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City of Gainesville Policy Program Preliminary Research & Analysis

TOPIC: Providing No-Cost Sanitary Products in Municipal Bathrooms

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REQUESTED BY: Commissioner Saco

OBJECTIVE

Exploring the requirement of providing sanitary products in all municipal bathrooms and the potential scalability to all public and/or private restrooms.

EXECUTIVE SUMMARY

This policy research proposal explores considering an ordinance or policy within the City of Gainesville that would require the provision of free sanitary products within all municipal bathrooms, with the potential scalability to all public buildings including public schools or other county or state-owned facilities. Access to sanitary products, including menstrual hygiene items (i.e., menstrual pads, tampons), toilet paper, and soap has become a globally recognized public health topic due to cost and access inequality.¹ Over the past 10 years, the topic of providing no-cost sanitary products in public bathrooms has entered the federal landscape and prompted certain states, municipalities, and school systems to implement ordinances to increase their access through ordinances, initiatives, and policies. The cities of Ann Arbor, Michigan; Brookline, Massachusetts; and Salt Lake City, Utah have pioneered legislation requiring sanitary products in municipal and public restrooms, with California being one of the first states to require free menstrual products in public schools.

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4463372/>

Providing free sanitary products could benefit low-income communities, individuals, and students that are more disproportionately impacted by the financial burden of these products.² However, implementing legislation requiring the provision of no-cost sanitary products may have financial implications for the city budget depending on the quantity of products purchases, and where the products are sourced.

HISTORY/BACKGROUND INFORMATION

Sanitary Products and Health

Research has indicated that meeting someone's basic hygiene needs is necessary for an individual's health and well-being, and not being able to meet these needs can subsequently negatively affect an individual's mental and physical health.³ The United Nations has determined that adequate access to clean sanitary products is a human necessity in relation to meeting an individual's basic hygiene needs.⁴ In addition to being important to individual and public health, sanitary products can help stop the spread of both bodily fluids and bloodborne pathogens, but can be costly as \$5.9 billion is spent on menstrual products in the United States annually with the average menstruating person spending over \$1,700 in their lifetime according to Duquesne University.⁵

The United States Census Bureau has reported that 1 in 3 Gainesville residents, or about 30%, have been determined to be below the poverty level.⁶ It has been suggested that there is a correlation between access to sanitary products and income level, as a 2019 study in the medical journal *Obstetrics and Gynecology* found that 64% of low-income participants in their study were unable to afford menstrual hygiene products during the previous year.⁷ Additionally, a study posted in the journal *Women's Reproductive Health* found that around 36% of students surveyed state that they have missed school or have left school early due to lack of access to menstrual hygiene products, with about 17% stating that lack of access has impacted their ability to learn, suggesting a potential correlation between access to sanitary products and school attendance and performance.⁸ However, free sanitary and menstrual hygiene management programs face many social, cultural, economic, and religious barriers to implementation despite public health advantages.⁹

Federal Landscape

²https://journals.lww.com/greenjournal/Fulltext/2019/02000/Unmet_Menstrual_Hygiene_Needs_Among_Low_Income.2.aspx

³<https://bmcmwomenshealth.biomedcentral.com/articles/10.1186/s12905-020-01149-5> ;
<https://www.cdc.gov/healthywater/global/sanitation/index.html>

⁴https://www.un.org/waterforlifedecade/human_right_to_water.shtml

⁵<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5838436/> ; <https://ehp.niehs.nih.gov/doi/10.1289/ehp.122-A70> ; <https://onlinenursing.duq.edu/master-science-nursing/the-ultimate-guide-to-feminine-hygiene/>

⁶<https://data.census.gov/cedsci/profile?g=1600000US1225175>

⁷https://journals.lww.com/greenjournal/Fulltext/2019/02000/Unmet_Menstrual_Hygiene_Needs_Among_Low_Income.2.aspx

