



2005 ASSEMBLY BILL 699

September 26, 2005 - Introduced by Representatives FRISKE, GUNDRUM, FIELDS, HAHN, ALBERS, TOWNSEND, KRAWCZYK, McCORMICK and PETROWSKI, cosponsored by Senators GROTHMAN and DECKER. Referred to Committee on Corrections and the Courts.

1 **AN ACT to amend** 20.410 (3) (hm), 301.025, 301.16 (1x), 301.26 (4) (d) 2. and
2 301.26 (4) (d) 3.; and **to create** 20.410 (1) (ac), 301.03 (10) (h), 301.16 (1y),
3 301.16 (1z), 301.16 (1zm), 301.18 (1) (h), 301.26 (4) (dm), 302.01 (13), 302.01 (14)
4 and 302.01 (15) of the statutes; **relating to:** the establishment of medium
5 security correctional institutions on the grounds of the Lincoln Hills School, the
6 Ethan Allen School, and the Southern Oaks Girls School; authorization for the
7 Department of Corrections to set the youth aids daily rates for care of a juvenile
8 in a secured correctional facility or a treatment facility; and making an
9 appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Juvenile Justice Code (juvenile court) ordinarily exercises jurisdiction over a juvenile who is alleged to have committed a delinquent act and, upon adjudicating the juvenile delinquent, may place the juvenile in a secured correctional facility such as the Lincoln Hills School, the Ethan Allen School, or the Southern Oaks Girls School. Under certain circumstances, however, the juvenile court may waive its jurisdiction over a juvenile or a juvenile may be subject to the original jurisdiction

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of the court of criminal jurisdiction, in which case the juvenile, upon conviction, is subject to criminal penalties, including a sentence of imprisonment in the Wisconsin state prisons where the juvenile is subject to the laws pertaining to inmates of the penal institutions of this state.

This bill requires the Department of Corrections (DOC) to establish medium security correctional institutions on the grounds of the Lincoln Hills School, the Ethan Allen School, and the Southern Oaks Girls School for persons under 21 years of age who have been sentenced to the Wisconsin state prisons. The bill requires an inmate placed in one of those institutions to be separated physically, and by sight and sound, from a juvenile placed in the school on whose grounds the institution is located. The bill also specifies that such an inmate is under the supervision and control of the Division of Juvenile Corrections in DOC, is subject to the rules and discipline of that division, and is subject to the laws and rules pertaining to the care of juveniles placed in juvenile secured correctional facilities rather than to the laws pertaining to inmates of the penal institutions of this state. In addition, the bill requires those institutions to be staffed by officers and employees of the Division of Juvenile Corrections in DOC rather than by correctional officers whose primary duty is to supervise inmates at a prison and specifies that those officers and employees are subject to the laws and rules pertaining to the care of juveniles placed in juvenile secured correctional facilities rather than to the laws pertaining to penal institutions.

Under current law relating to community youth and family aids, generally referred to as “youth aids,” DOC is required to allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the cost of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of \$203 for care in a juvenile secured correctional facility or a treatment facility.

This bill eliminates those statutorily set assessments and instead directs DOC to set those assessments at least annually. The bill permits DOC to set one assessment for short-term placements of 30 days or less and another assessment for long-term placements of more than 30 days and permits DOC to adjust those assessments more frequently than annually as necessary to reflect the per person average daily cost of providing that care. The bill requires DOC to publish those assessments and adjustments in the Wisconsin Administrative Register and excepts DOC from having to promulgate those assessments and adjustments as rules. The bill also requires DOC to increase the youth aids funds allocated to counties if DOC increases an assessment under the bill.

Finally, the bill requires DOC to manage the number of juveniles placed at the Lincoln Hills School and at the Ethan Allen School and the number of inmates placed at the medium security correctional institutions located on the grounds of those schools so that over a 12-month period the average daily population of the Lincoln Hills School and of the institution located on its grounds and the average daily population of the Ethan Allen School and of the institution located on its grounds are equal.

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1 by the department, all moneys transferred from the appropriation account under
2 pars. (ho) and (hr) as provided in 2005 Wisconsin Act 25, section 9209 (1x), all moneys
3 transferred under s. 301.26 (4) (cm), all moneys transferred under s. 301.16 (1y), (1z),
4 and (1zm), and, except as provided in par. (hr), all moneys received in payment for
5 juvenile correctional services specified in s. 301.26 (4) (d), (dt), and (g) shall be
6 credited to this appropriation account. If moneys generated by the daily rate under
7 s. 301.26 (4) (d) exceed actual fiscal year institutional costs, other than the costs of
8 operating the correctional institutions authorized under s. 301.16 (1y), (1z), and
9 (1zm), by 2% or more, all moneys in excess of that 2% shall be remitted to the counties
10 during the subsequent calendar year or transferred to the appropriation account
11 under par. (kx) during the subsequent fiscal year. Each county and the department
12 shall receive a proportionate share of the remittance and transfer depending on the
13 total number of days of placement at juvenile correctional institutions including the
14 Mendota Juvenile Treatment Center. Counties shall use the funds for purposes
15 specified in s. 301.26. The department shall deposit in the general fund the amounts
16 transferred under this paragraph to the appropriation account under par. (kx).

