

ACT 113

S.B. NO. 2821

A Bill for an Act Relating to Menstrual Equality.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that menstrual products are necessary every month for approximately half of Hawaii's population, beginning in the school-aged years, between the ages of ten through fifteen, or the average of twelve years old.

The legislature further finds that "period poverty", the term that refers to an inability to access menstrual products, may negatively impact an individual's health and well-being. Period poverty is often the result of circumstances, including but not limited to income constraints, inadequate menstrual health and hygiene education, cultural or societal shame or stigma surrounding menstruation, and a lack of running water or sanitary locations to maintain personal hygiene. Period poverty disproportionately affects menstruating students, members of low-income households, persons experiencing homelessness, individuals who identify as nonbinary or transgender, and individuals with a history of involve-

ment with the justice system. The legislature notes that economic challenges have been exacerbated by the coronavirus disease 2019 pandemic, magnifying menstrual inequity in Hawaii.

The legislature additionally finds that half of the respondents to a state-wide survey on menstruation reported missing school or work because of the respondent's menstruation. According to the 2021 study of the Hawaii state commission on the status of women and Mai Movement Hawaii, nearly one in three respondents reported that the respondent, or someone in the respondent's household, experienced difficulty obtaining menstrual products due to cost.

Additionally, it has been reported that the inability to adequately manage menstruation, specifically the lack of access to menstrual products in schools, limits full participation in school, contributes to higher rates of school absenteeism and missed activities, and negatively impacts a student's ability to learn. The 2021 study of the Hawaii state commission on the status of women and Mai Movement Hawaii reported that forty-two per cent of respondents missed class or left school because the respondents did not have access to menstrual products, and nearly twenty-two per cent of respondents missed school entirely. Of those who missed school entirely, nearly twelve per cent missed three to five school days, and six per cent missed six to ten school days in an academic year.

The legislature also finds that chronic absenteeism is one of the most powerful predictors of student success or failure. It is a priority for Hawaii public schools to minimize or eliminate chronic absenteeism. Students miss school for many reasons, but absenteeism due to inadequate menstruation management is avoidable. In August 2021, Mai Movement Hawaii began conducting a state-wide pilot project and study called the Hoohanohano initiative. Through the Hoohanohano initiative, Mai Movement Hawaii distributed menstrual products to students at certain schools on the islands of Oahu, Hawaii, Maui, and Kauai; tracked menstrual product usage over time; and conducted pre- and post-surveys of students and faculty members. Mai Movement Hawaii noted that both student and faculty survey respondents reported experiencing or witnessing students missing part of, or the entire, school day due to challenges with menstruation. Mai Movement Hawaii found that eight out of ten students have difficulties accessing menstrual products, indicating embarrassment, cost, and education as the major barriers. It has been well-studied and proven that the lack of adequate menstrual products directly and adversely impacts student health, including medical issues caused by the use of menstrual products for longer than the recommended duration or the use of substandard alternatives. The Hoohanohano initiative revealed that students used unhealthy alternatives like newspapers, old rags, diapers, folder paper, and leaves when the students did not have access to menstrual products. This jeopardizes the safety and health of students and increases the risk of serious medical issues, including preventable infections that make students susceptible to cervical cancer; infertility; reproductive tract infections; and toxic shock syndrome, which can result in death.

The legislature further finds that there is convincing evidence that free menstrual products have positive impacts on education. The midyear assessment of the Hoohanohano initiative revealed reductions in reported barriers to access, missed classes, and absences. The number of faculty that reported witnessing students experiencing difficulties accessing menstrual products dropped from fifty-six per cent to one per cent. Further, only sixteen per cent of students reported embarrassment as a barrier to access, compared to thirty-three per cent at the beginning of the year. Additionally, students reported missing fewer classes, a seven per cent improvement, and fewer school days, a nine per cent improvement, as a result of increased access to menstrual products through the Hoohanohano initiative.

More than ten states, including Arkansas, California, Colorado, Delaware, Georgia, Illinois, Nevada, New Hampshire, New York, Oregon, Rhode Island, and Washington, have laws or policies advancing menstrual equity in the states' public school and higher education systems. The Menstrual Equity Act for All, introduced earlier this year in the United States Congress, seeks to comprehensively address period poverty in schools, as well as menstrual inequity in other spaces. Countries around the world, including Kenya, New Zealand, and Scotland, have also adopted laws providing free menstrual products to students.

The legislature further finds that the department of education and state public charter school commission are required to maintain a healthy and sanitary school environment. The board of education's policy number E-103 states that "schools play an integral part in promoting quality of life through sound health and wellness practices, which are connected to achievement and learning." Basic hygiene products, including toilet paper, hand soap, and bandages, are already required to be provided free of charge and easily accessible to all students.

Furthermore, the necessity of menstrual products was made clear by the board of education, as indicated in policy number 1110-10, which states that "gender equity extends the doctrine of fairness to all areas of activity in the public school system." The lack of access to menstrual products is an obvious form of gender-based exclusion. Menstrual products are vital for the physical and mental health, well-being, and full participation of menstruating students, including but not limited to girls and transgender, nonbinary, and gender non-conforming individuals.

The legislature further finds that national and state data clearly establish that students who menstruate and cannot afford menstrual products, or are unable to access these products for other reasons, face a significant barrier to education that biologically male students do not experience.

The purpose of this Act is to require the department of education to uphold educational and gender equity by providing menstrual products to all students, free of charge, on all public school campuses.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part II, subpart C to be appropriately designated and to read as follows:

"§302A- Menstrual products; availability. (a) The department shall provide menstrual products free of charge to all students on all public school campuses.

(b) For the purposes of this section:

"Menstrual products" includes but is not limited to disposable menstrual pads and tampons.

"Public school campuses" includes all department of education schools and all public charter schools."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2022.

(Approved June 20, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.