daughter immediately took to breastfeeding when she was born. I had a very good supply of milk and a wonderful support system that encouraged breastfeeding. During the temporary custody hearing, the judge that we were in front of heard both sides. He heard from the father who wanted to have days in a row with our minor daughter and me stating that it was in our 1-month old’s best interest to have short visits so our infant could be properly fed. I made it very clear that I could pump, I showed the evidence that I had a good milk supply which included a letter from our infants’ pediatrician as well as my gynecologist. The father was given visitation rights of 2 hours per day, 4 times a week and he was to take a bottle of breastmilk I made for our daughter. The Family Court judge advised that he could not make the mother of the child not breastfeed an infant, and in his opinion, breastfeeding was in the minor child’s best interest.

Throughout this time the father consistently tried to make it look as if breastfeeding was damaging our daughter stating the “child is allergic to her mother’s breast milk and must immediately be put on formula” and that I was unable to provide enough pumped breastmilk for his visitation and our child should be switched to formula so the child did not suffer. Upon reaching our daughter’s first birthday, our toddler was still breastfeeding. When our daughter was nearing 1 ½ years, we had a trial for custody. I again expressed to the Trial Judge that my desire was to breastfeed according to WHO’s standard of “2 years and beyond.” I also presented my experience of our child’s excellent health and attachment style the best way I could. At the trial, her father countered by stating that I was trying to keep our daughter from him through my breastfeeding. After the court weighed out all the evidence, the court created a schedule that did not include overnights until our daughter was past 2 ½ years. They also stated that the father was required to return any breast milk that was not used if needed and put in special clauses that supported breastfeeding.

**I conjecture that it was because it was clear that I both supported the father’s parenting time and also was acting in the best interest of our daughter by continuing breastfeeding.**

cont..





## *The Power of Persistence (cont.)*

”

My daughter has almost completely ended breastfeeding at this point. But I have been encouraged to let our daughter decide when she is ready. I do not respond to her father’s demands to know how and if our daughter is being “harmed still by breastfeeding.” To conclude, my situation may be different from others but through all of this, I realized that there are many parents who are dealing or about to deal with custody issues that have no idea what kind of scenarios, difficult emotions, control issues, and/or health concerns can come up when navigating the waters of custody. I believe there is a way for both parents to have custodial time and for a child’s need to be breastfed/cheested to be part of the “best interest of the minor child” standard.

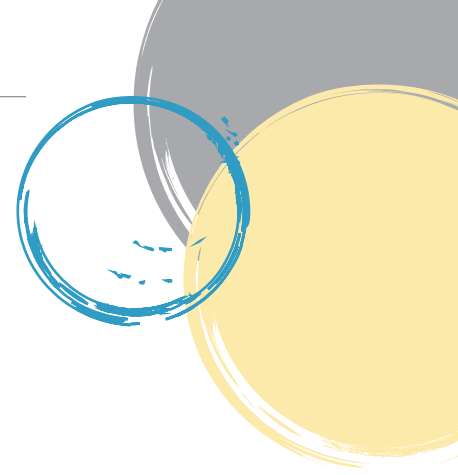
At 2 years old, our daughter slowly began naturally weaning and appeared to only want to breastfeed when she felt stressed or overwhelmed and before she went to sleep. At around 2 ½ years old, her father attempted to file an order to remove custody from me, which was denied by the Court in entirety. It was around this time that her father filed a police report and DCFS report stating that I was “forcing our daughter to breastfeed” and that I was forcing her face onto my chest. After these interactions, the DCFS worker who had been working with DCFS for 18 years, said it was clear this tactic to use breastfeeding as an excuse to take custody from me, was done so as a malicious custody tactic. This was also documented by police and the case against me was dismissed.



“

---

# Resources for the Lactating Parent



[American Academy of Pediatrics Statement on the Use of Human Milk<sup>20</sup>](#)

[Attachment 101 for Attorneys<sup>21</sup>](#)

[Attachment in Child Custody: An Additive Factor, Not a Determinative One<sup>24</sup>](#)

[Breastfeeding Court Letter by Katherine A. Dettwyler<sup>26</sup>](#)

[BreastfeedLA Hand Expression Guide<sup>19</sup>](#)

[Breastfeeding in Custody Proceedings: A Modern-Day Manifestation of Liberal and Conservative Family Traditions<sup>25</sup>](#)

[Creating a Fair Parenting Plan<sup>16</sup>](#)

[Duration of Breastfeeding and Risk of SIDS: An Individual Participant Data Meta-analysis<sup>27</sup>](#)

