



## Legislative Fiscal Bureau

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June, 2019

Joint Committee on Finance

Paper #211

### **Cost Reimbursement for Establishing Secured Residential Care Centers (Children and Families -- Juvenile Justice)**

[LFB 2019-21 Budget Summary: Page 88, #2]

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#### **CURRENT LAW**

*Type 1 Juvenile Correction Facilities and Juvenile Detention Facilities.* Type 1 juvenile correctional facilities use physical security mechanisms (such as locked doors and fencing) and surveillance. A juvenile may be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is adjudicated delinquent and the court gives the juvenile a Serious Juvenile Offender (SJO) program disposition or a correctional placement disposition. A juvenile may also be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is convicted in adult court, is under the age of 18, and receives an adult sentence. Currently, there are only two Type 1 facilities in the state: (a) Lincoln Hills and Copper Lake Schools, operated by Corrections; and (b) the Mendota Juvenile Treatment Center, operated by the Department of Health Services (DHS).

Juveniles with a direct correctional placement may also be placed in a juvenile detention facility authorized by the county's board to hold a juvenile post-disposition. There are currently six juvenile detention facilities with 180 or 365 day programs for juveniles with direct correctional placements.

Pursuant to 2017 Act 185, the state must close the Lincoln Hills and Copper Lake School by January 1, 2021, which Corrections will convert into an adult correctional facility. Corrections must establish new Type 1 juvenile correctional facilities by January 1, 2021, subject to the approval of the Joint Committee on Finance (JFC). Act 185 authorizes \$40 million bonding for the new facilities.

*Secured Residential Care Centers.* Under Act 185, Corrections maintains supervision over juveniles with adult court sentences and juveniles in the SJO program, but the supervision of juveniles under direct correctional placements transfers to counties of origin. Juveniles not serving adult sentences and who are not in the SJO program will be placed in secured residential care centers (SRCCs), rather than in a Type 1 juvenile correctional facility as under prior law. Act 185 allows for transfers to Type 1 juvenile correctional facilities only under certain conditions.

County boards may establish, or contract with a child welfare agency to establish, a SRCC. Counties may also jointly establish an SRCC or contract with another county to place juveniles in that county's SRCC. The selection and purchase of the site, and the plans, specifications and erection of buildings, for a SRCC is subject to the review and approval of Corrections. Subject to the rules promulgated by Corrections, an SRCC may be located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility.

Act 185 empowers the Building Commission to authorize up to a total of \$40 million in general fund supported borrowing to allow Corrections to provide grants to assist counties in designing and constructing SRCCs, and attached juvenile detention facilities. Any such state funding commitment must be in the form of a grant to a county. Act 185 created a grant program under which counties may apply for state funding towards the cost of establishing or constructing SRCCs. Grants cover 95% of the costs of designing and constructing an SRCC, 95% of the costs of designing and constructing a facility housing both an SRCC and a juvenile detention facility, and 100% of the costs of designing and constructing an SRCC or a portion of an SRCC that is only for female juveniles. A 10-member grant committee oversees the grant program and establishes the requirements, guidelines, and criteria for awarding grants.

The deadline for counties to apply for grants was March 31, 2019. After consultation with Corrections and the Department of Children and Families (DCF), and after Corrections approval of any proposed SRCC site, design, and construction specifications, the grant committee must submit a statewide plan of recommend grant approvals to JFC by July 1, 2019. The plan must be approved by JFC before it can be implemented by the grant committee and Corrections. The grant committee then terminates on the earlier of the date all grant funded projects are completed or January 1, 2021.

*Youth Aids.* The community youth and family aids program (Youth Aids) provides 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, costs of detention and secured residential care centers, 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.

In 2018-19, DCF is budgeted a total of \$90,767,200 (\$88,591,400 GPR and \$2,175,800 FED) in youth aids funding for counties. The federal funding is funding the state receives under Title IV-B, subpart 1, and IV-E of the Social Security Act. Additional information regarding youth aids is discussed in LFB budget paper #211.

Act 185 expanded the authorized uses of youth aids for program costs in juvenile detention facilities and SRCCs. A portion of a county's youth aids allocation is based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period. Under Act 185, in addition to the juveniles placed in juvenile correctional facilities, the number of juveniles placed in SRCCs is included in each county's proportion. Further, beginning March 30, 2018, counties operating a joint SRCC in cooperation with another jurisdiction that was funded by a grant under Act 185 may receive bonus allocations under youth aids of up to the lessor of \$750,000 or 15% of the county's allocation.

