

REFERENCE TITLE: feminine hygiene products; requirements; appropriation

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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 31-201.01. Duties of the director; tort actions; medical
5 treatment costs; state immunity; definitions

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

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

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

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

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

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

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

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

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

43 1. Medical visits initiated by the medical or mental health staff
44 of the department.

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

1 2. Medical treatment for injuries that the inmate inflicts on
2 himself or others.

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

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

7 N. ON REQUEST OF A FEMALE INMATE, THE DIRECTOR SHALL PROVIDE THE
8 FEMALE INMATE AN UNLIMITED SUPPLY OF FEMININE HYGIENE PRODUCTS.
9 NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR MAY NOT CHARGE A FEMALE INMATE
10 FOR A FEMININE HYGIENE PRODUCT.

11 ~~N.~~ 0. For THE purposes of this section:

12 1. "FEMININE HYGIENE PRODUCT" INCLUDES TAMPONS, SANITARY NAPKINS,
13 MENSTRUAL SPONGES, MENSTRUAL CUPS AND SIMILAR ITEMS THAT ARE USED FOR THE
14 MENSTRUAL CYCLE.

15 ~~1.~~ 2. "Reasonable fee" means an amount not to exceed five dollars.

16 ~~2.~~ 3. "Serious physical injury" means an impairment of physical
17 condition that creates a substantial risk of death or that causes serious
18 disfigurement, prolonged impairment of health or prolonged loss or
19 impairment of the function of any bodily organ.

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

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

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

31 Sec. 3. Legislative intent

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