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Fast-Track Regulation Agency Background Document

Agency name	Board of Corrections
Virginia Administrative Code (VAC) citation(s)	6 VAC15-40-770
Regulation title(s)	Provision of Hygiene Items
Action title	Amend current 6VAC15-40-770 to require that feminine hygiene items, including sanitary napkins and tampons, be provided to female inmates without charge.
Date this document prepared	October 31, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

This regulatory action amends the current language of 6VAC15-40-770 to require that the facility provide feminine hygiene items, including sanitary napkins and tampons, without charge to each female inmate upon request in order to comply with the Acts of Assembly Chapter 815 (2018).

Acronyms and Definitions

There are no acronyms or undefined terms used in this section

Statement of final agency action

At the May 16, 2018 meeting, the Board of Corrections approved amendments to 6VAC15-40, *Minimum Standards for Jails and Lockups: § 770 Provision of Hygiene Items*, and approved submission of the final regulation for public comment in accordance with the Virginia Administrative Process Act.

At the September 19, 2018 meeting, the Board of Corrections approved amending the language to clarify that feminine hygiene products include sanitary napkins and tampons to be available upon request.

Legal basis

Sections 53.1-5 and 53.1-68 of the Code of Virginia mandate that the Board of Corrections prescribe regulations to govern the administration and operation of local correctional facilities.

Purpose

The current regulation requires that feminine hygiene items (as defined by facility policy) be provided upon reasonable request to each female inmate assigned to the general population. The proposed change to this regulation will mandate that these feminine hygiene items be provided at no charge to female inmates as mandated by Acts of Assembly Chapter 815 (2018 Session of the General Assembly). This change provides for the public health and welfare of female inmates incarcerated in Local and Regional jails by providing them with tampons and sanitary napkins at no cost to the inmate.

Rationale for using fast-track process

These amendments are minor, noncontroversial changes to current regulatory requirements mandated by the Acts of the General Assembly (2018).

Substance

This revision clearly mandates that jails and lockups provide feminine hygiene products to female inmates at no charge.

Issues

This revision ensures that feminine hygiene items are provided to female inmates at no cost to the inmate and with minimum financial impact to jails and lockups as this is the current general practice. There is no know significant impact to the public, individual private citizens or businesses. The advantage to this regulation is all female inmates regardless of their financial situation will be afforded tampons and sanitary napkins to meet their personal needs. There is no significant disadvantage to the public or the Commonwealth as most local and Regional jails were already providing feminine hygiene products.

Requirements more restrictive than federal

This revision is consistent with current Federal Bureau of Prisons Operations Memorandum.

Localities particularly affected

The effects of this regulation will be consistent on each locality that operates a jail or lockup or participates in a regional jail for female inmates.

Regulatory flexibility analysis

There are no know alternative regulatory methods appropriate to this action.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There is no known cost to the state</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There is little if any projected cost to jails and lockups</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>There is no known impact to individuals, businesses, or other entities</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There is no known impact to individuals, businesses, or other entities</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There is no known projected cost to individuals, businesses, or other entities</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Ensures female inmates have access to feminine hygiene items at no cost</p>

Alternatives

There are no currently known alternatives to this action.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Family impact

There is no known impact on the institution of the family and family stability.

Detail of changes

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
6 VAC15-40-770		Feminine hygiene products are provided to female inmates assigned to the general population.	Adds the requirement that feminine hygiene products be provided without charge to all female inmates