⁸<https://www.tandfonline.com/doi/abs/10.1080/23293691.2019.1653575>

⁹<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5838436/>

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Following national campaigns and petitions in 2015 to stop taxing menstrual products, bills and policies seeking to eliminate extra taxes on menstrual hygiene products or providing free sanitary and menstrual products in employer, school, and public restrooms were introduced in Congress, the first of which calling for free access appearing in 2016.¹⁰ The ‘Menstrual Products for Employees Act of 2016’ (H.R.5915), was introduced in the House by U.S. Rep. Grace Meng (D-NY) seeking to amend the Occupational Safety and Health Act of 1970 by requiring the U.S Department of Labor to require employers to provide no-cost sanitary products to employees.¹¹ This bill never exited the introduction phase after being referred to the Subcommittee on Workforce Protections.¹² The year following, the U.S. Department of Justice introduced a policy in 2017 requiring Federal Bureau of Prisons (FBP) institutions to provide no-cost menstrual products to female inmates and purchase the products in accordance with National Acquisitions guidance from the FBP federal trust fund.¹³

Since 2016, 15 bills have been introduced in Congress, the majority of which introduced by U.S. Rep. Meng, seeking to provide free sanitary products in employer, school, or public restrooms with none leaving the initial introduction phase.¹⁴ In 2020, President Donald Trump signed the ‘CARES Act’ (H.R.748) which included listed menstrual products as eligible items to be covered by health savings accounts and flexible spending accounts, also allowing individuals with these accounts to be able to file for reimbursement of products purchased in 2020, potentially laying groundwork for additional and future policy.¹⁵ Additionally, as of 2021, 13 states have passed legislation in relation to providing free sanitary products in some or all public schools.¹⁶

Currently, in the 2021-2022 U.S. Congress Legislative Session, the ‘Menstrual Products in Federal Buildings Act’ (H.R. 2478)¹⁷ to require federal agencies to provide easily accessible and free sanitary products in public buildings, and the ‘Menstrual Equity for All Act of 2021’ (H.R. 3614)¹⁸ to increase the availability and affordability of menstrual products for individuals with limited access have been introduced and have both been referred to subcommittees for review. Notably, the ‘Menstrual Equity for All Act of 2021’ has been introduced with 98 cosponsors, the most of any introduced bills of this subject matter.¹⁹

¹⁰ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7379140/>

¹¹ <https://www.congress.gov/bill/114th-congress/house-bill/5915/text?q=%7B%22search%22%3A%5B%22menstrual+products%22%2C%22menstrual%22%2C%22products%22%5D%7D&r=41&s=10>

¹² <https://www.congress.gov/bill/114th-congress/house-bill/5915/actions?q=%7B%22search%22%3A%5B%22menstrual+products%22%2C%22menstrual%22%2C%22products%22%5D%7D&r=41&s=10>

¹³ https://www.bop.gov/policy/om/001_2017.pdf

¹⁴ <https://www.congress.gov/search?q=%7B%22source%22%3A%5B%22legislation%22%5D%2C%22search%22%3A%22menstrual+products%22%2C%22chamber%22%3A%22House%22%7D>

¹⁵ <https://www.congress.gov/bill/116th-congress/house-bill/748>

¹⁶ <http://www.womensvoices.org/2021/01/11/period-health-policies-is-your-state-working-to-make-menstrual-equity-a-priority/>

¹⁷ <https://www.congress.gov/bill/117th-congress/house-bill/2478>

¹⁸ <https://www.congress.gov/bill/117th-congress/house-bill/3614/text?r=7&s=1>

¹⁹ <https://www.congress.gov/bill/117th-congress/house-bill/3614/cosponsors?r=7&s=1>

State of Florida

Between 2016-2018, 24 state legislatures had ended or debated ending the extra tampon tax, with Florida doing so in 2017 under Governor Rick Scott, making menstrual hygiene products tax exempt as nontaxable medical items with the expectation to save Floridians \$11 million a year.²⁰ The average menstruating person spends up to \$300 per year on menstrual products, which can cause financial strain on lower income individuals.²¹ Almost 55% of Floridian children are living in or near to living in poverty, with 66% of school aged children qualifying for free or reduced-price public-school lunch.²² As state and federal safety net programs such as Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children (WIC) do not cover menstrual supplies as sanitary products, this can create health and equity issues.²³

