

Corrections

Adult Institutions

(LFB Budget Summary Document: Page 122)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1, 2, & 3	Adult Correctional Facility Populations, Population and Inflation Cost Increases -- Adult Correctional Facilities, and Prison Contract Bed Funding (Paper #240)
5	Educational Initiatives (Paper #241)
7	Medication-Assisted Treatment (Paper #242)
8	Oakhill Correctional Institution Assisted Needs Facility (Paper #243)
9	Racine Youthful Offender Correctional Facility Behavior Modification Unit (Paper #244)
13	Windows to Work Expansion (Paper #245)
14	Law Enforcement Investigation Services (Paper #246)

LFB Summary Items Removed From Budget Consideration

<u>Item #</u>	<u>Title</u>
6	Earned Release Program Expansion
15	Pregnant or Postpartum Individuals in Correctional Facilities



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #240

Inmate Populations, Prison Contract Bed Funding, and Population and Inflationary Costs (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 122, #1; and Page 123, #2 and #3]

CURRENT LAW

The Department of Corrections operates 36 adult correctional facilities, including 20 correctional institutions and 16 correctional centers. In addition, Corrections utilizes prison contract beds to place state inmates in county jails and federal facilities. The Department also places individuals at the Department of Health Services' Wisconsin Resource Center (WRC) for inmates in need of specialized mental health treatment.

DISCUSSION POINTS

1. For each budget cycle, the Department of Corrections projects the total prison population for the upcoming biennium. Generally, population-related costs are budgeted based on the total operating capacity of the prison system, including food, variable non-food costs (such as clothing, laundry, inmate wages, and other supplies), and inmate health care. To the extent that prison population projections exceed the total operating capacity, contract bed funding is provided for placements in certain county jails.

Population Projections and Variable Costs

2. The public health emergency has drastically impacted adult prison populations in 2019-20 and 2020-21. The average daily adult prison population decreased in 2019-20 (to 23,633) for the first time since 2011-12. Current populations are further reduced, and as of May 21, 2021, the adult prison population was at 19,384 (including institutions, centers, and state inmates admitted to and serving time in contract beds). While a recent administrative change to the earned release program (ERP) may reduce institutional populations in the future, the administrative expansion has not been

active long enough to have had significant effects on current populations. As a result, it can be assumed that the population decreases in the current fiscal year were largely, if not wholly, the result of the public health emergency and related policy changes.

3. The Governor declared a public health emergency on March 12, 2020, related to COVID-19. Emergency Order #9 followed on March 23, 2020, which placed a moratorium on admissions to state prisons and juvenile facilities until June 1, 2020. While prison admissions resumed in June, the admission rate has yet to reach pre-pandemic levels (as of May, 2021).

4. In addition, a March 22, 2020, Wisconsin Supreme Court order suspended most in-person court hearings, which caused trial and sentencing delays. While in-person court hearings are starting to resume and remote technology has allowed many hearings to proceed virtually, the courts have incurred a significant criminal case backlog. Given these factors (discussed later in this paper), and the unique and unknown nature of COVID-19, it is difficult to project future prison populations.

5. For prior budgets, the Department of Corrections reviewed its monthly growth rates to determine the appropriate rate to estimate future populations. Regarding the inmate population for 2021-23, the Department attempted to follow a similar model, and projected a median monthly growth rate of -0.028% for males and -0.022% for females based on actual Division of Adult Institutions (DAI) population data over a 72 month period (through February, 2020). Since populations decreased near the end of this period, the growth rate is negative for both males and females. The growth rate was then applied to the most recent pre-public health emergency DAI population (from February 28, 2020), starting in December, 2020, as the Department assumed the population would return to pre-public health emergency levels at that point. Using the negative growth rates, the Department forecasted an average daily population of 23,389 inmates in 2021-22 and 23,311 inmates in 2022-23.

6. Typically, when the Governor introduces budget recommendations, the Department's projections may be further adjusted, depending on any new initiatives included in the bill and/or revised population data. The Department of Administration reestimated Correction's population and diverged from Corrections methodology by using the November 6, 2020, point-in-time population as an average daily base population in both 2021-22 and 2022-23, as opposed to a growth rate projection, as has been done historically, and was done by Corrections in its agency budget request. The Department of Administration projected an ADP of 21,480 annually over the 2021-23 biennium (including 18,597 in institutions, 2,879 in centers, and four in contract beds in federal or other intergovernmental facilities). The Administration assumed COVID-19 impacts and sentencing modifications proposed in the bill would allow the prison population to remain lower than pre-pandemic populations during the biennium. However, the Administration indicates that the sentence modification proposals were not specifically factored into the population estimates, and the population projection was the same for both years of the biennium due to the uncertainty of COVID-19 impacts.

