



# Judicial Council of California

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## INVITATION TO COMMENT

### SPR25-22

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**Title**

Access and Fairness: Accommodations for Court Users to Pump or Express Breast Milk

**Action Requested**

Review and submit comments by May 23, 2025

**Proposed Rules, Forms, Standards, or Statutes**

Adopt rule 2.40; approve form MC-420

**Proposed Effective Date**

January 1, 2026

**Proposed by**

Advisory Committee on Providing Access and Fairness

Hon. Kevin C. Brazile, Cochair

Hon. Victor A. Rodriguez, Cochair

**Contact**

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### Executive Summary and Origin

Senate Bill 949 (Stats. 2024, ch. 159) requires superior courts to grant court users who are participating in court proceedings a reasonable amount of break time to express milk for their infant children. The legislation also mandates that the Judicial Council create a confidential process for superior court users to request the break time. To implement the new law, the Advisory Committee on Providing Access and Fairness proposes a new rule of court and a new optional form.

### Background

Under Labor Code section 1031, superior courts that employ more than 50 people must provide a lactation room to their employees; superior courts that employ fewer than 50 people may be exempt if they can demonstrate that this requirement would impose an undue hardship.<sup>1</sup> It came to the Legislature's attention that, although many attorneys spend the bulk of their day in superior courts, not all superior courts permitted attorneys or jurors to use lactation rooms because they are not employees of the court. To ensure that all superior court users would have similar access to a lactation room as court employees, in 2022 the Legislature enacted Assembly

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<sup>1</sup> Lab. Code, § 1031(a) & (i).

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

Bill 1576 (Stats. 2022, ch. 200), which added section 69894 to the Government Code. Effective July 1, 2026, section 69894 requires any superior court that is required to provide access to a lactation room to its employees to also provide access to a lactation room to court users.<sup>2</sup>

To provide the greatest number of superior court users with access to lactation rooms in as many courthouses as possible, Assembly Bill 3280 (Stats. 2024, ch. 228) amended section 69894 to clarify that a superior court may provide a lactation room that does not meet all the requirements an employer must satisfy in providing a lactation room for employees under Labor Code section 1031(d).<sup>3</sup> Assembly Bill 3280 also mandates that superior courts must use the most cost-effective means possible to construct or renovate lactation rooms in courthouses.<sup>4</sup>

In 2024, the Legislature also enacted Senate Bill 949, which added section 69894.1 to the Government Code. Effective July 1, 2026, this section requires superior courts to provide court users participating in ongoing proceedings with a reasonable amount of break time during the proceedings to express breast milk for their infant children.<sup>5</sup> Government Code section 69894.1(b) requires the Judicial Council to adopt or amend rules of court or forms to provide a confidential process to request this break time by no later than January 1, 2026.

## **The Proposal**

This proposal would provide a confidential process by which superior court users participating in proceedings may request break time to express or pump breast milk under new Government Code section 69894.1.

### **Rule 2.40, Requests for lactation accommodations**

New rule 2.40 is modeled on current rule 1.100, which governs requests for accommodations by persons with disabilities. The proposed process for requesting an accommodation to pump or express breast milk and responding to those requests closely mirrors rule 1.100, as court staff and users are already familiar with the disability accommodation request process. Also similar to rule 1.100, new rule 2.40 would contain definitions, a policy statement, a review procedure, and provisions to maintain confidentiality.

As proposed, the new rule would not include the provisions of rule 1.100(f), which address denials of disability accommodation requests, because the statutory bases for denial of a disability accommodation request do not apply to requests by lactating persons for break time. Further, the review procedure proposed in the new rule does not include a provision from rule

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<sup>2</sup> The operative date of the bill was originally July 1, 2024, but was changed to July 1, 2026, in 2023 by Senate Bill 133 (Stats. 2023, ch. 34).

<sup>3</sup> Gov. Code, § 69894(b).

<sup>4</sup> *Ibid.*

<sup>5</sup> Gov. Code, § 69894.1.

1.100(g) regarding decisions by nonjudicial court personnel because, under section 69894.1, these decisions must be made by a judicial officer.

Despite being modeled on rule 1.100, which is located in Title 1 rules that apply to all courts, the new rule would be placed in Title 2, rules that apply to superior courts, because Senate Bill 949 applies to superior courts only. Within Title 2, the new rule would be located in new Chapter 5, Accommodations.

### ***Request for Accommodation to Pump or Express Breast Milk (form MC-420)***

The committee proposes new optional *Request for Accommodation to Pump or Express Breast Milk* (form MC-420), a confidential form that a user may submit to the court, but which would not become a part of the court file.

The proposed form is in plain language format. On the first page, the court user would put their name and contact information in item 1 and indicate their role in court proceedings in item 2. In items 3 and 4, the court user would indicate the proceedings for which they are requesting break time and give additional information regarding their request (duration, timing, etc.). Page 2 of the form is for the court to respond to the request.