## **GOVERNOR**

Extend the grant program deadlines by three months, so that county applications would be due by June 30, 2019, and grant committee plan recommendations would be due to the Joint Committee on Finance (JFC) by October 1, 2019. The Juvenile Corrections Grant Committee would be able to submit individual grant recommendations to JFC which would be reviewed under a 14-day passive review process.

Further, the January 1, 2021, deadline for closing Lincoln Hills and Copper Lake schools and for constructing the new SRCCs and new state-run juvenile correctional facilities would be removed. Instead, Corrections would transfer juveniles as soon as substitute placements that meets the needs of the juvenile are ready. Once all juveniles are transferred to SRCCs or the new state facility, Lincoln Hills and Copper Lake schools would close.

The bill would create an annual sum certain GPR appropriation for DCF to reimburse counties, beginning January 1, 2021, for one-time start-up costs incurred by a county, or a group of counties, in establishing secured residential care center for children and youth. The bill would provide \$3,500,000 GPR in 2020-21 for DCF to distribute to counties for this purpose. The Department of Children and Families would be required to consult with county representatives to determine eligible reimbursable expenses.

## **DISCUSSION POINTS**

### **SRCC Start-up Cost Reimbursement**

1. Attachment 1 shows a summary of the estimated costs of establishing SRCCs in multiple locations throughout the state based on letters of interest submitted by counties to the grant committee. Attachment 1 shows the estimated construction costs are approximately \$100 million. However, Fond du Lac and La Crosse counties later withdrew.

2. The Governor's recommended building program would increase financing for the SRCC grant program under Act 185 from \$40 million to \$100 million. However, on March 20, 2019, a series of motions before the Building Commission to recommend the Governor's proposed building program for consideration by JFC resulted in 4 - 4 tie votes. As a result, no recommendation was adopted.

3. The Joint Committee on Finance has not yet determined whether to approve an increase

in the level of financing for the SRCC grant program under Act 185. Therefore, at the time of this writing, it is unknown which facilities will receive grant funding to be constructed.

4. The bill would provide DCF with \$3.5 million GPR in 2020-21 under a new annual appropriation to reimburse counties for the one-time start-up costs to establish SRCCs. Funds to counties under this provision could be used to reimburse program services costs, such as basic care and supervision. The funds could not reimburse county costs for land purchases, building construction, or maintenance of buildings (which would be supported via the SRCC grant program).

5. The administration indicates that this level of funding is based on the anticipated one-month cost of operating four SRCCs having the capacity of 32 beds, (128 beds) which is intended to be roughly equivalent to the non-SJO program population at the Lincoln Hills and Copper Lake Schools.

6. At present it is not known which facilities will be built or how much capacity would be operational during 2020-21. For comparison, as shown in Attachment 1, the letters of interest submitted to the grant committee had a potential total capacity exceeding 200 beds. If all such facilities were actually built, capacity would be 60% more than assumed under the budget bill for the proposed DCF GPR appropriation for SRCC start-up cost reimbursement.

7. The Committee could find that providing funding as part of the 2019-21 budget would assist Corrections, DCF, DHS, and counties in their planning to establish SRCCs and, therefore, approve the Governor's recommendation to provide \$3,500,000 GPR in 2020-21 [Alternative A1].

8. Alternatively, the Committee could accept the Governor's proposal to create a new appropriation for county facility start-up costs but instead of providing funding for that appropriation in 2020-21, provide \$3,500,000 GPR to the Committee's general purpose revenue funds general program supplementation [Alternative A2]. The Committee could then decide how to provide these funds to counties as part of its consideration of the grant committee's statewide grant plan, which would be submitted under the bill on or before October 1, 2019.

9. On the other hand, given that it is currently unknown how many SRCCs will be built or which county or counties will operate them, the Committee could reasonably conclude that it is unnecessary to provide funding at this time [Alternative A3]. The issue could be raised again through separate legislation when the costs of the program becomes clearer after JFC has considered the grant committee's statewide grant plan or after the enactment of further legislation. For example, 2019 Senate Bill 168 and 2019 Assembly Bill 188 have been referred to other standing committees of the Legislature for consideration of modifications to current law for holding juveniles in secured custody under Act 185.

