



125 Broad Street, 19th Floor
New York, NY 10004
(212) 607-3300
www.nyclu.org

**Testimony of the New York Civil Liberties Union
Before the Joint Legislative Budget Hearing on Labor/Workforce
Development**

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Governor Hochul’s proposal in Part J of the Education, Labor and Family Assistance (ELFA) Article VII bill would amend Section 3502 of the Public Health Law by authorizing the use of body scanners on young people detained in or committed to, visitors to, and employees of locally-operated secure and specialized secure juvenile detention and state-operated juvenile justice facilities.

Body scanners are already used Department of Corrections and Community Supervision (DOCCS) facilities. As has been reported in several news outlets and to the Governor’s office, there have been significant issues with the body scanners in DOCCS facilities. Since August 2025, the New York Civil Liberties Union (NYCLU) began receiving reports that DOCCS has been preventing women who were menstruating from visiting incarcerated loved ones and, worse, suspending their ability to visit their loved ones, sometimes indefinitely. The women the NYCLU has spoken to reported that corrections officers were flagging them as having contraband after they went through body scanners, later realizing that officers were interpreting their menstrual products as contraband.¹ In several cases, officers denied requests for alternative searches or non-contact visits.²

If New York State plans to expand the use of body scanners, safeguards must first be put in place including:

- (1) Policies to address sex discrimination and intrusive conduct.** The statement of support for Part J of the ELFA Article VII bill encourages the use of body scanners to “combat the introduction of contraband, while

¹ See, e.g., New York Civil Liberties Union, Letter to DOCCS re Discriminatory Visitation Suspension at DOCCS Facilities, Dec. 1, 2025, <https://www.documentcloud.org/documents/26343379-nyclu-letter-re-body-scanners/> (hereinafter “Letter to DOCCS”).

² Others—including Senator Salazar—have received similar reports. In response to numerous calls from women who faced difficulty visiting due to their menstrual products, Senator Salazar and Assemblymember Hooks introduced legislation that would prohibit correctional facilities from denying visits for menstrual products or contraceptive devices, S.8353 (Salazar)/A.8840 (Hooks).

reducing the need for more invasive physical searches.”³ However, the experience of several women visitors to DOCCS prisons reveals that the use of body scanners has oftentimes led to invasive, intrusive, or humiliating contact.

DOCCS staff have subjected several women who went through body scanners while menstruating to alarming treatment. For example, it was reported that, after correctional staff thought that a visitor who was menstruating’s body scan appeared suspicious, she offered to remove her tampon and go through the body scanner a second time. Staff vigorously searched the restroom before and after the woman removed the tampon from her body. DOCCS ultimately allowed the woman to receive a visit, albeit a non-contact one, even though she cleared the body scan the second time.⁴ In another case, officers allowed a woman to remove her menstrual product in order to receive a visit. However, without a menstrual product, she bled through her clothing in front of other visitors and staff.⁵ If body scanner usage is going to be expanded in juvenile facilities, the State must take measures to prevent the problems with body scanner usage at DOCCS facilities from replicating themselves by requiring that the Office of Children and Family Services (OCFS) develop policies explicitly prohibiting discrimination against women who are menstruating in OCFS facilities.

(2) **Alternative methods of screening.** Body scanners are not appropriate for all people as Section 3502(6)(c)(ii) of the Public Health Law acknowledges by, for example, prohibiting their use on pregnant people.⁶ Section 3502(6)(a)(iii) of the Public Health Law further requires that the State Commission of Correction, in consultation with DOCCS, promulgate regulations related to body scanners that set out “alternative methods of screening” and “ensure that no person [is] subjected to any form of harassment, intimidation, or disciplinary action for choosing to be searched by an alternative method.”

DOCCS Directive #4923 allows visitors to opt out of the body scanner and instead be processed via an alternative method,⁷ and DOCCS has long used

³ FY 2027 New York State Executive Budget, Education, Labor and Family Assistance Article VII Legislation, Memorandum in Support, at 11 (2026).

⁴ Raina Lipsitz, Chris Gelardi, and Sydney Umstead, *State Prisons are Turning Away Visitors After Scanners Pick Up Their Tampons*, NY Focus, Dec. 6, 2025, <https://nysfocus.com/2025/12/06/doccs-visitation-policy-body-scanners-tampon-iud>.

