
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1810 **Hearing Date:** June 11, 2024
Author: Bryan
Version: February 21, 2024
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Incarcerated persons: menstrual products*

HISTORY

Source: A New Way of Life
Los Angeles Regional Reentry Partnership
What We All Deserve

Prior Legislation: AB 732 (Bonta), Ch. 321, Stats. 2020
AB 1239 (Fong), Ch. 1104, Stats. 1972

Support: ACLU California Action; American Association of University Women – California; American College of Obstetricians and Gynecologists District IX; California Alliance of Child and Family Services; California Attorneys for Criminal Justice; California Public Defenders Association; California Teachers Association; Culver City Democratic Club; Ella Baker Center for Human Rights; GLIDE; GRIP Training Institute; Initiate Justice; Initiate Justice Action; La Defensa; Pacific Juvenile Defender Center; Planned Parenthood Affiliates of California; Santa Monica Democratic Club

Opposition: None known

Assembly Floor Vote: 71 - 0

PURPOSE

The purpose of this bill is to require state prisons, local detention facilities, and juvenile facilities to make menstrual products readily accessible rather than providing them to an incarcerated person upon request.

Existing law requires that a person incarcerated in state prison who menstruates or experiences uterine or vaginal bleeding have, upon request, access to, and be allowed to use, materials necessary for personal hygiene with regard to their menstrual cycle and reproductive system, including, but not limited to, sanitary pad and tampons, at no cost to the incarcerated person. (Pen. Code, § 3409, subd. (a).)

Existing law requires any person confined in any local detention facility to be allowed, upon request, to continue to use materials necessary for personal hygiene with regard to their menstrual cycle and reproductive system, including, but not limited to, sanitary pads and tampons, at no cost to the incarcerated person. (Pen. Code, § 4023.5, subd. (a).)

Existing law requires any female confined in a state or local juvenile facility upon her request be allowed to continue to use materials necessary for personal hygiene with regard to her menstrual cycle and reproductive system. (Welf. & Inst. Code, § 221, subd. (a).)

Existing law requires any female confined in a Department of the Youth Authority facility, upon her request, be allowed to continue to use materials necessary for personal hygiene with regard to her menstrual cycle and reproductive system. (Welf. & Inst. Code, § 1753.7, subd. (a).)

This bill removes the requirement that an incarcerated person in state prison who menstruates or experiences uterine or vaginal bleeding must request personal hygiene products relating to their menstrual cycle and reproductive system, and instead requires that the person have ready access to those products.

This bill removes the requirement that a person confined in a local detention facility who menstruates or experiences uterine or vaginal bleeding must request personal hygiene products relating to their menstrual cycle and reproductive system, and instead requires that the person have ready access to those products.

This bill removes the requirement that a person confined in a state or local juvenile facility who menstruates or experiences uterine or vaginal bleeding must request personal hygiene products relating to their menstrual cycle and reproductive system, and instead requires that the person have ready access to those products.

This bill removes the requirement that a person confined in a county juvenile justice facility overseen by the Office of Youth and Community Restoration who menstruates or experiences uterine or vaginal bleeding must request personal hygiene products relating to their menstrual cycle and reproductive system, and instead requires that the person have ready access to those products.

This bill makes other technical and conforming changes.

COMMENTS

1. Need For This Bill

According to the author:

Period products such as menstrual pads and tampons are a necessity for people who menstruate. Within our state correctional facilities, however, we limit access to these basic needs by requiring incarcerated people to request-- in many cases, beg-- their correctional officers for a pad or tampon. This has led to dehumanizing and unsafe conditions where incarcerated people have been forced to fashion period products out of toilet paper or bed sheets and wear bloodstained clothes between laundry days. There have been numerous reports of correctional officers leveraging access to menstrual products to sexually assault, mistreat, harass, or humiliate incarcerated people. This policy exacerbates the imbalance of power between incarcerated people and their jailers.

AB 1810 will bring our state closer to menstrual health equity by requiring that menstrual products are free and readily available for people who need them,

without the need to request access from correctional officers. This will remove a dangerous barrier for people who menstruate and allow them timely access to menstrual pads or tampons.

2. Existing Access to Hygiene Products for Incarcerated Persons

Current law requires that all incarcerated individuals in state, local detention, and juvenile facilities must have, upon request, access to personal care and hygiene products, such as tampons and sanitary napkins. However, a recent report by the California Department of Justice (DOJ) found that many county jails were not fully compliant with existing law.

In examining the extent to which county jails were providing for the reproductive health care rights of the incarcerated population, DOJ reviewed the jail manuals of 53 of the state's 58 counties for compliance with state law in seven reproductive health policy areas, including menstrual products, pregnancy testing, birth control, and choice of provider, among others. (DOJ, *Report on Reproductive Health Access in California County Jails* (Aug. 2023), p. 2 available at <<https://oag.ca.gov/system/files/media/reproductive-healthcare-jails-report-082023.pdf>>.) Among the key findings:

Counties' menstrual products policies were generally the least compliant of the seven policy areas, as the policies frequently contained ambiguities about whether inmates were required to pay for menstrual products. State law requires that menstrual products be made available at no cost for menstruating prisoners, regardless of indigence or length of time jailed. (*Ibid.*)

In evaluating each county's menstrual product policy, DOJ reviewed whether a county policy indicated that an incarcerated person must be provided with menstrual products upon request, including, but not limited to, sanitary pads and tampons, and that menstrual products are provided free of charge to all incarcerated individuals regardless of indigency status or length of time incarcerated. (*Id.* at p. 14.) The report included the following definitions regarding a county jail policy's compliance with state law:

A "fully compliant" policy had no deficiencies or omissions in either of these categories. A "mostly compliant" policy was ambiguous as to whether anyone can be charged for menstrual products. A "somewhat compliant" policy clearly charged inmates (either all inmates or those who are not indigent) for menstrual products. And a policy that was "not compliant" had deficiencies or omissions in both categories. (*Id.* at p. 15.)

Following its review, DOJ issued corrective letters to 53 counties, and 51 had come into compliance by the time the report was issued. (*Id.* at p. 2)

The California Department of Corrections and Rehabilitation (CDCR) has indicated that personal hygiene products are regularly available in state facilities without a formal request from an incarcerated person.

This bill removes the requirement that a person incarcerated in state prison, or confined in a local detention facility or a state or local juvenile facility, must request personal hygiene products.

3. Amendment

The author plans to amend the bill to remove section 4 of the bill which amends Welfare and Institutions Code section 1753.7. Section 1753.7 applies to state-operated juvenile facilities which no longer exist following the closure of the Division of Juvenile Justice. Moreover, section 3 of the bill which amends Welfare and Institutions Code section 221 applies to state and local juvenile facilities.

4. Argument in Support

The American College of Obstetricians and Gynecologists District IX writes:

For incarcerated individuals, ACOG has long advocated for preventative, behavioral health, and pregnancy-related care, reentry services, and access to necessities such as menstrual products. As most incarcerated people are younger than age 45, many of them who may menstruate will menstruate while incarcerated. Menstrual products should be stocked in adequate supply and available to incarcerated individuals at no cost and free of barriers.

AB 1810 strongly promotes menstrual health equity by requiring that menstrual products are free and readily available for people who need them, without the need to request access from correctional officers. This will remove a dangerous barrier for people who menstruate and allow them timely access to menstrual pads or tampons.

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