

Expanding Health Equity in Wisconsin Prisons and Jails through Access to Menstrual Products

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Executive Summary: The population of incarcerated people who menstruate in the Wisconsin correctional system has increased significantly over the last decade. Though necessary for the health and wellbeing of these individuals, menstrual products are not guaranteed at a reasonable cost throughout the Wisconsin correctional system, making them inaccessible, particularly to individuals from marginalized communities. The current system causes extreme physical and mental health problems, as many incarcerated individuals may go without these necessary products or attempt to make their own. Thirteen states have enacted legislation to provide menstrual products at no cost to citizens in prisons and jails. We advise that the Wisconsin State Legislature pass similar legislation that requires prisons and jails to provide free menstrual products to incarcerated Wisconsinites.

I. Overview of issue

i. Menstrual equity in United States prisons and jails

Women are the fastest growing population of incarcerated people, and the majority of these women come from minority populations in the United States. From 1980 to 2019, the population of women in prisons increased by more than 700% (Carson 2020). In 2019, Black and Latinx women were incarcerated at rates 1.7 and 1.3 times higher than white women, respectively (Carson 2020). Overall, Black and Latinx women and individuals identifying as LGBTQ+ or transgender are incarcerated in both prisons and jails at significantly higher rates than white women (Carson 2020; Grant et al. 2011). Nearly half of Black transgender individuals and one-quarter of Latinx transgender individuals have been sent to jail or prison at some point in their lives (Grant et al. 2011).

While the population of incarcerated individuals who menstruate has risen drastically, access to menstrual products has not increased at the same rate.

Menstrual products, i.e. tampons or sanitary napkins, which can be unaffordable for many in the community, are especially inaccessible for incarcerated individuals. On average, women need approximately twenty tampons or sanitary napkins per cycle, costing about \$7 per month (Kane 2017). Incarcerated individuals are paid less than \$1 per hour on average, so it can take more than twenty-four hours of work to pay for one month's supply (Sawyer 2017).

Inadequate access to safe menstrual products has forced incarcerated individuals to make their own products out of unsafe materials, leading to toxic shock syndrome, infections, and even cervical cancer and hysterectomies (Juneja et al. 2003; Missouri Appleseed 2018; American Civil Liberties Union 2019). Limited access to clean menstrual products has been associated with missing school, visits with family members, and meetings with social workers while menstruating, severely disrupting an institution's efforts for rehabilitation (Rossouw and Ross 2021; Greenberg 2017).

Some efforts have been made to increase access to menstrual products in the United States. In 2017, the Federal Bureau of Prisons changed their policy to require free access to menstrual products, but few states have followed suit (US Department of Justice 2017; ACLU 2019). Only thirteen states, as of 2019, have enacted written policy to require state prisons and county jails to provide menstrual products free of charge to people in their care (ACLU 2019). The state prisons and jails that provide products often provide too few products per month or products of such poor quality that they can't be used (ACLU 2019). Overall, menstrual products are still inaccessible to many incarcerated individuals in the United States, including in Wisconsin.

ii. Current policies in Wisconsin

In line with national trends, inadequate access to menstrual products disproportionately affects low-income, homeless, and incarcerated individuals who menstruate in the State of Wisconsin. Currently, there is no state-wide legislation guiding the availability of menstrual products in state prisons and jails, leaving access to menstrual products up to the institution and individual counties. The Wisconsin Department of Corrections (DOC) reported that menstrual products are provided free of cost to individuals incarcerated in prison, without the need for a request. However, policies for county jails range widely. At Milwaukee County Jail, the largest county jail in the state, menstrual products must be purchased through the jail commissary. In Jefferson County, some products are provided upon intake at the jail, but additional supplies must be formally requested or purchased. In other states, policies requiring incarcerated individuals to submit requests for products have been abused by correctional staff, leading to sexual abuse and coercion (Walker 2019; ACLU 2019). In addition, purchasing menstrual products is often not feasible for those incarcerated in prisons or jails. Wages in prison are often too low to cover the monthly cost of products, and individuals in county jails are often not employed while in jail. Individuals in Wisconsin county jails are also charged pay-to-stay fees, which can even further limit their ability to purchase menstrual products while incarcerated (Prisons; State, County and Municipal n.d.).

Though it is clear that access to menstrual products is a basic human need and that incarcerated individuals face unique barriers to accessing them, there is no

guarantee of access for individuals incarcerated in prisons or jails in Wisconsin. The following policy options address this issue and provide possible policy solutions for the Wisconsin Assembly Committee on Corrections to guarantee provision of menstrual products to incarcerated Wisconsinites.

