



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #253

### **Transfer Juvenile Community-Based Delinquency-Related Services and Youth Aids to Children and Families (Corrections -- Juvenile Corrections)**

[LFB 2015-17 Budget Summary: Page 96, #8 and Page 129, #7]

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#### **CURRENT LAW**

Under current law, counties are generally responsible for juveniles adjudicated delinquent, except for: (a) the care of a juvenile who has been adjudicated as a serious juvenile offender; and (b) juveniles under the original jurisdiction of or waived into adult court and sentenced to state prison, but placed at a juvenile facility. Counties provide a range of services, such as counseling, supervision, teen court, intensive supervision, restitution, residential placement, placement in a juvenile detention facility, electronic monitoring, alcohol or drug treatment, and day treatment. In addition, counties may contract with the state for placement of a juvenile in a juvenile correctional facility, or state aftercare services or corrective sanctions following release from a juvenile correctional facility.

Related to juvenile delinquency-related services, the Department of Corrections is currently responsible for the following: (a) the serious juvenile offender program; (b) operation of the two juvenile correctional facilities, Lincoln Hills School and Copper Lake School; (c) establishing standards and regulations for county juvenile detention facilities; (d) operations of the state aftercare program; (e) operations of juvenile corrective sanctions; (f) administration of youth aids funding; (g) administration of community intervention program funding; and (h) distribution of funding for unexpected or unusually high-cost out-of-home placements of Indian juveniles who have been adjudicated delinquent by tribal courts.

#### **GOVERNOR**

Modify current law definitions to distinguish between community-based juvenile delinquency-related services and juvenile correctional services. The Department of Children and

Families (DCF) would be responsible for community-based juvenile delinquency-related services, while the Department of Corrections (DOC) would retain authority over juvenile correctional services. Services transferred from DOC to DCF would include:

a. *Youth Aids Funding.* Under current law, DOC administers funding for community youth and family aids (youth aids), with statutory provisions identifying how specific youth aids allocations are distributed. The bill would transfer the funding and administration for youth aids to DCF, with the statutory provisions for funding distributions remaining unchanged (excepted for updating the distributions for 2015-17).

Under the bill, DCF would be required to: (a) develop procedures for implementation of youth aids and standards for development and delivery of community-based juvenile delinquency-related services; (b) provide consultation and technical assistance to aid counties in the implementation and delivery of those services; and (c) establish information systems and monitoring and evaluation procedures to report periodically to the Governor and Legislature on the statewide impact of youth aids.

b. *Community Intervention Program.* Current law requires DOC to distribute \$3,750,000 GPR in each year for early intervention services for first-time juvenile offenders and for intensive community-based intervention services for seriously chronic juvenile offenders. The bill would transfer funding and administration of the program to DCF.

In a separate provision related to the community intervention program, the bill would delete the statutory reference specifying the \$3,750,000 amount, and instead require the Department to distribute the amounts appropriated. [Current base funding for the program is \$3,712,500 GPR annually.]

c. *Funding for Indian Juvenile Placements.* Under current law, DOC reimburses Indian tribes and county departments for unexpected or unusually high-cost out-of-home placements of Indian juveniles who have been adjudicated delinquent by tribal courts. Under the bill, funding and administration for these reimbursements would be transferred to DCF.

The bill includes numerous statutory reference changes in Chapter 46 (Social Services), Chapter 48 (Children's Code), Chapter 49 (Public Assistance and Children and Families), and Chapter 938 (Juvenile Justice Code) to reflect the transfer of the administration of juvenile community services, youth aids, the community intervention program, and juvenile tribal delinquency placements to DCF, while maintaining juvenile correctional services with DOC.

The effective date for the above provisions would be January 1, 2016. The bill provides a nonstatutory provision related to the following areas affected by the transfer from DOC to DCF: (a) assets and liabilities; (b) positions and employees; (c) employee status; (d) tangible personal property; (e) pending matters; (f) contracts; and (g) rules and orders.

## DISCUSSION POINTS

1. Under current law, the responsibility for operating the juvenile justice system is shared between state and local governments, mainly DOC, county human service agencies, and circuit courts. County-level human service agencies and the courts are responsible for the initial screening of juveniles who have been taken into custody for potential violation of criminal law. Counties may hold juveniles in temporary custody in a secure juvenile detention facility and make recommendations to the district attorney about a juvenile's case.

2. For juveniles adjudicated delinquent, counties provide services, including probation and aftercare supervision, residential placement, intensive supervision, restitution, day treatment, early intervention, and prevention services. For juveniles who receive a Serious Juvenile Offender disposition, or are sentenced under adult court, the state provides services for those juveniles. Juveniles may be placed at one of the state's juvenile correctional facilities, Lincoln Hills School for males and Copper Lake School for females. In addition, DOC contracts with the Department of Health Services for 29 beds at the Mendota Juvenile Treatment Center's secured mental health unit.