17 **SECTION 4.** 301.025 of the statutes is amended to read:

18 **301.025 Division of juvenile corrections.** The division of juvenile
19 corrections shall exercise the powers and perform the duties of the department that
20 relate to juvenile correctional services and institutions, juvenile offender review,
21 aftercare, corrective sanctions, the serious juvenile offender program under s.
22 938.538, the operation of the state correctional institutions authorized under s.
23 301.16 (1y), (1z), and (1zm), and youth aids.

24 **SECTION 5.** 301.03 (10) (h) of the statutes is created to read:

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1 301.03 (10) (h) Manage the number of juveniles placed at the Lincoln Hills
2 School and the Ethan Allen School and the number of inmates placed at the state
3 correctional institutions under s. 301.16 (1y) and (1z) located on the grounds of those
4 schools so that over a 12-month period the average daily population of the Lincoln
5 Hills School and of the state correctional institution located on the grounds of that
6 school and the average daily population of the Ethan Allen School and of the state
7 correctional institution located on the grounds of that school are equal.

8 **SECTION 6.** 301.16 (1x) of the statutes is amended to read:

9 301.16 (1x) Inmates from the Wisconsin state prisons may be transferred to the
10 institutions under this section and, except as provided in subs. (1y), (1z), and (1zm),
11 they shall be subject to all laws pertaining to inmates of other penal institutions of
12 this state. Officers Except as provided in subs. (1y), (1z), and (1zm), officers and
13 employees of the institutions shall be subject to the same laws as pertain to other
14 penal institutions. Inmates shall not be received on direct commitment from the
15 courts.

16 **SECTION 7.** 301.16 (1y) of the statutes is created to read:

17 301.16 (1y) In addition to the institutions under sub. (1), the department shall
18 establish a medium security correctional institution located on the grounds of the
19 Lincoln Hills School near the unincorporated village of Irma in Lincoln County. The
20 institution shall be used for the placement of persons under 21 years of age who have
21 been placed in a state prison under s. 302.01. Inmates placed at the institution under
22 this subsection shall be separated physically, and by sight and sound, from juveniles
23 placed at the Lincoln Hills School and, notwithstanding sub. (1x), shall be under the
24 supervision and control of the division of juvenile corrections in the department,
25 subject to the rules and discipline of that division, and subject to all laws and rules

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1 pertaining to the care of juveniles placed at Type 1 secured correctional facilities, as
2 defined in s. 938.02 (19). The institution shall be staffed by officers and employees
3 of the division of juvenile corrections in the department who, notwithstanding sub.
4 (1x), shall be subject to the same laws as apply to officers and employees of a Type
5 1 secured correctional facility. The department shall transfer funds from the
6 appropriation account under s. 20.410 (1) (ac) to the appropriation account under s.
7 20.410 (3) (hm) for the purpose of reimbursing the Lincoln Hills School for the cost
8 of operating the institution under this subsection.

9 **SECTION 8.** 301.16 (1z) of the statutes is created to read:

10 301.16 (1z) In addition to the institutions under sub. (1), the department shall
11 establish a medium security correctional institution located on the grounds of the
12 Ethan Allen School near the village of Wales in Waukesha County. The institution
13 shall be used for the placement of persons under 21 years of age who have been placed
14 in a state prison under s. 302.01. Inmates placed at the institution under this
15 subsection shall be separated physically, and by sight and sound, from juveniles
16 placed at the Ethan Allen School and, notwithstanding sub. (1x), shall be under the
17 supervision and control of the division of juvenile corrections in the department,
18 subject to the rules and discipline of that division, and subject to all laws and rules
19 pertaining to the care of juveniles placed at Type 1 secured correctional facilities, as
20 defined in s. 938.02 (19). The institution shall be staffed by officers and employees
21 of the division of juvenile corrections in the department who, notwithstanding sub.
22 (1x), shall be subject to the same laws as apply to officers and employees of a Type
23 1 secured correctional facility. The department shall transfer funds from the
24 appropriation account under s. 20.410 (1) (ac) to the appropriation account under s.

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1 20.410 (3) (hm) for the purpose of reimbursing the Ethan Allen School for the cost of
2 operating the institution under this subsection.

3 **SECTION 9.** 301.16 (1zm) of the statutes is created to read:

4 301.16 (1zm) In addition to the institutions under sub. (1), the department
5 shall establish a medium security correctional institution located on the grounds of
6 the Southern Oaks Girls School near the village of Union Grove in Racine County.
7 The institution shall be used for the placement of persons under 21 years of age who
8 have been placed in a state prison under s. 302.01. Inmates placed at the institution
9 under this subsection shall be separated physically, and by sight and sound, from
10 juveniles placed at the Southern Oaks Girls School and, notwithstanding sub. (1x),
11 shall be under the supervision and control of the division of juvenile corrections in
12 the department, subject to the rules and discipline of that division, and subject to all
13 laws and rules pertaining to the care of juveniles placed at Type 1 secured
14 correctional facilities, as defined in s. 938.02 (19). The institution shall be staffed by
15 officers and employees of the division of juvenile corrections in the department who,
16 notwithstanding sub. (1x), shall be subject to the same laws as apply to officers and
17 employees of a Type 1 secured correctional facility. The department shall transfer
18 funds from the appropriation account under s. 20.410 (1) (ac) to the appropriation
19 account under s. 20.410 (3) (hm) for the purpose of reimbursing the Southern Oaks
20 Girls School for the cost of operating the institution under this subsection.