### **Alternatives Considered**

The committee considered including requests for lactation accommodation in the existing rule for requesting disability accommodation. The committee rejected this option because, although the processes are similar, the applicable law and types of accommodations are different. In addition, the statute specifies that trial courts must provide lactation accommodations, while all courts must provide disability accommodations. For clarity, the committee proposes a separate rule.

Regarding the title of the form, *Request for Accommodation to Pump or Express Breast Milk* (form MC-420), the committee considered shortening the name to *Request for Lactation Accommodation*. However, the committee decided against this title because it does not comport with plain language principles and the committee was concerned that the title might cause confusion among the public.

The committee also considered which term to use for the process of expressing milk and decided to use the phrase “pump or express.” The committee considered using only the word “express” or only the word “pump,” but the former is not plain language, and the latter excluded methods such as manual expression.

Because the statute does not specify the amount of time the court should grant for any scheduled break time, stating only that it should be “reasonable,”<sup>6</sup> the committee considered shortening the form and not including item 4, which allows the user to provide more details about their request. Instead, the committee considered including only a general statement that the user requests a

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<sup>6</sup> Gov. Code, § 69894.1(a).

“reasonable” amount of time. However, because what is reasonable will depend on the circumstances, the committee decided that allowing an applicant to provide more information would assist the judicial officer in determining the amount of break time to allow and the reasonableness of the request.

The committee considered making form MC-420 mandatory instead of optional but decided against doing so to give individual courts the flexibility to adopt their own local forms, which may better suit their needs. The committee also considered approving an optional form but not proposing any rule amendments or a new rule. However, it concluded that local courts would benefit from guidance on processing these requests.

Finally, the committee did not consider taking no action because of the legislative mandate to create a confidential process including rules or court or forms by which users participating in superior court proceedings can request break time.

### **Fiscal and Operational Impacts**

To implement the new process, courts will need to provide training to judicial officers and court employees, create local procedures for court operations, and otherwise update systems to incorporate the new form. These costs are a result of the legislation.

#### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the form include any other information? If so, please specify.

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Cal. Rules of Court, rule 2.40, at pages 6-8

2. Form MC-420, at pages 9-10
3. Link A: Senate Bill 949 (Stats. 2024, ch. 159),  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202320240SB949&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240SB949&showamends=false)
4. Link B: Assembly Bill 3280 (Stats. 2024, ch. 228),  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202320240AB3280&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240AB3280&showamends=false)
5. Link C: Lab. Code, § 1031,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=1031](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1031)

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1 **Title 2. Trial Court Rules**

2  
3 **Chapter 5. Accommodations**

4  
5 **Rule 2.40. Requests for accommodations to pump or express breast milk**

6  
7 **(a) Definitions**

8  
9 As used in this rule:

- 10  
11 (1) “Persons who are lactating” means individuals covered by Government Code  
12 section 69894 et seq.  
13  
14 (2) “Applicant” means any court user who is participating in an ongoing court  
15 proceeding in a superior court.  
16  
17 (3) “Accommodations” means providing break time from court proceedings in a  
18 superior court to pump or express breast milk for the applicant’s infant child.  
19 Accommodations may include making reasonable modifications in policies,  
20 practices, and procedures, and providing access to a lactation room if the  
21 court has one.

22  
23 **(b) Policy**

24  
25 It is the policy of the courts of this state to ensure that persons who are lactating  
26 have equal and full access to the judicial system.

27  
28 **(c) Process for requesting accommodations**

29  
30 The process for requesting accommodations is as follows:

- 31  
32 (1) Requests for accommodations under this rule may be presented ex parte on a  
33 form approved by the Judicial Council or in another written format. Requests  
34 must be forwarded to the ADA coordinator, also known as the access  
35 coordinator, or designee, within the time frame provided in (c)(3).  
36  
37 (2) Requests for accommodations must include a description of the  
38 accommodation being requested. The court, in its discretion, may require the  
39 applicant to provide additional information about the request.  
40

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1           (3) Requests for accommodations must be made as far in advance as possible,  
2           and in any event must be made no fewer than 5 court days before the  
3           requested implementation date. The court may, in its discretion, waive this  
4           requirement.

5  
6           (4) The court must keep confidential all information of the applicant concerning  
7           the request for accommodation, unless confidentiality is waived in writing by  
8           the applicant or disclosure is required by law. The applicant's identity and  
9           confidential information may not be disclosed to the public or to persons  
10           other than those involved in the accommodation process. Confidential  
11           information includes all medical information pertaining to the applicant, and  
12           all oral or written communication from the applicant concerning the request  
13           for accommodation.

14  
15       **(d) Permitted communication**

16  
17           Communications under this rule must address only the accommodation requested  
18           by the applicant and must not address, in any manner, the subject matter or merits  
19           of the proceedings before the court.

20  
21       **(e) Response to accommodation request**

22  
23           The court must respond to a request for accommodation as follows:

24  
25           (1) In determining whether to grant an accommodation request or provide an  
26           appropriate alternative accommodation, the court must consider, but is not  
27           limited by, Government Code section 69894 et seq.