3. Counties are financially responsible for the costs of juvenile delinquency-related services, except for juveniles in the Serious Juvenile Offender program or are sentenced under adult court. Corrections administers youth aids funding, providing each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services, including out-of-home placements and non-residential, community-based services for juveniles. Counties may supplement their expenditures on juvenile delinquency-related services with funding from other sources, including community aids, other state aids to counties, county tax revenues and special grant monies.

4. In addition to youth aids, DOC distributes funding for the community intervention program, which provides early intervention services for first-time juvenile offenders and for intensive community-based intervention services for seriously chronic juvenile offenders. Further, DOC reimburses Indian tribes and county departments for unexpected or unusually high-cost out-of-home placements of Indian juveniles who have been adjudicated delinquent by tribal courts.

5. Under the bill, the administration of funding for youth aids, the community intervention program, and Indian juvenile out-of-home placement reimbursements would be transferred from DOC to DCF.

6. In addition, statutory language would be created to distinguish between community-based juvenile delinquency-related services and juvenile correctional services. Juvenile correctional services would include services provided for a juvenile under DOC supervision under original adult jurisdiction, Serious Juvenile Offender disposition, a juvenile correctional placement, or aftercare supervision. Community-based juvenile delinquency-related services would include juvenile delinquency-related services other than juvenile correctional services. Children and Families would be responsible for administering the community-based juvenile delinquency-related services, while DOC would retain authority over juvenile correctional services.

7. The following table identifies the funding transfers under the bill. The amounts in the

table include: (a) funding adjustments under a separate provision which reestimate a portion of youth aids for extended out-of-home placements for juveniles with an individualized education plan, as authorized under 2013 Act 334 (9.2% of phased-in funding for the program); and (b) funding adjustments identified by the Department of Administration in its April 13, 2015, errata document.

### **Department of Corrections Funding Reductions**

<u>Appropriation</u>		<u>Title</u>	<u>2015-16</u>	<u>2016-17</u>	<u>Biennium</u>	
20.410(3)(cd)	transferred	Community Youth and Family Aids	-\$44,266,100	-\$88,590,300	-\$132,856,400	GPR
20.410(3)(hm)	no change	Juvenile correctional services - 1.0 FTE	-34,300	-68,500	-102,800	PR
20.410(3)(f)	transferred	Community Intervention Program	-1,856,200	-3,712,500	-5,568,700	GPR
20.410(3)(kp)	transferred	Indian Juvenile Placements	-37,500	-75,000	-112,500	PR
20.410(3)(ko)	deleted	Interagency programs; community youth and family aids	-1,201,400	-2,449,200	-3,650,600	PR
20.410(3)(n)	no change	Federal-juvenile	-27,400	-27,400	-54,800	FED

### **Department of Children and Families Funding Increases/Adjustments**

<u>Appropriation</u>		<u>Title</u>	<u>2015-16</u>	<u>2016-17</u>	<u>Biennium</u>	
20.437(1)(cj)	new	Community Youth and Family Aids	\$44,262,100	\$88,524,100	\$132,786,200	GPR
20.437(1)(cj)	same as as above	Community Youth and Family Aids - 1.0 FTE	33,200	66,200	99,400	GPR
20.437(1)(cm)	new	Community Intervention Program	1,856,300	3,712,500	5,568,800	GPR
20.437(1)(kp)	new	Interagency Intra-agency; Tribal Delinquency Placements	37,500	75,000	112,500	PR
20.437(1)(o)	amended	Federal aid; children, youth, family aids	1,628,400	3,256,700	4,885,100	FED
20.437(1)(nl)	no change	Federal program local assistance	-390,100	-780,100	-1,170,200	FED

8. In addition to correcting a funding calculation for youth aids related to out-of-home placements for juveniles with an individualized education plan, DOA's errata document would amend the bill to: (a) clarify that juveniles held in juvenile detention facilities are under county supervision, not DOC supervision; and (b) clarify language that county departments do not provide juvenile correctional services placed under DOC supervision, rather counties would purchase those services from DOC for juveniles that counties place under DOC supervision.

9. The Governor's recommendation transfers administration of various juvenile state funded programs from DOC to DCF and specifies that DCF would be responsible for community-based juvenile services, while DOC would retain authority over juvenile correctional services. Otherwise, provisions related to juvenile services and funding are generally unchanged. For example, the formula for distributing community intervention program funding would continue to

be allocated as under current law (33% based on juvenile arrests for Part I violent crimes, 34% based on juvenile arrests for all Part I crimes, and 33% based on juvenile correctional placements). Similarly, payment distributions for youth aids funding would remain unchanged.