In 2019, Governor DeSantis signed into legislation the “Dignity for Incarcerated Women Act” (CS/HB 49), a bill that requires state correctional facilities to provide every incarcerated woman with “healthcare products” including menstrual hygiene products, toothbrushes, toothpaste, and any other health care product deemed appropriate at no cost and in appropriate quantities in relation to the woman’s needs.²⁴ The bill passed the Florida House and Senate unanimously before being signed into legislation.²⁵ However, during both the 2021 (HB 75²⁶; SB 242²⁷) and 2022 (HB 175²⁸; SB 248²⁹) Florida State Legislative Sessions, companion bills were introduced in the House and Senate that would make tampons and sanitary products available in public schools and were referred to three committees in their respective chambers before not receiving any further hearings.

City of Gainesville

As of 2022, there has been no proposed or passed ordinances on providing no-cost sanitary products in public restrooms for the City of Gainesville.³⁰ Just over 52% of the population of Gainesville is female, with women aged 18-24 making up the largest demographic living in poverty.³¹ In 2018, the University of Florida (UF) Student Health Care Center (SHCC) installed menstrual product dispensers in its main facility for free, but just a year later in 2019 the UF Student Government revoked a motion

²⁰ <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1501&context=wmjowl> ;

https://floridarevenue.com/Forms_library/current/dr46nt.pdf

²¹ <https://www.unidosus.org/progress-report/a-menstrual-equity-movement-is-growing-across-the-country-unidosus-joins-the-movement-with-support-for-floridas-learning-with-dignity-bill/>

²² <http://edr.state.fl.us/content/presentations/social-services/povertydemographicspresentation.pdf>

; <https://www.unidosus.org/progress-report/a-menstrual-equity-movement-is-growing-across-the-country-unidosus-joins-the-movement-with-support-for-floridas-learning-with-dignity-bill/>

²³ <https://genderpolicyreport.umn.edu/period-poverty-in-the-united-states-what-the-law-should-do/>

²⁴ <https://www.flsenate.gov/Session/Bill/2019/00049>

²⁵ <https://www.flsenate.gov/Session/Bill/2019/00049/?Tab=VoteHistory>

²⁶ <https://www.flsenate.gov/Session/Bill/2021/75>

²⁷ <https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=70008>

²⁸ <https://www.flsenate.gov/Session/Bill/2022/175>

²⁹ <https://www.flsenate.gov/Session/Bill/2022/248>

³⁰ <https://gainesville.legistar.com/Legislation.aspx>

³¹ <https://www.census.gov/quickfacts/gainesvillecityflorida>

to offer free menstrual products to students.³² With a large number of public buildings being owned by Alachua County or UF, with UF owning around 920 buildings alone, it may be beneficial to consider a partnership between the City of Gainesville, Alachua County and/or UF to benefit a larger amount of people through this proposed legislation.³³

The Alachua County Public Schools Partners in Education Program aims to link businesses and organizations with specific schools to improve the student experience through mutually supportive written arrangements. This program has present and past partnerships that have collected personal hygiene items for students, creating the potential to source products through this program to potentially scale this ordinance to school systems.³⁴

PRELIMINARY RESEARCH AND FINDINGS

Ann Arbor, Michigan

In 2021, Ann Arbor, Michigan became the first major city to require sanitary products be provided for free in public restrooms. The Ann Arbor City Council voted unanimously to approve the local ordinance (No. Ord-21-32) which added no-cost sanitation supplies (e.g., soap, toilet paper, menstrual pads, and tampons) in public restrooms that was defined as, “a public toilet facility that is required by the Michigan Plumbing Code or other applicable law to be made available to customers, patrons, visitors, employees, licensees, invitees, students, or other members of the public.”³⁵ According to the Michigan Plumbing Code, public restrooms include schools, gymnasiums, hotels, airports, public transportation stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants.³⁶ The city found that sanitary products are vital to the health and welfare of the public, and ensuring these products are readily available in all public buildings with restrooms will help reduce and prevent the spread of germs, bloodborne pathogens, and improve the general welfare of the public.³⁷