28  
29           (2) The court must promptly inform the applicant of the determination to grant or  
30           deny an accommodation request. If the accommodation request is denied in  
31           whole or in part, the response must be in writing. The response to the  
32           applicant must indicate:

33  
34           (A) Whether the request for accommodation is granted or denied, in whole  
35           or in part, or an alternative accommodation is granted;

36  
37           (B) If the request for accommodation is denied in whole or in part, the  
38           reason for the denial;

39  
40           (C) The nature of any accommodation to be provided;  
41

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1           (D) The duration of any accommodation to be provided; and

2  
3           (E) If the response is in writing, the date the response was delivered in  
4           person or sent to the applicant.

5  
6   **(f) Review procedure**

7  
8       (1) If the request for accommodation is denied in whole or in part, an applicant  
9       may file a petition for a writ of mandate under rules 8.485–8.493 or 8.930–  
10       8.936 in the appropriate reviewing court. The petition must be filed within 10  
11       days of the date the response under (e)(2) was delivered in person or sent to  
12       the petitioner. For purposes of this rule, only those participants in the  
13       proceeding who were notified by the court of the determination to grant or  
14       deny the request for accommodation are considered real parties in interest in  
15       a writ proceeding. The petition for the writ must be served on the respondent  
16       court and any real party in interest as defined in this rule.

17  
18       (2) The confidentiality of all information of the applicant concerning the request  
19       for accommodation and review under (f)(1) must be maintained as required  
20       under (c)(4).

21  
22   **(g) Duration of accommodations**

23  
24       The accommodation by the court must be provided for the duration indicated in the  
25       response to the request for accommodation and must remain in effect for the period  
26       specified. The court may provide an accommodation for an indefinite period of  
27       time, for a limited period of time, or for a particular matter or appearance.

28  
29                               **Advisory Committee Comment**

30  
31       Nothing in this rule limits the rights of persons who are lactating to seek accommodation under  
32       rule 1.100.

33  
34       **Subdivision (f)(2).** Which court is the “appropriate reviewing court” under this rule depends on  
35       the court in which the accommodation decision is made and the nature of the underlying case. If  
36       the accommodation decision is made by a superior court judicial officer and the underlying case  
37       is a limited civil, misdemeanor, or infraction case, the appropriate reviewing court is the appellate  
38       division of the superior court. If the accommodation decision is made by a superior court judicial  
39       officer and the case is anything other than a limited civil, misdemeanor, or infraction case, such  
40       as a family law, unlimited civil, or felony case, the appropriate reviewing court is the Court of  
41       Appeal.



If you have an infant child and need break time during a court date to pump or express breast milk for that child, you may use this form to make your request.

*Clerk receives and date stamps here.*

**DRAFT  
Not approved by  
the Judicial Council**



Make this request at least **5 court days** (when the court is open) before you need the accommodation.

**1 Your information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**Court Name and Address:**

\_\_\_\_\_

**Case Number (if you know it):**

\_\_\_\_\_

**Case Name or Type (if you know it):**

\_\_\_\_\_



**Important!** Provide complete and updated contact information. The court may contact you about this request. The contact will only be about this request and you must not discuss the details of any court case.

**2 How are you participating in the case?**

- Juror    Party    Witness    Lawyer
- Other (*explain*): \_\_\_\_\_

**3 For which court hearing or hearings are you asking for break time?**

- a.  Date or dates: \_\_\_\_\_  
Department: \_\_\_\_\_ Courthouse: \_\_\_\_\_
- b.  Other (*explain*): \_\_\_\_\_

**4 Explain your request**

- a. At what times or how often are you asking for the breaks to happen? (*Specify*): \_\_\_\_\_
- b. How much break time are you asking for? (*give length in minutes of each break*): \_\_\_\_\_
- c. Would you like to provide more information about your request?    Yes (*explain below*)    No  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- More information on this request is attached. (*You may use form MC-025.*)
- d. If the court has an available lactation room, would you like to use it?    Yes    No

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
*Signature*



Name: \_\_\_\_\_

Case Number (if you know it): \_\_\_\_\_

----- **Court fills out below** -----

**(Optional)**



**Important!** If your situation changes after you make this request and you do not need the break for the date or dates you listed in item ③, please contact the court at:

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

- Your request is **GRANTED**. The court will provide the accommodation requested.
- Your request is **GRANTED IN PART**. The reasons for denying part of your request are listed below.

The court will provide the accommodation as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Your request is **DENIED** for the reasons listed below.

The court's reasons for denying all or part of your request are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The court will provide the accommodation:**

- For the dates and times requested.     For every court hearing in this case.
- On the following date or dates: \_\_\_\_\_
- More information on this decision is attached.

Date: \_\_\_\_\_



\_\_\_\_\_  
*Judicial Officer*

The court responded in person, by phone, or by mail/email on: \_\_\_\_\_



**Please note:** Form MC-420 is a confidential form that is not part of the case file. The form must be given to the ADA Coordinator or designated person in your court. If you are submitting papers to the court electronically you must not include form MC-420 with your filing.

You may be able to ask for a review of this decision. [California Rules of Court, rule 2.40\(f\)](#) explains how to do this.

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form