[JAMA Psychiatry: Breastfeeding and Child Cognitive Development: New Evidence From a Large Randomized Trial<sup>29</sup>](#)

[La Leche League International: Breastfeeding and Visitation or Custody<sup>31</sup>](#)

[Michigan Breastfeeding Network Advocacy Tools<sup>17</sup>](#)

[Parenting Plans and the Breastfed Child: A Look at How Breastfeeding is Used as a Factor in Parenting Time Allocations for Divorcing Parents in the U.S.<sup>22</sup>](#)

[Psychological Effects of Breastfeeding on Children and Mothers<sup>28</sup>](#)

[Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children<sup>23</sup>](#)

[World Health Organization: Exclusive Breastfeeding for Six Months Best for Babies Everywhere<sup>30</sup>](#)

# Resources for the Non-Lactating Parent & Caregiver

[Breastfeeding Basics for Grandmas<sup>32</sup>](#)

[BreastfeedLA Childcare and Milk Storage Handout<sup>33</sup>](#)

[Cases Casos de Divorcio y Custodia Temporal<sup>34</sup>](#)



**The Healthy Start your Baby Deserves is in Your Hands.**

**You have the power to help your child through this time of transition.**

Supporting breastfeeding and supplying your child with breastmilk will help ease your child's anxiety and keep them healthier during this often stressful time.

**Breastmilk keeps babies healthy. Include breastmilk in your child custody agreement.**

### **You have your child's best interest at heart.**

Child custody, support, and visitation decisions are based on what is in the best interest for the child. Finding a solution that supports the needs of the child is the judge's first priority. Because breastmilk is so important, in most cases it would serve the child's health and well-being to continue to provide breastmilk.

### **Breastmilk matters because you want to keep your baby healthy.**

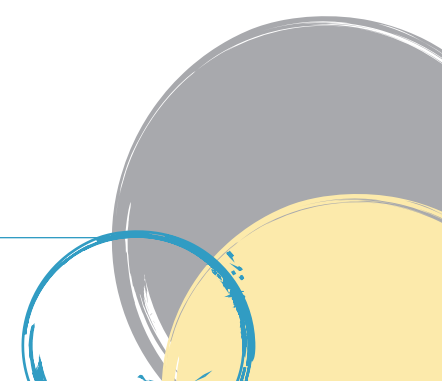
The scientific evidence is clear: breastmilk provides tremendous short and long term health advantages for a child. The longer a child receives breastmilk, the greater the health protection for both the child and the mother. The American Academy of Family Practice Physicians states, "a child is at increased risk for illness if weaned before the age of two."

### **Formula is not a substitute for breastmilk.**

Human milk cannot be duplicated. Formula, or artificial milk, which is made in a factory and sold in the store cannot compare to breastmilk. Human milk is the gold standard of nutrition for ALL infants/children and is recommended by the American Academy of Pediatrics as the optimal diet. Scientists continue to study and find new components in human milk that improve health. A woman's body makes milk that meets the needs of her child and no two mothers produce identical milk. For example, if a baby is sick, the mother's body creates a special substance that helps fight the germs. Breastmilk is not just food; it also protects the child from disease and infection.



[www.breastfeedla.org](http://www.breastfeedla.org) | Adapted from Michigan Breastfeeding Network





