

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 42-23: HEALTH AND SANITATION – MENSTRUAL PRODUCTS IN PUBLIC RESTROOMS – REQUIRED

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 42-23 will have a positive impact on RESJ in the County. Increasing access to free menstrual products in places of public accommodation will especially benefit lower-income community members who are more likely to be Black or Latinx. White-owned businesses are likely to bear most of the costs associated with this Bill.

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF BILL 42-23

Period poverty refers to “inadequate access to menstrual products, education, and sanitation facilities.”<sup>3</sup> Globally, the World Bank estimates 500 million people lack access to menstrual products and adequate facilities for managing menstrual hygiene.<sup>4</sup> Several studies suggest that period poverty is also a considerable issue in the U.S., especially among low-income people.<sup>5</sup> The Alliance for Period Supplies calculates that state legislatures are currently considering 151 bills “related to period products, menstrual health, equity, access, and/or taxation.”<sup>6</sup>

The purpose of Bill 42-23, the Menstrual Products Access and Equity Act, is to require places of public accommodation such as restaurants, hotels, and retail stores to provide access to free menstrual products in their restrooms.<sup>7</sup> Bill 42-23 would only apply to places of public accommodation that are required by law to provide restroom facilities to customers or the general public. According to the Bill’s sponsor, Bill 42-23 is intended to “improve menstrual equity and reduce period poverty in Montgomery County.”<sup>8</sup> Violation of the Bill’s requirements would be a Class A violation.<sup>9</sup>

Bill 42-23, Health and Sanitation – Menstrual Products in Public Restrooms – Required, was introduced by the County Council on November 14, 2023.

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### PERIOD POVERTY AND RACIAL EQUITY

UNICEF estimates that 1.8 billion people across the world – including women, girls, transgender men, and non-binary persons – menstruate every month.<sup>10</sup> Yet, menstrual health and hygiene (MHH) is a public health issue that is largely underresearched, including in the U.S.<sup>11</sup>

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Period poverty is a MHH concern largely driven by the high cost of menstrual products as well as by the stigma and lack of education around menstruation.<sup>12</sup> Period poverty can have considerable consequences for people who menstruate, including risk of infection and other health problems from using unsanitary alternatives to menstrual health products or using products for longer than recommended, and missing days from school, work, and other activities.<sup>13,14</sup>

Available research on period poverty in the U.S. suggests this concern is most prevalent among low-income people who menstruate. For instance:

- A 2020 study of over 1,000 menstruating adults in the U.S. found that lower-income participants and participants with COVID-19 pandemic-related income loss were more likely unable to afford menstrual products.<sup>15</sup>
- A 2019 study of menstrual product taxation in the U.S. found that the financial burden of taxing menstrual products "decreased the accessibility of menstrual products specifically for the marginalized low-income women and women with heavy menstrual bleeding."<sup>16</sup>
- A study of 183 low-income women in St. Louis, MO between 2017 and 2018 found that nearly two-thirds were unable to afford menstrual products at some point during the previous year.<sup>17</sup>

While menstrual products are a necessity for people who menstruate, there are few resources for low-income people to access them affordably. Indeed, benefits such as the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) cannot be used to purchase menstrual products.<sup>18</sup>

Few studies have specifically aimed to understand the impact of period poverty by race and ethnicity. However, there is some evidence to suggest that BIPOC are especially impacted by this issue. For instance:

- The previously referenced 2020 study of over 1,000 menstruating adults in the U.S. found that identifying as Black or Latinx was associated with not being able to afford menstrual products.<sup>19</sup>
- A 2021 study of over 1,000 adults in the U.S. conducted by U by Kotex found that nearly a quarter of Black and Latinx people struggled to afford period products in the last year, compared to 8 percent of White people.<sup>20</sup>

Lower incomes and higher poverty rates among BIPOC imply they are particularly impacted by period poverty. Table 1 summarizes the median household income and percent of people living below the poverty level by race and ethnicity in the County. This data suggests that, locally, the median household incomes of Black and Latinx households are \$30,000 less than the County median. Conversely, the median household incomes of White and Asian households are respectively \$22,000 and \$11,000 more than the County median. Further, Black and Latinx community members have poverty rates nearly three times the poverty rate of White community members. Racial inequities driving disparities in income and poverty by race and ethnicity originate from a legacy of government policies and practices – including land theft, slavery, and segregation – that structurally advantaged White people and structurally oppressed and disadvantaged BIPOC.<sup>21,22</sup>

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**Table 1: Poverty Rates and Median Household Income by Race and Ethnicity, Montgomery County<sup>23</sup>**

Race and ethnicity	Median Household Income	Poverty Rates
County	\$117,345	7.0
Asian	\$128,746	6.5
Black	\$82,835	11.0
Native American	\$95,129	7.0
Pacific Islander	-	4.6
White	\$139,371	4.0
Latinx	\$85,910	10.8

Source: 2021 American Community Survey 5-Year Estimates (Table S1903, Table S1701), Census Bureau.

### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 42-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

**For the first question**, OLO considered the various stakeholders that would be impacted by the provision of free menstrual products in places of public accommodation with restrooms:

- **County constituents and other people who menstruate** that frequent places of public accommodation in the County will benefit from increased access to free menstrual products in restrooms. As approximated by the number of females of childbearing age (15-49 years) in the County, nearly 250,000 or 23 percent of constituents menstruate.<sup>24</sup> OLO assesses that the racial and ethnic demographics of County constituents who menstruate likely do not differ significantly from the general population of constituents. Thus, there are no racial and ethnic disproportionalities among the primary beneficiaries of this Bill.
- **Business owners operating places of public accommodation** will face increased costs for providing free menstrual products in restrooms. Table A in the Appendix presents the demographics of business owners by race and ethnicity for all sectors in the DC metro region and four sectors that are likely to be impacted by this Bill. Table A suggests:
  - White people are generally overrepresented among business owners in all sectors impacted by this Bill compared to their share of the population.
  - Asian people are overrepresented among business owners in the retail trade and accommodation and food services sector compared to their share of the population.
  - Black people are overrepresented among business owners in the health care and social assistance sector compared to their share of business ownership in all sectors.
  - Latinx people are proportionately represented among business owners in the accommodation and food services sector compared to their share of business ownership in all sectors.

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**For the second question,** OLO considered how this Bill could impact racial disparities in period poverty. As previously described, there are few resources for low-income people who menstruate to affordably access menstrual products. Though it will likely not meet the full need for menstrual products, low-income people who menstruate will especially benefit from increased access to free menstrual products in places of public accommodation that could help mitigate the consequences of period poverty. Black and Latinx community members in the County would particularly benefit as they generally have lower incomes and experience higher rates of poverty.

OLO anticipates Bill 42-23 will have a positive impact on RESJ in the County. Increasing access to free menstrual products in places of public accommodation would especially benefit lower-income community members who are more likely to be Black or Latinx. While BIPOC-owned businesses are overrepresented in some sectors that are likely to be affected by the Bill, White-owned businesses are overrepresented in all relevant sectors. Thus, White-owned business are likely to bear most of the costs associated with providing free menstrual products through this Bill.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>25</sup> OLO anticipates Bill 42-23 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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### APPENDIX

**Table A: Percent of Population and Business Owners for Select Sectors by Race and Ethnicity, Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area<sup>26</sup>**

Race and ethnicity	Population	All Sectors (NAICS 00)	Retail Trade (NAICS 44-45)	Health Care and Social Assistance (NAICS 62)	Arts, Entertainment, and Recreation (NAICS 71)	Accommodation and Food Services (NAICS 72)
Asian	11.0	18.4	29.4	-	-	44.6
Black	24.5	7.0	5.5	13.9	-	-
Native American	0.6	-	-	-	-	-
Pacific Islander	0.1	0.2	-	-	-	-
White	44.5	67.5	56.4	52.9	64.5	48.3
Latinx	17.1	6.0	-	-	-	7.3
Unclassifiable	N/A	6.6	7.1	11.2	27.0	2.5

Source: 2020 Decennial Census (Table DP1) and OLO Analysis of 2020 Annual Business Survey (Table AB2000CSA01), Census Bureau.

<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.raciaequitytools.org/glossary>

<sup>2</sup> Ibid.

<sup>3</sup> [Period Poverty: A Neglected Public Health Issue](#), Korean Journal of Family Medicine, July 2023.

<sup>4</sup> [Menstrual Health and Hygiene](#), The World Bank, May 12, 2022.

<sup>5</sup> Katie Krumperman, [“Period Poverty in the United States,”](#) Ballard Brief, February 2023.

<sup>6</sup> [Menstrual Equity Legislation](#), Alliance for Period Supplies.

<sup>7</sup> [Introduction Staff Report for Bill 42-23](#), Montgomery County Council, Introduced November 14, 2023.

<sup>8</sup> [“Councilmember Will Jawando Introduces Bill to Improve Menstrual Equity in Montgomery County,”](#) Office of Councilmember Jawando, Montgomery County Council, November 14, 2023.

<sup>9</sup> [Montgomery County Code § 1-19](#)

<sup>10</sup> [Menstrual Hygiene](#), UNICEF.

<sup>11</sup> [Menstruation in the U.S.](#), Mailman School of Public Health, Columbia University.

<sup>12</sup> Krumperman

<sup>13</sup> Ibid.

<sup>14</sup> Shelby Davies, et. al., [“Period Poverty: The Public Health Crisis We Don't Talk About,”](#) Policy Lab, Children’s Hospital of Philadelphia, April 6, 2021.

<sup>15</sup> Marni Sommer, et. al., [“Menstrual Product Insecurity Resulting From COVID-19–Related Income Loss, United States, 2020,”](#) American Journal of Public Health, April 2022.

<sup>16</sup> Bhuchitra Singh, et. al., [“Period Poverty and the Menstrual Product Tax in the United States,”](#) Obstetrics & Gynecology, May 2020.

<sup>17</sup> [“SLU Study: Menstrual Hygiene Needs Unmet for Low-Income St. Louis Women,”](#) St. Louis University, January 10, 2019.

<sup>18</sup> Davies, et. al.

<sup>19</sup> Sommer, et. al.

<sup>20</sup> [U by Kotex Period Poverty Awareness Week – Survey Results](#), Alliance for Period Supplies.

<sup>21</sup> Kilolo Kijakazi, et. al., [“The Color of Wealth in the Nation’s Capital,”](#) Urban Institute, November 1, 2016.

<sup>22</sup> [“Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities,”](#) Federal Reserve Bank of Boston, 2020.

<sup>23</sup> Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted.

<sup>24</sup> Table DP1, 2020 Decennial Census, Census Bureau.

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<sup>25</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>26</sup> Business ownership percentages are based on Census estimates for number of employer firms in each sector. Estimates are not available for all racial and ethnic groups.