State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

HB 2222

Introduced by  
Representatives Salman: Alston, Andrade, Blanc, Bolding, Cardenas,  
Chávez, Clark, Espinoza, Fernandez, Gonzales, Hernandez, Powers Hannley,  
Rios, Saldate, Senators Mendez, Peshlakai

AN ACT

AMENDING SECTION 31-201.01, ARIZONA REVISED STATUTES; APPROPRIATING  
MONIES; RELATING TO THE STATE DEPARTMENT OF CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 31-201.01, Arizona Revised Statutes, is amended to read:

31-201.01. Duties of the director; tort actions; medical treatment costs; state immunity; definitions

A. The director shall hold in custody all persons WHO ARE sentenced to the department under the law and shall hold such persons for the term directed by the court, subject to law.

B. In addition to the medical and health services to be provided pursuant to subsection D of this section, the director may, in cooperation with the department of health services, provide to prisoners psychiatric care and treatment pursuant to sections 31-226 and 31-226.01.

C. The director may institute and pursue programs which promote the rehabilitation of the prisoners in the director's charge.

D. The director shall provide medical and health services for the prisoners. The director may contract for professional services to assist the director in carrying out this responsibility on behalf of the state, provided that all records made and retained in connection with the services provided by this subsection shall be made and retained only by duly authorized or qualified medical and professional personnel and not by any prisoner. Such records when not in use shall be retained in a safe and secure place.

E. If a victim of a person for whom a cost of incarceration has been calculated notifies the state that full restitution has not been made by the person for whom a cost of incarceration has been calculated, the state shall interplead with the superior court the disputed amount and set off the amounts owed the state from the remaining obligation.

F. Any and all causes of action which may arise out of tort caused by the director, prison officers or employees of the department, within the scope of their legal duty, shall run only against the state.

G. The director shall establish by rule reasonable medical and health service fees for the medical and health services that are provided pursuant to subsection D of this section. Except as provided in subsection I of this section, every inmate shall be charged a reasonable medical and health services fee for each medical visit an inmate makes pursuant to a health needs request form or for emergency treatment.

H. Except as provided in subsection I of this section, the director may charge each inmate a reasonable fee for prescriptions, medication or prosthetic devices.

I. The director shall exempt the following inmates or medical visits by inmates from payment of medical and health services fees and fees for prescriptions, medication or prosthetic devices:

   I. Medical visits initiated by the medical or mental health staff of the department.
2. Medical visits to a physician by inmates who are referred by a physician assistant or nurse practitioner.
3. Inmates at reception centers.
5. Pregnant inmates.
6. Seriously mentally ill inmates. For the purposes of this paragraph, "seriously mentally ill inmates" means inmates who as a result of a mental disorder as defined in section 36-501 exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration and whose mental disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living, including interpersonal relationships, self-care, employment and recreation.
7. Inmates with developmental disabilities who are housed in a special programs unit.
8. Inmates who are housed in unit 8 at the Florence prison facility.
9. Inmates who are inpatients at the Alhambra prison facility special programs psychiatric hospital.
10. Inmates who are inpatients at the Flamenco prison facility mental health treatment unit.
11. Inmates who are undergoing administrative physical examinations for statewide driver status and fire fighting crews.
12. Inmates who are undergoing follow-up medical treatment for chronic diseases.
J. An inmate shall not be refused medical treatment for financial reasons.
K. All monies received by the department for medical and health service fees shall be deposited in the general fund.
L. A person who is convicted of a felony offense and who is incarcerated while awaiting sentence or while serving a sentence imposed by a court of law may not bring a cause of action seeking damages or equitable relief from the state or its political subdivisions, agencies, officers or employees for injuries suffered while in the custody of the state or its political subdivisions or agencies unless the complaint alleges specific facts from which the court may conclude that the plaintiff suffered serious physical injury or the claim is authorized by a federal statute.
M. The director shall establish criteria for reasonable deductions from monies credited to the prisoner’s spendable account to repay the cost of:
   1. State property that the inmate wilfully damages or destroys during the inmate’s incarceration.
2. Medical treatment for injuries that the inmate inflicts on himself or others.

3. Searching for and apprehending an inmate who escapes or attempts to escape.

4. Quelling a riot or other disturbance in which the inmate is unlawfully involved.

N. On request of a female inmate, the Director shall provide the female inmate an unlimited supply of feminine hygiene products. Notwithstanding any other law, the Director may not charge a female inmate for a feminine hygiene product.

O. For the purposes of this section:

1. "Feminine hygiene product" includes tampons, sanitary napkins, menstrual sponges, menstrual cups and similar items that are used for the menstrual cycle.

2. "Reasonable fee" means an amount not to exceed five dollars.

3. "Serious physical injury" means an impairment of physical condition that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

Sec. 2. Appropriation; state department of corrections; feminine hygiene products; exemption

A. The sum of $80,000 is appropriated from the state general fund in fiscal year 2018-2019 to the state department of corrections for the purpose of purchasing feminine hygiene products. For the purposes of this subsection, "feminine hygiene products" includes tampons, sanitary napkins, menstrual sponges, menstrual cups and similar items that are used for the menstrual cycle.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 3. Legislative intent

The legislature intends to require the state department of corrections to provide feminine hygiene products to all female inmates in the correctional system and to ensure the dignity of all female inmates in the correctional system.