

Amendment - 1st Reading-white - Requested by: Lola Sheldon-Galloway - (H) Human Services

- 2023

68th Legislature 2023

Drafter: Milly Allen, 406-444-9280

HB0498.001.001

1 HOUSE BILL NO. 498
2 INTRODUCED BY E. KERR-CARPENTER, D. HAWK, A. BUCKLEY, L. BISHOP, M. BINKLEY, J. GILLETTE,
3 M. YAKAWICH, W. MCKAMEY, D. HARVEY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MENSTRUAL EQUITY FOR ALL ACT;
6 REQUIRING THE DEVELOPMENT OF POLICIES AND PROCEDURES FOR DISTRIBUTING MENSTRUAL
7 PRODUCTS IN STATE AND LOCAL CORRECTIONAL FACILITIES; REQUIRING THE DEPARTMENT OF
8 PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE MENSTRUAL PRODUCTS TO SCHOOLS AND
9 HOMELESS SHELTERS; PROHIBITING RETAIL BARRIERS TO PURCHASING MENSTRUAL PRODUCTS;
10 PROVIDING REMEDIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING
11 SECTIONS 7-32-2222, 50-1-206, AND 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be cited as the "Menstrual Equity
16 for All Act".
17

18 NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 9] is to improve the well-
19 being, dignity, and quality of life of Montanans by eliminating barriers to purchasing menstrual products and
20 ensuring access to free, quality menstrual products to individuals in correctional facilities operated by the state
21 and local governments, in schools, and in homeless shelters.
22

23 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9], the following definitions
24 apply:

- 25 (1) "Correctional facility" means:
26 (a) a detention center as defined in 7-32-2241; and
27 (b) a prison as defined in 53-30-101.

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- 1 (ii) must provide a means to make the products readily available in an appropriate quantity.
- 2 (2) A correctional facility center must:
- 3 (a) have a supply of menstrual products sufficient to meet the needs of the facility's population at
- 4 all times;
- 5 (b) provide each defendant or offender with the individual's choice of menstrual products from
- 6 among the products available at the facility; and
- 7 (c) maintain records on the number and types of products provided annually by the facility.
- 8

9 **NEW SECTION. Section 6. Correctional facility notice requirements.** A correctional facility shall
10 provide the policy and written procedures required under [section 5] to defendants and offenders in the
11 following ways:

- 12 (1) on admission to the facility;
- 13 (2) by including the materials in any handbook provided to individuals; and
- 14 (3) by posting the policy and procedures in any areas of the facility where notices are commonly
- 15 posted, in common housing areas, and in medical care units.
- 16

17 **NEW SECTION. Section 7. Provision of menstrual products in schools and homeless shelters.**

18 (1) The department of public health and human services provided for in 2-15-2201 shall make menstrual
19 products available, in a quantity sufficient to meet needs, to:

- 20 (a) public schools described in 20-6-501; and
- 21 (b) homeless shelters.

22 (2) The department shall distribute menstrual products on a regular basis to each public school
23 and to operators of homeless shelters in a quantity identified by the school or shelter.

24 (3) The department shall notify the schools and homeless shelters of the manner in which they
25 may request the products and the schedule for distributing the products to the schools and shelters.

26 (4) A ~~school or a~~ homeless shelter shall make menstrual products available in all female-
27 accessible restrooms for ~~all students or~~ residents who menstruate.

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1 (5) A school shall provide menstrual products on an as-needed basis to a menstruating student at
2 the student's request.

3
4 **NEW SECTION. Section 8. Cause of action.** (1) An individual in a correctional facility who is denied
5 menstrual products in violation of [sections 1 through 9] may bring a cause of action for relief under law against
6 the facility if the individual has exhausted all available administrative processes. The action must be filed within
7 3 years of the incident or within 2 years of the individual's release from the facility.

8 (2) A facility found to have violated a provision of [sections 1 through 9] is civilly liable to the
9 individual denied menstrual products. A court may award punitive damages for each violation and may award
10 attorney fees, litigation costs, and compensatory damages.

11 (3) Nothing in this section prevents an individual harmed by a violation of [sections 1 through 9]
12 from filing a complaint under any other provision of federal or state law.

13
14 **NEW SECTION. Section 9. Procurement of menstrual products.** The department of corrections
15 and department of public health and human services shall:

16 (1) use the cooperative purchasing provisions of Title 18, chapter 4, part 4, to obtain menstrual
17 products for distribution under [sections 1 through 9]; and

18 (2) offer each county that operates a correctional facility with the opportunity to participate in the
19 cooperative purchasing effort.

20

21 **Section 10.** Section 7-32-2222, MCA, is amended to read:

22 **"7-32-2222. Health and safety of inmates.** (1) Each detention center shall comply with:

23 (a) state and local fire codes for correctional occupancy and with sanitation, safety, and health
24 codes; and

25 (b) the provisions of [sections 1 through 9].

26 (2) Designated exits must permit prompt evacuation of inmates and detention center staff in an
27 emergency.