The ordinance requires that individuals responsible for managing and maintaining public restrooms provide all sanitary products at no cost to the user of the restroom and be openly accessible, and failure to do so results in a civil infraction enforced by Community Standards officers and punishable by fine of up to \$100.³⁵ This ordinance does not apply to mosques, temples, churches, and other places of religious or spiritual worship due to varying opinions on their usage following public reception to the ordinance.³⁵ Community Standards officers are responsive for enforcing the General Health section of the Ann Arbor Code of Ordinances.³⁵ Since implementation, a free menstrual

³² <https://shcc.ufl.edu/2018/01/25/menstrual-products-now-available-at-shcc/>

³³ <https://www.uflib.ufl.edu/ufarch/introduction.html#:~:text=Now%20with%20over%2042%2C000%20student%20designated%20as%20an%20Historic%20District.>

³⁴ <https://fl02219191.schoolwires.net/Page/2851#:~:text=The%20Partners%20in%20Education%20program,enhance%20educational%20opportunities%20of%20students.>

³⁵ https://library.municode.com/mi/ann_arbor

³⁶ <https://up.codes/viewer/michigan/mi-plumbing-code-2015/chapter/2/definitions#2>

³⁷ <http://a2gov.legistar.com/View.ashx?M=F&ID=9879284&GUID=1F6460FA-9919-4D09-8EC8-2263D86D7214>

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product program has expanded to the University of Michigan's main Ann Arbor campus, along with student, athletic, and medicine facility restrooms (a total of 915 restrooms) with the goal of expanding to more than 2,000 university affiliated restrooms in the future.³⁸

Brookline, Massachusetts

Spurred by a column³⁹ written by a high school senior at Brookline High School about sanitary product access inequality and stigma, in 2019 a proposal to increase the access to menstrual products for all "menstruating individuals," was passed into legislation (S.1274).⁴⁰ This proposal went into effect at the start of the 2022 fiscal year for public buildings and institutions and required that menstrual products be provided in all municipal bathrooms, the town hall, recreation centers, and libraries regardless of gender.³⁹ The bill amended Chapter 126 of the city's General Laws to include Article 8.39 titled 'Menstrual Hygiene Product Access By-Law', that requires all public buildings, prisons, and homeless shelters to allow free access to menstrual hygiene products (i.e. tampons without plastic applicators, pads, sanitary napkins) for all individuals who may experience a menstrual cycle.⁴¹ The by-law requires that restrooms designated for use by members of the public must be equipped with machine dispensers that dispense menstrual hygiene products at no cost, and that in-person requests for these products does not constitute compliance. The city has expected a two year roll out process with an estimated cost of \$50,000, with the city's Building Department taking the lead on logistics and implementation.⁴²

The 'Menstrual Hygiene Product Access By-Law' does not apply to the public school system that already provides no-cost access to menstrual hygiene products within school nurse's offices and plans to begin to provide them within all public-school bathrooms.³⁹ The Brookline School Committee is currently developing policy to be consistent with the by-law and pending Massachusetts state legislation requiring machine dispenser access within public school bathrooms (H. 1959⁴³/S. 1274⁴⁴).

Salt Lake City, Utah

In a \$20,000 pilot initiative program proposal approved by the Salt Lake City city council, menstrual hygiene products will be available for free in municipal buildings including City Hall and all city library branches. Council Member Erin Mendenhall stated that, "We don't charge people for toilet paper, and women's access to feminine hygiene products shouldn't be charged either."⁴⁵ To finance the proposal, a budget item was taken from the City's 2019-2020 General Fund budget and by doing this,

³⁸ <https://record.umich.edu/articles/free-menstrual-product-program-expanding-on-ann-arbor-campus/>

³⁹ <https://thesagonline.com/31435/opinions/stigma-around-periods-produces-undue-shame/>

⁴⁰ <https://malegislature.gov/Bills/191/S1274>

⁴¹ <https://www.brooklinema.gov/DocumentCenter/View/25283/Brookline-Town-By-Laws>

⁴² <https://www.mma.org/brookline-to-be-first-in-nation-to-provide-free-menstrual-products-in-all-town-bathrooms/>