#### **Youth Aids SRCC Bonus Payments**

10. The bill would not provide funding for Act 185 youth aids SRCC bonus payments in the 2019-21 biennium.

11. In order to qualify for a bonus, a county must first operate a SRCC that was funded by

a grant under Act 185. The bonus is then equal to the lessor of \$750,000 or 15% of the county's youth aids allocation in the preceding year.

12. However, at present, it is not known: (a) how many counties or which county or counties may operate a program for juveniles; or (b) how much each county's youth aids allocation will be at the time a bonus payment may be made. Given that the Committee would not review the grant committee's statewide plan under the bill until October, 2019, it is unlikely that SRCCs would be constructed and operational until 2020-21 at the earliest.

13. Given that it is unlikely that any joint SRCCs would be established and operational during the 2019-21 biennium, the Committee could reasonably determine that funding for Youth Aids SRCC bonus payments is unnecessary and, therefore, concur with the Governor's recommendation to not provide funding for youth aids bonus payments. [Alternative B1] The need for any funding could be addressed at a later date once it is known what facilities will be established.

14. Alternatively, JFC could provide funding of \$750,000 GPR in 2020-21 could be provided to support any youth aids SRCC bonus payments that may be needed for qualifying counties. [Alternative B2]

**ALTERNATIVES**

**A. SRCC Start-up Cost Reimbursement**

1. Approve the Governor's proposal to create a new annual sum certain GPR appropriation to reimburse counties for the for one-time start-up costs incurred by counties to establish SRCCs and provide funding of \$3,500,000 GPR in 2020-21.

ALT A1	Change to	
	Base	Bill
GPR	\$3,500,000	\$0

2. Approve the Governor's proposal to create a new annual sum certain GPR appropriation to reimburse counties for the for one-time start-up costs incurred by counties to establish SRCCs, but with the modification that the funding of \$3,500,000 GPR in 2020-21 would instead be provided to the JFC GPR general program supplementation.

ALT A2	Change to	
	Base	Bill
GPR	\$3,500,000	\$0

3. Take no action.

<b>ALT A3</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
GPR	\$0	- \$3,500,000

**B. Youth Aids SRCC Bonus Payments**

1. Take no action and, thereby, maintain base funding (\$0) for youth aids SRCC bonus payments to qualifying counties that operate a SRCC.
2. Modify the bill to provide \$750,000 GPR in 2020-21 in order to fund youth aids bonuses for qualifying counties that operate a SRCC.

<b>ALT B2</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
GPR	\$750,000	\$750,000

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Attachment

## ATTACHMENT

### Summary of County Letters of Interest (Juvenile Corrections Grant Committee Materials - May 6, 2019)

**Act 185 Grants Committee**

**DRAFT - County Letters of Interest Summary Table**

The table below provides a summary outline of counties' letters of interest. More specific details, including how their proposed SRCCCY fits in with the county's broader youth justice services, can be found within their individual letters of interest.

<b>County</b>	<b>Projected Capacity</b>	<b>Stand alone or Attached</b>	<b>Single or Multi County</b>	<b>Est. Cost</b>
<b>Brown</b>	24-32, males and females	Build a new stand-alone facility	Single county proposal, but would serve youth across counties. Estimates serving 13 youth from other counties.	N/A
<b>Dane</b>	Males: 18-23 beds Females: 5-6 beds	Attach to current juvenile detention facility	Single county proposal, but would serve youth across counties. Estimates they would have 12-14 males and 3-4 females from Dane, leaving the rest for other counties	\$3.5 - \$4.5M
<b>Fond du Lac</b>	16 males	Attach to a proposed new detention facility	Single county proposal but would serve youth from multiple counties	N/A
<b>GLITC / Tribes</b>	<i>N/A: GLITC submitted on behalf of the tribes if a tribe chose to submit an application</i>			
<b>La Crosse</b>	20 male only SRCCY, co-located with 15 co-ed for short-term detention	Build a new facility to co-locate with short-term detention	Single county proposal but would serve youth from multiple counties	\$18 - \$20M
<b>Milwaukee</b>	62 total: remodeling and repurposing of 22 existing beds for the Milwaukee County Accountability Program (MCAP) and 40 beds at new SRCCCY; 5 beds for females	Remodel existing and build a new facility	Single county	\$41.4M
<b>Racine</b>	48 beds (detention and SRCCCY); male and female	Build a new facility to co-locate with detention	Single county proposal but would serve youth from multiple counties	\$38M

\* Fond du Lac and La Crosse Counties have officially withdrawn its letter of intent for a grant to build a SRCC.