II. Policy options

i. Introduce and pass legislation mandating that menstrual products be provided freely in Wisconsin prisons and jails

To guarantee that all incarcerated Wisconsinites have access to menstrual products, Wisconsin can join the thirteen states with legislation that requires menstrual products be provided at no cost in correctional facilities. This legislation would be similar to a bill in Missouri that expands access to menstrual products to city and county facilities, in addition to state prisons (H. B. 318 2021).

Advantages:

- This option guarantees that all incarcerated Wisconsinites across the state will have access to necessary menstrual products as soon as possible.
- Access to menstrual products will be made permanent.

Disadvantages:

- If this legislation is passed now, it will be done without providing additional funds to jails and prisons, potentially creating a financial burden on the correctional facilities.

ii. Provide funds for the Wisconsin DOC in the next state budget to provide menstrual products for incarcerated individuals

The Wisconsin legislature can allocate specific funds in the next state budget (2023-2025) for Wisconsin state prisons and county jails to provide free menstrual products in a timely manner to incarcerated individuals who menstruate. Planning for the 2023-2025 state budget is expected to begin in Fall 2022. This would be similar to what has been proposed in Missouri, where specific funds have been set aside for the DOC to not only provide products for people incarcerated in prisons, but also enough funds to reimburse city and county jails for these costs, ensuring that all incarcerated people have access (Weinberg 2021). Missouri, whose population of

incarcerated women was greater than Wisconsin's in 2019, set aside \$240,000 for jail reimbursements in addition to the \$230,000 allocated for individuals in prison (Carson 2020; Weinberg 2021). This upfront cost can save money in the future. Providing menstrual products can prevent future medical expenses, including medications to treat infections and, in severe cases, hysterectomies (Juneja et al. 2003; Missouri Appleseed 2018; ACLU, 2019).

Advantages:

- These funds will guarantee consistent access for individuals incarcerated in Wisconsin during the 2023-2025 budget cycle.
- Providing funds in the next state budget will reduce the monetary burden of this option on the DOC and county/city jails.

Disadvantages:

- This option will delay free access to menstrual products for all incarcerated individuals until 2023.
- Because this option does not create permanent legislation, this option will not ensure long-term, consistent access to menstrual products for incarcerated individuals. Menstrual equity legislation has not successfully passed in the Wisconsin government in the past decade.

iii. Inaction

The third option is to continue with the current system for providing menstrual products to individuals incarcerated in prisons or jails in Wisconsin. In this case, individual institutions and counties will be responsible for deciding whether to provide menstrual products for free, for a fee, or upon request of the incarcerated person. Policies will continue to vary by county and institution. Under this system, specific funds will not be set aside in the Wisconsin budget, and institutions and counties will continue to use general funds to cover any costs associated with these products.

Advantages:

- Maintaining the current system for providing menstrual products to individuals

incarcerated in state prisons or jails would not require any additional money or resources.

Disadvantages:

- Individuals who are incarcerated in county jails that do not provide menstrual products for free will be disadvantaged compared to those incarcerated in other counties.
- Free menstrual products for incarcerated individuals will not be guaranteed under permanent Wisconsin legislation. Facilities that provide them for free under the current system could change their policies in the future to require payment.

III. Recommendation

To ensure the health of incarcerated Wisconsinites, we recommend Option 1, that the Committee on Corrections introduce and pass legislation mandating that menstrual products be provided to incarcerated people for free in state prisons and jails. This option alone guarantees long-term access to menstrual products. Though the Wisconsin DOC currently provides menstrual products at state prisons, this access is not guaranteed for the future, and many jails in the state do not currently offer these products. One of the major disadvantages of this option (and Option 3) is the potential financial burden to the DOC and county jails. If enacted legislation does cause financial burden, funding for the DOC and county jails to provide free menstrual products can be included in the 2023-2025 state budget, as suggested in Option 2. This would follow the example of the Missouri legislature, which has introduced a bill that includes funding for guaranteed access to menstrual products in correctional facilities (Weinberg 2021).

Wisconsin's population of incarcerated individuals who menstruate is rapidly expanding. A lack of menstrual products is detrimental to these individuals' health and their successful rehabilitation. Fulfilling these basic sanitary needs will protect the most vulnerable individuals in the state, including incarcerated BIPOC individuals and members of the LGBTQ+ community.

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