⁴³ <https://malegislature.gov/Bills/191/HD2272>

⁴⁴ <https://malegislature.gov/Bills/191/SD1381>

⁴⁵ <https://www.slc.gov/blog/2019/06/18/council-city-council-approves-free-hygiene-products/>

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the City Council set a policy direction for the city government to encourage free ‘women’s hygiene products’ in certain city facilities with future legislation.⁴⁴ The hope from the City Council is to expand this initiative into prisons as well, and while the city council has encouraged airport, public utilities, and golf facilities to consider the initiative, there are no current initiatives or legislation requiring them to in Salt Lake City.⁴⁶

Alternatively, in March 2022 during the Utah State Legislative Session the ‘Period Products in Schools’ (H.B. 162) was signed into law requiring local school boards and charter school governing boards to provide no-cost ‘period products’ in specific restrooms (i.e., female, and unisex bathrooms) on school grounds while also providing information on their availability with oversight from the state board to monitor and implement this bill.⁴⁷ Funds for this bill will be appropriated by the State Legislature within capital operations and maintenance budgets with an estimated total of \$1,757,400 to cover the costs associated with bill implementation from Fiscal Year 2022 to Fiscal Year 2024, but the enactment of this bill will not alter the regulatory burden on Utah citizens.⁴⁸

State of California

The ‘Menstrual Equity for All Act of 2021’ (AB-367) was introduced and passed in the California State Legislature in 2021 requiring public schools that are maintaining classes from grades 6 through 12, whose students meet a 40% pupil poverty threshold, to stock at least 50% of the school’s restrooms with feminine hygiene products while also restricting public schools from charging for them.⁴⁹ The bill requires that free menstrual products be available, accessible, and at no-cost in all women’s, all-gender, and at least one men’s restroom at all times starting in the 2022-2023 school year.⁵⁰

Additionally, this bill requires California State University and each community college district to have no-cost and available menstrual products at no fewer than one accessible, designated, and central location on each campus, and encourages the Regents of the University of California and private universities, colleges, and higher learning institutions to do the same.⁴⁹ The California State Legislature found that access to menstrual products is a basic human right and is vital for ensuring the public health and dignity of Californians, and wrote that, “The provision of menstrual products in schools helps ensure California provides equal access to education and enables students to reach their full potential, irrespective of gender.”⁴⁹

PRELIMINARY ADVANTAGES/DISADVANTAGES ANALYSIS

Potential Advantages

⁴⁶ <https://www.deseret.com/2019/6/18/20675951/salt-lake-city-to-provide-free-feminine-hygiene-products-in-city-buildings>

⁴⁷ <https://le.utah.gov/~2022/bills/static/HB0162.html>

⁴⁸ <https://le.utah.gov/lfa/fnotes/2022/HB0162.fn.pdf>

⁴⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB367

⁵⁰ https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB367&showamends=false

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- May benefit lower income communities due to the cost of sanitary products.
- Restroom necessities may become more accessible to citizens.
- Potentially creates a more equitable city.
- Can stop spread of bloodborne pathogens and diseases.

Potential Disadvantages

- Could create financial implications for city budget.
- Finding adequate, cost-efficient sources of products may be difficult.
- Facilitating the ordinance could create additional work for restroom managers.
- Potential environmental impacts of sanitary product waste management.

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

- City Manager's Office
- Office of Equity and Inclusion
- Alachua County Public Schools
- Alachua County Board of County Commissioners
- Gainesville Chamber of Commerce
- Religious institutions and citizens
- Lower income communities
- Lower income and minority students
- Gators Matter, Period Nonprofit
- #FreeThePeriod Florida Coalition
- Businesses partnered with Alachua County Public Schools Partners in Education Program

RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION

- What are the goals of this investment?
- Could the city afford to finance this ordinance or initiative?
- Who would supply these products?
- Would the city need to purchase these products?
- What department would oversee this ordinance or initiative?
- Who might benefit from the investment? Who might be negatively impacted?
- How will it be known if the investment is paying off? How will it be known if it has succeeded?
- What could be the positive and negative unintended consequences of this ordinance or initiative?

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