---

# Reference List

1. Bartick, M., Stehel, E. K., Calhoun, S. L., Feldman-Winter, L., Zimmerman, D., Noble, L., . . . Kair, L. R. (2021). Academy of breastfeeding Medicine position statement and guideline: Infant feeding and Lactation-Related language and gender. *Breastfeeding Medicine*, 16(8), 587-590. doi:10.1089/bfm.2021.29188.abm
2. Lessen, R., & Kavanagh, K. (2015). Position of the academy of nutrition and dietetics: promoting and supporting breastfeeding. *Journal of the Academy of Nutrition and Dietetics*, 115(3), 444-449. <https://doi.org/10.1016/j.jand.2014.12.014>
3. Victora, C. G., Bahl, R., Barros, A. J., França, G. V., Horton, S., Krasevec, J., Murch, S., Sankar, M. J., Walker, N., Rollins, N. C., & Lancet Breastfeeding Series Group (2016). Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect. *Lancet* (London, England), 387(10017), 475-490. [https://doi.org/10.1016/S0140-6736\(15\)01024-7](https://doi.org/10.1016/S0140-6736(15)01024-7)
4. Bartlett, J. (2021, March 26). How long does a can of baby formula last? (with monthly costs). Retrieved August 23, 2021, from <https://naturalbabylife.com/how-long-does-a-can-of-baby-formula-last/>
5. Bartick, M. C., Schwarz, E. B., Green, B. D., Jegier, B. J., Reinhold, A. G., Colaizy, T. T., Bogen, D. L., Schaefer, A. J., & Stuebe, A. M. (2017). Suboptimal breastfeeding in the United States: Maternal and pediatric health outcomes and costs. *Maternal & child nutrition*, 13(1), e12366. <https://doi.org/10.1111/mcn.12366>
6. Rollins, N. C., Bhandari, N., Hajeebhoy, N., Horton, S., Lutter, C. K., Martines, J. C., Piwoz, E. G., Richter, L. M., Victora, C. G., & Lancet Breastfeeding Series Group (2016). Why invest, and what it will take to improve breastfeeding practices?. *Lancet* (London, England), 387(10017), 491-504. [https://doi.org/10.1016/S0140-6736\(15\)01044-2](https://doi.org/10.1016/S0140-6736(15)01044-2)
7. Stuebe A. (2009). The risks of not breastfeeding for mothers and infants. *Reviews in obstetrics & gynecology*, 2(4), 222-231.
8. Victora, C. G., Horta, B. L., Loret de Mola, C., Quevedo, L., Pinheiro, R. T., Gigante, D. P., Gonçalves, H., & Barros, F. C. (2015). Association between breastfeeding and intelligence, educational attainment, and income at 30 years of age: a prospective birth cohort study from Brazil. *The Lancet. Global health*, 3(4), e199-e205. [https://doi.org/10.1016/S2214-109X\(15\)70002-1](https://doi.org/10.1016/S2214-109X(15)70002-1)
9. Victora, C. G., Bahl, R., Barros, A. J., França, G. V., Horton, S., Krasevec, J., Murch, S., Sankar, M. J., Walker, N., Rollins, N. C., & Lancet Breastfeeding Series Group (2016). Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect. *Lancet* (London, England), 387(10017), 475-490. [https://doi.org/10.1016/S0140-6736\(15\)01024-7](https://doi.org/10.1016/S0140-6736(15)01024-7)
10. Cho, T. J., Hwang, J. Y., Kim, H. W., Kim, Y. K., Il Kwon, J., Kim, Y. J., Lee, K. W., Kim, S. A., & Rhee, M. S. (2019). Underestimated Risks of Infantile Infectious Disease from the Caregiver's Typical Handling Practices of Infant Formula. *Scientific reports*, 9(1), 9799. <https://doi.org/10.1038/s41598-019-46181-0>
11. Figueiredo, B., Canário, C., & Field, T. (2014). Breastfeeding is negatively affected by prenatal depression and reduces postpartum depression. *Psychological medicine*, 44(5), 927-936. <https://doi.org/10.1017/S0033291713001530>
12. Gardner, H., Kent, J. C., Lai, C. T., & Geddes, D. T. (2019). Comparison of Maternal milk ejection characteristics during pumping using Infant-derived and 2-phase vacuum patterns. *International Breastfeeding Journal*, 14(1). doi:10.1186/s13006-019-0237-6
13. Qi, Y., Zhang, Y., Fein, S., Wang, C., & Loyo-Berrios, N. (2013). Maternal and breast pump factors associated with breast pump problems and injuries. *Journal of Human Lactation*, 30(1), 62-72. doi:10.1177/0890334413507499
14. Stanford Children's Health (n.d.). Newborn sleep patterns. Retrieved August 23, 2021, from <https://www.stanfordchildrens.org/en/topic/default?id=newborn-sleep-patterns-90-P02632>
15. Gribble K. D. (2020). Writing Expert Reports for Court in Relation to Breastfeeding Infants and Young Children. *Journal of human lactation : official journal of International Lactation Consultant Association*, 890334420975393. Advance online publication. <https://doi.org/10.1177/0890334420975393>
16. Creating a fair parenting plan. (n.d.). Retrieved August 23, 2021, from <http://www.lacourt.org/selfhelp/familiesandchildren/pdf/parentingunder3.pdf>

