

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 509**

By Senators Rucker, Chapman, Grady, Phillips, and

Woelfel

[Introduced January 27, 2023; referred  
to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §15A-4-22; and to amend and reenact §49-2-906 of said code, all relating to  
 3 requiring that free feminine hygiene products be provided to female prisoners in state  
 4 correctional facilities and female juveniles in juvenile detention; specifying the time frame  
 5 in which they must be provided; and defining a term.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC  
 SAFETY.**

**ARTICLE 4. CORRECTIONS MANAGEMENT.**

**§15A-4-22. Feminine hygiene products to be provided.**

1 (a) For the purposes of this section, "feminine hygiene products" means tampons and  
 2 sanitary napkins for use in connection with a female's menstrual cycle.

3 (b) The superintendent of a state correctional facility shall provide female inmates, at no  
 4 cost, with their choice of feminine hygiene products as soon as practicable upon request, but in no  
 5 instance longer than eight hours.

**CHAPTER 49. CHILD WELFARE.**

**ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

**§49-2-906. Medical and other treatment of juveniles in custody of the division; consent;  
 service providers; medical care; pregnant inmates; claims processing and  
 administration by the department; authorization of cooperative agreements.**

1 (a) Notwithstanding any other provision of law to the contrary, the director, or his or her  
 2 designee, ~~is hereby authorized to~~ may consent to the medical or other treatment of any juvenile in  
 3 the legal or physical custody of the director or the division.

4 (b) In providing or arranging for the necessary medical and other care and treatment of  
 5 juveniles committed to the division's custody, the director shall use service providers who provide

6 the same or similar services to juveniles under existing contracts with the Department of Health  
7 and Human Resources. In order to obtain the most advantageous reimbursement rates, to  
8 capitalize on an economy of scale, and to avoid duplicative systems and procedures, the  
9 department shall administer and process all claims for medical or other treatment of juveniles  
10 committed to the division's custody.

11 (c) In providing or arranging for the necessary medical and other care and treatment of  
12 juveniles committed to the division's custody, the director shall assure that pregnant inmates will  
13 not be restrained after reaching the second trimester of pregnancy until the end of the pregnancy.  
14 However, if the inmate, based upon her classification, discipline history, or other factors ~~deemed~~  
15 considered relevant by the director poses a threat of escape, ~~or to the her own safety of herself, or~~  
16 the safety of the public, staff, or the unborn child fetus, the inmate may be restrained in a manner  
17 reasonably necessary. Additionally, ~~that~~ prior to directing the application of restraints and where  
18 there is no threat to the safety of the inmate, the public, staff, or the fetus, the director or designee  
19 shall consult with an appropriate health care professional to assure that the manner of restraint will  
20 not pose an unreasonable risk of harm to the inmate or the fetus.

21 (d) The division shall provide female juveniles committed to the division's custody, at no  
22 cost, with their choice of feminine hygiene products as soon as practicable upon request but, in  
23 any case, no longer than eight hours. For the purposes of this subsection, "feminine hygiene  
24 products" means tampons and sanitary napkins for use in connection with a female's menstrual  
25 cycle.

26 ~~(d)~~ (e) For purposes of implementing the mandates of this section, the director ~~is hereby~~  
27 ~~authorized and directed to~~ shall enter into any necessary agreements with the Department of  
28 Health and Human Resources. An agreement will include, at a minimum, for the direct and  
29 incidental costs associated with that care and treatment to be paid by the Division of Juvenile  
30 Services.

NOTE: The purpose of this bill is to require that free feminine hygiene products be provided

to female prisoners in state correctional facilities and female juveniles in juvenile detention.  
The bill defines a term.

Strike-throughs indicate language that would be stricken from a heading or the present law  
and underscoring indicates new language that would be added.