21 **SECTION 10.** 301.18 (1) (h) of the statutes is created to read:

22 301.18 (1) (h) Provide the facilities necessary for the state correctional
23 institutions authorized under s. 301.16 (1y), (1z), and (1zm).

24 **SECTION 11.** 301.26 (4) (d) 2. of the statutes, as affected by 2005 Wisconsin Act
25 25, is amended to read:

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1 301.26 (4) (d) 2. Beginning on July 1, 2005, and ending on June 30, 2006, the
2 per person daily cost assessment to counties shall be ~~\$203~~ the dollar amounts set by
3 the department under par. (dm) for care in a Type 1 secured correctional facility, as
4 defined in s. 938.02 (19), ~~\$203~~ the dollar amounts set by the department under par.
5 (dm) for care for juveniles transferred from a juvenile correctional institution under
6 s. 51.35 (3), \$234 for care in a residential care center for children and youth, \$157 for
7 care in a group home for children, \$47 for care in a foster home, \$83 for care in a
8 treatment foster home, \$81 for departmental corrective sanctions services, and \$32
9 for departmental aftercare services.

10 **SECTION 12.** 301.26 (4) (d) 3. of the statutes, as affected by 2005 Wisconsin Act
11 25, is amended to read:

12 301.26 (4) (d) 3. Beginning on July 1, 2006, and ending on June 30, 2007, the
13 per person daily cost assessment to counties shall be ~~\$209~~ the dollar amounts set by
14 the department under par. (dm) for care in a Type 1 secured correctional facility, as
15 defined in s. 938.02 (19), ~~\$209~~ the dollar amounts set by the department under par.
16 (dm) for care for juveniles transferred from a juvenile correctional institution under
17 s. 51.35 (3), \$244 for care in a residential care center for children and youth, \$163 for
18 care in a group home for children, \$50 for care in a foster home, \$87 for care in a
19 treatment foster home, \$82 for departmental corrective sanctions services, and \$33
20 for departmental aftercare services.

21 **SECTION 13.** 301.26 (4) (dm) of the statutes is created to read:

22 301.26 (4) (dm) The department shall set the per person cost assessments to
23 counties under par. (d) 2. and 3. for care in a Type 1 secured correctional facility, as
24 defined in s. 938.02 (19), and for care for juveniles transferred from a juvenile
25 correctional institution under s. 51.35 (3). In setting those assessments, the

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1 department may set one assessment for short-term placements of 30 days or less and
2 another assessment for long-term placements of more than 30 days. The
3 department shall set those assessments at least annually, effective on July 1 of each
4 year, and may adjust those assessments more frequently as necessary to reflect the
5 average per person daily cost of providing that care. The department shall publish
6 those assessments and any adjustments to those assessments in the Wisconsin
7 Administrative Register and is not required to promulgate those assessments or
8 adjustments as rules under ch. 227. If the department increases an assessment
9 under this paragraph, the department shall increase the funds allocated to counties
10 under sub. (3) (c) in proportion to each county's proportional use of those services.

11 **SECTION 14.** 302.01 (13) of the statutes is created to read:

12 302.01 (13) The medium security correctional institution authorized under s.
13 301.16 (1y) is named the Lincoln Hills Youthful Offender Correctional Facility.

14 **SECTION 15.** 302.01 (14) of the statutes is created to read:

15 302.01 (14) The medium security correctional institution authorized under s.
16 301.16 (1z) is named the Ethan Allen Youthful Offender Correctional Facility.

17 **SECTION 16.** 302.01 (15) of the statutes is created to read:

18 302.01 (15) The medium security correctional institution authorized under s.
19 301.16 (1y) is named the Southern Oaks Youthful Offender Correctional Facility.

20 **SECTION 17. Nonstatutory provisions.**

21 (1) YOUTH AIDS DAILY RATES. Notwithstanding section 301.26 (4) (d) 2. and 3. of
22 the statutes, as affected by this act, the per person daily cost assessments to counties
23 for care in a Type 1 secured correctional facility, as defined in section 938.02 (19) of
24 the statutes, and for care for juveniles transferred from a juvenile correctional
25 institution under section 51.35 (3) of the statutes specified in section 301.26 (4) (d)

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SECTION 17

1 2. of the statutes on the day before the effective date of this subsection or section
2 301.26 (4) (d) 3. of the statutes on the day before the effective date of this subsection,
3 whichever is applicable, remain in effect until the publication in the Wisconsin
4 Administrative Register of the assessments specified in section 301.26 (4) (dm) of the
5 statutes, as created by this act.

6 (END)