10. As a policy consideration, it could be argued that transferring community-based juvenile services to DCF would be the more appropriate agency for providing those services over DOC. The current mission and goals of DCF include improving "the economic and social well-being of Wisconsin's children, youth and families. The Department is committed to protecting children and youth, strengthening families, and supporting communities." Administering and promoting community services for delinquent juveniles by a Department whose focus is to support and strengthen youth and families would arguably be a beneficial policy change. Further, in her remarks before the Committee on March 4, 2015, the Secretary of DCF indicated that many juveniles adjudicated delinquent have been in the child welfare system, and the Department has the infrastructure to provide continued support to those juveniles.

11. Since introduction of the bill, DOC and DCF have been working together to ensure a smooth transition. During meetings regarding the transfer, the Departments found that the following issues that would need to be clarified in the bill related to the transfer:

- The bill would transfer the 1.0 position responsible for administering youth aids funding to DCF's new youth aids appropriation (\$99,400 GPR and 1.0 GPR positions annually). Since the new appropriation is a local assistance appropriation, the position would be better placed under DCF's general program operations appropriation.
- Among the many statutory reference changes in the bill, several provisions currently under Chapter 938 (Juvenile Justice Code) would be transferred to Chapter 48 (Children's code). The Departments agree that the provisions should remain under Chapter 938, with statutory language added to clarify each Department's authority and responsibilities under Chapter 938. The attachment summarizes the current authority provided under Chapter 938 for DOC, and how the provisions would be modified under the Departments' proposed changes.

12. Considering the policy implications of DCF providing services to juvenile and their families, and the Departments' efforts to clarify the work providing those services, the Committee may wish to approve the provision, with the modifications identified by the Departments. [Alternative 2]

13. Early in the history of youth aids (1979 to 1989), the program was administered by the Department of Health and Social Services (DHSS) along with other community aid programs and separate from juvenile correctional services. Beginning in 1989, however, the division or bureau with responsibility for youth services or juvenile corrections managed the youth aids program, and continued when juvenile corrections transferred to DOC in 1996. Transferring the program to DCF would require that agency to newly administer an aid program of long standing. Since administration of youth aids has been a function of juvenile corrections for the past 26 years, the Committee may wish to delete the provision and retain the program under DOC. Continued

administration of youth aids funding by DOC would maintain a continuity of operation that counties have experienced. [Alternative 3]

## **ALTERNATIVES**

1. Approve the Governor's recommendation to transfer the administration of certain juvenile services from DOC to DCF. [The alternative includes the items identified in the Department of Administration's errata document.]
2. Approve the Governor's recommendation, modified to incorporate the clarifications identified by DOC and DCF.
3. Delete provision.

Prepared by: Chris Carmichael  
Attachment

## ATTACHMENT

### Authority of Departments Proposed Changes

<b>Current Law (s. 938.48)</b>	<b>DCF (modified s. 938.48)</b>	<b>DOC (new s. 938.485)</b>
<i>Enforcement of Laws.</i> Promote the enforcement of the laws relating to delinquent juveniles and juveniles in need of protection or services and take the initiative in all matters involving the interests of those juveniles when adequate provision for those matters is not made. This duty shall be discharged in cooperation with the courts, county departments, licensed child welfare agencies, parents, and other individuals interested in the welfare of juveniles.	The same, but add cooperation with Department of Corrections.	The same, but add cooperation with Department of Children and Families.
<i>Juvenile Welfare Services.</i> Assist in extending and strengthening juvenile welfare services with appropriate federal agencies and in conformity with the federal Social Security Act and in cooperation with parents, other individuals, and other agencies so that all juveniles needing such services are reached.	Same as current law.	No provision.
<i>Prevention and Treatment</i> [s. 301.06(2)]. Study causes and methods of prevention and treatment of juvenile delinquency and related social problems. The department may utilize all powers provided by the statutes, including the authority to accept grants of money or property from federal, state or private sources, and enlist the cooperation of other agencies and state departments.	Create provision under s. 938.48, adding "Education" to title. Add last sentence: "Develop and maintain education and prevention programs that the department considers to be proper."	Maintain current law version under current law s. 301.06(2).
<i>Supervision and Special Treatment or Care.</i> Accept supervision over juveniles transferred to it by the court under s. 938.183 [original adult court jurisdiction], 938.34 (4h) [serious juvenile offenders], (4m) [correctional placement], or (4n) [aftercare supervision], or 938.357 (4) [DOC supervision change in placement], and provide special treatment or care to juveniles when directed by the court.	No provision.	Same as current law.
<i>Care, Training, and Placement.</i> Provide appropriate care and training for juveniles under its supervision under original adult court jurisdiction, serious juvenile offenders, correctional placement, aftercare supervision, or DOC supervision change in placement, including serving those juveniles in their own homes, placing them in licensed foster homes or licensed group homes or in independent living situations, contracting for their care by licensed child welfare agencies, or replacing them in juvenile correctional facilities or secured residential care centers for children and youth in accordance with promulgated rules , except that the department may not purchase the educational component of private day treatment programs for a juvenile in its custody unless the department, the school board, and the state superintendent of public instruction all determine that an appropriate public education program is not available for the juvenile. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.	No provision.	Same as current law.

