

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4598

FISCAL  
NOTE

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[Introduced February 13, 2018; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §28-5C-3; to amend and reenact §31-20-5f of said code; and to amend and  
 3 reenact §49-2-906 of said code, all relating to requiring that free feminine hygiene products  
 4 be provided to female prisoners in regional jails or state correctional facilities and female  
 5 juveniles in juvenile detention.

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

**CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.**

**ARTICLE 5C. IMPRISONMENT OF FEMALE FELONS.**

**§28-5C-3. 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 the menstrual cycle.

3 (b) Female inmates shall be provided, at no cost, with their choice of feminine hygiene  
 4 products as soon as practicable upon request but, in any case, no longer than eight hours later.

**CHAPTER 31. CORPORATIONS.**

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY  
 AUTHORITY.**

**§31-20-5f. Charges assessed against inmates for services provided by the authority;  
 exception for feminine hygiene products.**

1 (a) The executive director is authorized to assess inmates serving a sentence in any  
 2 regional jail reasonable charges for health care and treatment services provided to them by the  
 3 authority. The charges assessed against an inmate may be deducted directly from the inmate's  
 4 trustee account without the inmate's consent. The inmate shall be notified of the amount deducted  
 5 and the charges to which it has been applied.

6 (b) As used in this section, a “reasonable charge” may not exceed the sum of \$5 for any  
 7 billable service. Inmates shall be notified of the fee schedule, billable services, and exempt

8 services. Services initiated by the inmate shall be assessed a fee, except that no charge may be  
9 assessed for:

- 10 (1) A specific health care service required under the law of this state;
- 11 (2) An emergency service following a traumatic injury other than a self-induced injury, or  
12 necessary to prevent death or severe or permanent disability;
- 13 (3) Diagnosis and treatment of communicable diseases;
- 14 (4) Treatment of diagnosed severe mental illness;
- 15 (5) Treatment of specific chronic conditions identified by the executive director;
- 16 (6) Staff-initiated care, including follow-up and referral visits;
- 17 (7) Preventative services that the executive director determines are to be provided or  
18 made available to all inmates, including services related to disease prevention and promotion of  
19 proper health habits; or
- 20 (8) Other services as may be exempted by the rule of the authority.

21 No inmate may be denied any necessary billable medical service because of the inability  
22 to pay the charge.

23 (c) Each inmate shall be afforded an opportunity at least quarterly to review all deposits  
24 into, withdrawals from, and balance remaining in the inmate's trustee account during the  
25 preceding three months.

26 (d) The executive director shall promulgate interpretive rules implementing this section  
27 pursuant to article three, chapter twenty-nine-a of this code prior to making any assessment under  
28 this section. The rules may establish the fee schedule and list of billable services and further  
29 define services to be exempted.

30 (e) Female inmates shall be provided, at no cost, with their choice of feminine hygiene  
31 products as soon as practicable upon request but, in any case, no longer than eight hours later.  
32 For the purposes of this subsection "feminine hygiene products" means tampons and sanitary  
33 napkins for use in connection with the menstrual cycle.

**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 consent to the medical or other treatment of any juvenile in the  
3 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 relevant by the director poses a threat of escape, or to the safety of herself, the public, staff, or  
16 the unborn child, the inmate may be restrained in a manner reasonably necessary. Additionally,  
17 that prior to directing the application of restraints and where there is no threat to the safety of the  
18 inmate, the public, staff or the fetus, the director or designee shall consult with an appropriate  
19 health care professional to assure that the manner of restraint will not pose an unreasonable risk  
20 of harm to the inmate or the fetus.

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

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

NOTE: The purpose of this bill is to require that free feminine hygiene products be provided to female prisoners in regional jails or state correctional facilities and female juveniles in juvenile detention.

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