



new hampshire

WOMEN'S FOUNDATION

To: Chairman Pearl and the Senate Executive Departments and Administration Committee

Re: SB 209, relative to providing menstrual hygiene products at no cost to individuals who biologically menstruate in state and county correctional facilities

Date: February 16, 2023

Position: OUGHT TO PASS

The New Hampshire Women's Foundation invests in equality and opportunity for New Hampshire women and girls through research, education, advocacy and grantmaking.

We support SB 209 because anyone who menstruates while in state or county correctional facilities should have access to free, timely and appropriate menstrual hygiene products without concern for safety or stigma. SB 209 would bring all county jails up to the successful standard set by the state women's prison.

Access to Menstrual Hygiene Products is Inconsistent in County Jails

Though not necessarily legally enumerated, there are certain expectations of living conditions at correctional facilities for basic hygiene and health. Correctional facilities provide soap and toilet paper, for example, without state compulsion because it is both decent and in the best interest of the correctional facility. Menstrual hygiene products should be treated the same, but are not always accessible. Women who menstruate need tampons and pads at varying amounts, types and frequency based on their individual cycles. At the state's women's prison, the NH Correctional Facility for Women (NHCFW), each menstruating person is provided at least 20 products per month and the individual can decide between products; tampons, pads, liners, etc. If they need more, more is provided. The NHCFW has a good policy and they implement it well. However, in county jails, there is inconsistency. Some county jails, like the NHCFW, provide sufficient access to menstrual hygiene products; unfortunately, not all do.

Insufficient Access to Menstrual Hygiene Products can be Dangerous for Women

Nationally, 200,000 adults and children are sexually abused behind bars and about half of all abuse is committed by staff.¹ Basic daily interactions in corrections include power dynamics where corrections staff are in control of incarcerated women, and women are dependent on corrections staff for basic necessities. Power dynamics can be abused into extorting or sexually abusing incarcerated women to access products. Policies and implementation around access to menstrual hygiene products like we see at the NHCFW avoid power dynamics by making the

¹ Just Detention International , 2018, *The Very Basics About Sexual Abuse in Detention*, <https://justdetention.org/wp-content/uploads/2019/05/Fact-sheet-The-Very-Basics-about-Sexual-Abuse-in-Detention.pdf>. Accessed Feb. 2023.

expectation of products consistent and reliable. SB 209 uses the NHCFW policy as a guide for this bill.

Menstrual Hygiene Laws in Other States

22 states have laws related to menstrual hygiene products.² States' laws vary but, for example, Colorado's RSA 17-1-113.6 is considered one of the better laws because it specifies that products are free, defines products as pads, tampons, and liners, and prohibits staff applying conditions to access to them. The law states:

“(1) A correctional facility or private contract prison shall provide whichever menstrual hygiene products are requested by a person in custody to the person in custody at no expense to the person in custody. A correctional facility or private contract prison shall not impose any condition or restriction on a person in custody's access to menstrual hygiene products.

(2) As used in this section, unless the context otherwise requires, “menstrual hygiene products” means tampons, menstrual pads, sanitary napkins, and pantliners.”

SB 209 Provides a Solution that works for Women and Corrections

SB 209 is based on the NHCFW's existing policy and does the following:

- Sets a minimum number (20) of products per cycle for menstruating people. There is no maximum. The bill does not use “sufficiency” which may be interpreted differently between corrections officers and menstruating women.
- Confirms that menstruating people are not expected to pay for menstrual hygiene products. It is true that there may be opportunities to purchase different or higher quality products from commissary but standard issue hygiene products are to be expected for free.
- Addresses the concerns of corrections administrators by creating guardrails on inappropriate use.

Conclusion

Anyone who menstruates while in state or county correctional facilities should have access to free, timely, and appropriate menstrual hygiene products without concern for safety or stigma. We urge the Committee to recommend SB 209 Ought to Pass.

² “State Laws around Access.” *The Prison Flow Project*, 28 May 2022, <https://theprisonflowproject.com/state-laws-around-access/>.