<b>Current Law (s. 938.48)</b>	<b>DCF (modified s. 938.48)</b>	<b>DOC (new s. 938.485)</b>
<i>Continuing Care and Services for Juveniles Over 17.</i> Continue to provide appropriate care, training and services to any person who meets all of the following qualifications: (a) is at least 17 years of age; (b) was under the supervision of the department under original adult court jurisdiction, serious juvenile offenders, correctional placement, aftercare supervision, or DOC supervision change in placement when the person reached 17 years of age; (c) is less than 19 years of age; and (d) is determined by the department to be in need of care and services designed to fit the person for gainful employment and has requested and consented to receive the care and services.	No provision.	Same as current law.
<i>Moral and Religious Training.</i> Provide for the moral and religious training of a juvenile under its supervision under original adult court jurisdiction, serious juvenile offenders, correctional placement, aftercare supervision, or DOC supervision change in placement according to the religious beliefs of the juvenile or of the juvenile's parents.	No provision.	Same as current law.
<i>Emergency Surgery.</i> Consent to emergency surgery under the direction of a licensed physician or surgeon for any juvenile under its supervision under original adult court jurisdiction, serious juvenile offenders, correctional placement, aftercare supervision, or DOC supervision change in placement upon notification by a licensed physician or surgeon of the need for the surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the juvenile's parent or guardian.	No provision.	Same as current law.
<i>Indian Juvenile Placements.</i> Reimburse Indian tribes and county departments for unexpected or unusually high-cost out-of-home care placements of Indian juveniles who have been adjudicated delinquent by tribal courts. In this subsection, "unusually high-cost out-of-home care placements" means the amount by which the cost to an Indian tribe or to a county department of out-of-home care placements of Indian juveniles who have been adjudicated delinquent by tribal courts exceeds \$50,000 in a fiscal year.	Rename "Reimburse Tribes and County Departments." The appropriation from which reimbursements are made would be renamed "Interagency and intra-agency aids; tribal delinquency placements."	No provision.
<i>Allowances and Cash Grants.</i> Promulgate rules for the payment of an allowance to juveniles in its institutions and a cash grant to a juvenile being discharged from its institutions or released to aftercare supervision.	No provision.	Same as current law.
<i>School-Related Expenses for Juveniles Over 17.</i> Pay maintenance, tuition, and related expenses for persons who, when they attained 17 years of age, were students regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare them for gainful employment, and who upon attaining that age were under the supervision of the department under original adult court jurisdiction, serious juvenile offenders, correctional placement, aftercare supervision, or DOC supervision change in placement as a result of a judicial decision.	No provision.	Same as current law.

<b>Current Law (s. 938.48)</b>	<b>DCF (modified s. 938.48)</b>	<b>DOC (new s. 938.485)</b>
<p><i>Standards for Services.</i> Establish and enforce standards for services under s. 938.183[original adult court jurisdiction], 938.34 [delinquency disposition], or 938.345 [juveniles in need of protection or services disposition].</p>	<p><i>Standards for Services.</i> Establish and enforce standards for services under s. 938.34 [delinquency disposition] or 938.345 [juveniles in need of protection or services disposition], other than juvenile correctional services.</p>	<p><i>Standards for Services.</i> Based on research into effective correctional programs and practices, establish and enforce standards for services to youth in its supervision under s. 938.183[original adult court jurisdiction] or 938.34 [delinquency disposition].</p>
<p>No provision.</p>	<p><i>Juvenile Programming Research and Recommendations.</i> Identify and provide ways to improve coordination of juvenile, parent and family education programs and services at the state and local levels by doing all of the following: (a) identifying and recommending ways to eliminate governmental barriers to local development of coordinated educational programs and services for juveniles, parents of juveniles, and other family members of juveniles; and (b) identifying and recommending ways to support and involve parents and other family members in the planning, coordination, and delivery of services for juveniles.</p>	<p>No provision.</p>