

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 581**

By Senators Woelfel, Plymale, and Caputo

[Originating in the Committee on the Judiciary and

then to the Committee on Finance;

reported on February 8, 2024]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended; by adding thereto a  
2 new section, designated §28-5C-3; and to amend and reenact §49-2-906 of said code, all  
3 relating to providing free feminine hygiene products to adult and juvenile females in  
4 custody or detention in jails, regional jails, or state correctional facilities, and female  
5 juveniles in juvenile detention; defining terms; and making a legislative finding.

*it enacted by the Legislature of West Virginia:*

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

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

#### **§28-5C-3. Feminine hygiene products to be provided.**

1 (a) The Legislature finds that feminine hygiene products are “medically necessary” for  
2 female inmates as that term is defined in §15A-4-13a of this code.

1 (b)(1) As used in this section, “feminine hygiene products” means tampons and sanitary  
2 napkins for use by females during menstruation.

3 (2) As used in this section, “menstruation” is defined as normal discharge of blood and  
4 tissue from the uterine lining through the vagina that occurs as part of a female’s monthly  
5 menstrual cycle. Menstruation occurs between menarche, a female’s first period, and menopause,  
6 when menstrual cycles end.

7 (c) As used in this subsection, the term “female” is defined by the provisions §18-2-25d of  
8 this code.

9 (d) Female inmates shall be provided, at no cost, with feminine hygiene products as soon  
10 as practicable upon beginning and during menstruation but, in any case, no less frequently than  
11 eight hours after a request is made for the product until menstruation ceases.

## **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, may consent to the medical or other treatment of any juvenile in the legal or physical  
3 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. In  
7 order to obtain the most advantageous reimbursement rates, to capitalize on an economy of scale,  
8 and to avoid duplicative systems and procedures, the department shall administer and process all  
9 claims for medical or other treatment of juveniles committed to the division's custody.

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

20 (d)(1) Female juveniles committed to the division's custody shall be provided, at no cost,  
21 with feminine hygiene products as soon as practicable upon beginning and during menstruation  
22 but, in any case, no less frequent than eight hours after a request is made for the product until  
23 menstruation ceases. For the purposes of this subsection "feminine hygiene products" means  
24 tampons and sanitary napkins for use in connection with the menstrual cycle.

25           (2) The terms “feminine hygiene products”, “female”, and “menstruation” have the same  
26 meanings as ascribed to them by the provisions of §28-5c-3 to this code.

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