⁵ See, e.g., Letter to DOCCS, *supra* note 1.

⁶ N.Y. Pub. H. L. §3502(6)(c)(ii) (noting that “pregnant women *shall not* be subject to . . . scanning at any time” and setting exposure limits) (emphasis added).

⁷ N.Y. STATE DEPARTMENT OF CORR. AND CMTY. SUPERVISION, DIRECTIVE #4923: USE OF BODY SCANNERS (2025).

other methods of screening—metal detectors, K9 searches, strip searches, etc.⁸—for individuals entering its facilities. However, while these alternative methods continue to be available even with the introduction of body scanners, women visitors to DOCCS facilities have repeatedly reported to us that they have been denied the opportunity for alternative methods of screening.

Visitors often travel long distances and take time off work to spend time with their incarcerated loved ones. When visitors arrive at facilities, wait times often last several hours. After all that visitors endure to connect their incarcerated loved ones, it is unsurprising that, when they are told they have an anomalous body scan, they are often desperate enough to receive a visit that they request strip searches. Many women’s requests have been denied, and DOCCS has not offered them a non-contact or contact visit.

The use of alternative methods beyond body scanners is also critical as we have recently heard a couple reports of women who have been told they have reached or about to reach the radiation exposure limit. Visitors should never be penalized by not being able to visit or receive a contact visit due to reaching the radiation limit, a circumstance that is beyond their control and that DOCCS could easily address by using other screening methods. As there continues to be instances of DOCCS officers barring women from visits for wearing menstrual products, any department using body scanners must ensure there are alternative processes available and that staff are appropriately making use of them. Otherwise, they risk preventing people from maintaining bonds with their loved ones for innocent and legal conduct.

(3) Meaningful training including compliance with the Department’s own policies. While the NYCLU appreciates that the law—which ELFA proposes extending to other facilities— requires that training be required before implementation of body scanners and be repeated annually, meaningful training must include compliance with the Department’s own policies.

As mentioned, DOCCS policies allow officers to employ a security process besides a body scanner in order to grant a non-contact visit. And, while current law establishes training requirements for state and local correctional facilities “operating body imaging scanning equipment,” several women have indicated that these procedures were not followed, as when officers deemed

⁸ For example, if there is reasonable cause to believe the visitor is concealing contraband, DOCCS Directive #4403 permits staff to offer a strip search or a non-contact visit. N.Y. STATE DEPARTMENT OF CORR. AND CMTY. SUPERVISION, DIRECTIVE #4403: VISITOR PROGRAM (2023).

their body scan to be anomalous the officers banned them from visiting and did not offer a process for receiving a non-contact visit. In addition, contrary to DOCCS policy, officers have repeatedly banned women from visiting for body scans that do not clearly show contraband.

It has also become clear that certain state prisons are frequently banning women from visiting while others are not. This suggests that officers' varying interpretations of the body scans or of DOCCS policies, rather than the body scanner technology, are a primary cause of the sex discrimination. Training must include the process for dealing with anomalies in body scans that are not clearly contraband.

- (4) **Public reporting.** While the NYCLU is encouraged that, as is currently required for departments using body scanners, OCFS would also be required to provide reports to the legislature eighteen months after registration of the body scanners and annually, it is important that these reports be posted publicly. The reporting could also be strengthened by requiring:
- a. the number of times a visit was banned due to a body scan;
 - b. the number of times a visitor's rights were suspended due to the equipment, broken down by the different suspension lengths, and the frequency that appeals of those decisions were overturned, upheld, or are pending;
 - c. the number of requests for medical or other exemptions received and percentage granted, denied, and pending;
 - d. the number of people who reached the radiation limit, broken down by incarcerated individual, visitor, and employee; and
 - e. the number of times an alternative screening method was used and the percentage at which an individual was cleared by an alternative method including whether an alternative screening method was used after a body scanner supposedly identified an anomaly.

While this data may not capture the full extent of the problem, it would put the public and the legislature in a better position to understand problems encountered with the use of body scanners at carceral facilities and whether policies may require changes.

Based on the repeated instances of sex discrimination against women attempting to visit their loved ones incarcerated in DOCCS prisons, the legislature should be extremely cautious in authorizing the use of body scanners in youth facilities. We urge the legislature to adopt meaningful guardrails that address the above concerns before any expansion of body scanners.