17. Tools Michigan breastfeeding network. (n.d.). Retrieved August 23, 2021, from <https://mibreastfeeding.org/tools/>
18. In my experience: a collection of breastfeeding and child custody stories. (n.d.). Retrieved August 23, 2021, from <https://drive.google.com/file/d/1PJY0fbNI3wNj5IITDyS5nKmHoNQKOTWq/view>
19. How to hand express milk. (n.d.). Retrieved August 23, 2021, from <https://www.breastfeedla.org/wp-content/uploads/2021/08/BreastfeedLA-Hand-Expression.pdf>
20. Breastfeeding and the use of human milk. (2012). *Pediatrics*, 129(3). doi:10.1542/peds.2011-3552
21. Willemsen, E., & Marcel, K. (1996). Attachment 101 for attorneys: implications for infant placement decisions. *Santa Clara Law Review*, 32(2), 439-475. <http://digitalcommons.law.scu.edu/lawreview/vol36/iss2/11>
22. Martin, K. (2011). Parenting plans and the breastfed child a look at how breastfeeding is used as a factor in parenting time allocations for divorcing parents in the u.s. *United States Lactation Consultant Association*, 2(3), 25-29. <https://www.ingentaconnect.com/content/springer/clac/2011/00000002/00000003/art00005?crawler=true>
23. Kelly, J. B., & Lamb, M. E. (2000). Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children. *Sage Publications*, 38(3), 297-311. <https://www.integrativefamilylaw.com/images/stories/media/usingchilddevelopmentresearchtomakeappropriatecustodyandaccessdecisionsforyoungchildrenbyjoankellyandmichaellamb.pdf>
24. Ludolph PS & Dale MD. Attachment in Child Custody: An Additive Factor, Not A Determinative One. *Family Law Quarterly*, Vol. 46, No. 1 (Spring 2012) p. 1–40. Accessed from [https://eed9a5da-03c6-42ed-9ced-099fa0755d33.filesusr.com/ugd/976994\\_babfee32c2c74269966ea88a49a3e140.pdf?index=true](https://eed9a5da-03c6-42ed-9ced-099fa0755d33.filesusr.com/ugd/976994_babfee32c2c74269966ea88a49a3e140.pdf?index=true). (Retrieved July 7, 2021)
25. Baxter-Kauf, K.M., Breastfeeding in Custody Proceedings: A Modern-Day Manifestations of Liberal and Conservative Family Traditions, 16 *Richmond Journal of Law and the Public Interest*. 627 (2012)
26. Ferreira, U. (2010, July 09). Breastfeeding court letter, by Katherine A Dettwyler, Ph.D., Anthropology. Retrieved August 23, 2021, from <https://bhaktibirth.wordpress.com/2010/07/09/breastfeeding-court-letter-by-katherine-a-dettwyler-ph-d-anthropology/>
27. Thompson, J., Tanabe, K., Moon, R. Y., Mitchell, E. A., McGarvey, C., Tappin, D., Blair, P. S., & Hauck, F. R. (2017). Duration of Breastfeeding and Risk of SIDS: An Individual Participant Data Meta-analysis. *Pediatrics*, 140(5), e20171324. <https://doi.org/10.1542/peds.2017-1324>
28. Krol, K. M., & Grossmann, T. (2018). Psychological effects of breastfeeding on children and mothers. *Bundesgesundheitsblatt - Gesundheitsforschung - Gesundheitsschutz*, 61(8), 977-985. doi:10.1007/s00103-018-2769-0
29. Kramer, M. S. (2008). Breastfeeding and child cognitive development. *Archives of General Psychiatry*, 65(5), 578. doi:10.1001/archpsyc.65.5.578
30. Horta, B L, Bahl, R, Martinés, JC, Victora, CG & World Health Organization (2007). Evidence on the long-term effects of breastfeeding : systematic review and meta-analyses. Retrieved July 7, 2021 from [https://apps.who.int/iris/bitstream/handle/10665/43623/9789241595230\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/43623/9789241595230_eng.pdf)
31. Breastfeeding and visitation or custody. (2020, April 24). Retrieved August 23, 2021, from <https://llusa.org/visitation/>
32. Breastfeeding basics for grandmas: your breastfeeding questions answered.(2018). Retrieved August 23, 2021, from [https://wicbreastfeeding.fns.usda.gov/sites/default/files/2018-08/Breastfeeding%20Basics%20for%20Grandmas\\_final%20508c\\_0.pdf](https://wicbreastfeeding.fns.usda.gov/sites/default/files/2018-08/Breastfeeding%20Basics%20for%20Grandmas_final%20508c_0.pdf)
33. 3 tips for the caregiver of the breastfed child. (n.d.). Retrieved August 23, 2021, from <https://www.breastfeedla.org/wp-content/uploads/2021/08/BreastfeedLA-Childcare-Milk-Storage-Handout-1.pdf>
34. Lactancia materna en casos de divorcio y custodia temporal (n.d.). Retrieved August 23, 2021, from <https://www.breastfeedla.org/wp-content/uploads/2018/07/Divorce-Custody-Casos-de-Divorcio-y-Custodia-Temporal.pdf>



# Custody and Breast/ Chestfeeding

TOOLKIT 2021