7. Both DOA and Corrections' projections assumed that one construction project will impact inflationary costs and contract bed usage: the Oakhill Correctional Institution Assisted Needs Facility. Under 2017 Act 59, Corrections was approved for \$7,000,000 in general fund-supported borrowing for the construction of a geriatric correctional facility. The facility will be a 65-bed barracks bunk-style housing unit providing limited medical services to assist male inmates with daily living

activities. The project is being built on the Oakhill Correctional Institution grounds in Oregon, Wisconsin and is anticipated to open in October, 2021. As such, the 65 additional beds were factored into the budgeted capacity.

8. However, DOA's population estimates diverged from the Department's in that its base population was based on an actual point-in-time population from November 6, 2020, plus state inmates awaiting admission in county jails (at the time, 672 males and six females). The November 6, 2020, population appears to have been selected in an attempt to factor in COVID-19 impacts. Ultimately, DOA's estimates were lower than the Department's by 1,909 in 2021-22 and by 1,831 in 2022-23.

9. Approximately six more months of population data (November, 2020, through mid-May, 2021) and additional public health emergency trends are now available to reevaluate the population estimates. In addition to more-recently available data, the November 6, 2020, populations reflected the height of Corrections COVID-19 staff and inmate outbreak and also assumed a stagnant population for both years of the biennium, which may not be the most accurate predictor of future populations. Further, Corrections assumed populations would increase to pre-pandemic numbers by December, 2020, which did not occur (and has still not occurred in May, 2021). Based on a review of these factors, the prison population projections should be reestimated.

10. There are two factors, aside from COVID-19, that may influence population projections in the 2021-23 biennium. First, while current prison populations are significantly reduced, legislation from the 2019 session (which increased penalties and created additional crimes) may eventually lead to increased prison populations to the extent that offenders either serve new or longer sentences. No legislation was passed in the 2019 session that could cause a significant decrease in populations. Second, an administrative ERP expansion implemented by Corrections in 2020-21 is currently in process and is separate from the proposals to expand ERP under AB 68/SB 111. The Department indicates that the 2020-21 ERP expansion will reduce prison populations when fully implemented. However, Corrections indicates that "it is going to take some time to ramp up this expansion." The expansion began in April, 2021, so the first participants won't graduate until the end of July, 2021, and the second group will not graduate until 16 to 20 weeks later. In addition, COVID-19 impacted institutional programming. Given that the total population and time period impacted by these potential factors is unknown, it is assumed that these two minor factors offset.

11. Ultimately, the majority of the current population decrease is the result of COVID-19 impacts and related policies. As a result, it may be estimated that prison populations will return to pre-public health emergency levels at some point in the future under current law. While the point-in-time in which the public health emergency will no longer impact Corrections operations is difficult to estimate, there are signs that Corrections is returning to pre-pandemic norms. For example, positive cases of COVID-19 have decreased by over 90% since November, 2020. As of May 20, 2021, 10,976 inmates had a positive COVID-19 diagnosis, but only 12 cases were active.

12. In addition, on March 29, 2021, the Corrections Secretary sent a letter to Wisconsin Sheriffs noting that admissions backlogs "should be reduced, if not eliminated, within the next few months" as the admissions rate has been steadily increasing since Fall, 2020. As of April 9, 2021, weekly institutional populations (19,470) did not decrease for the first time in several months. [Note

that subsequent to this date, populations did decline slightly.]

13. While admissions to prison are increasing and COVID-19 positive cases are decreasing, the biggest lingering COVID-19 impact on the adult prison population relates to court operations. Case backlogs due to COVID-19, including trials and sentencing hearings, will likely take some unknown amount of time to address.

14. By way of example, both of the state's two most populous counties (Dane and Milwaukee) have incurred significant backlogs as a result of the pandemic. According to recent news articles, Dane County first started hearing jury trials on June 1, 2021, (more than a year after trials were first suspended) and currently has a backlog of more than 8,000 open criminal cases. Similarly, in Milwaukee County, the District Attorney notes that the pandemic has caused criminal cases to potentially take up to two years longer than usual to be resolved. According to the Milwaukee County DA, more than 3,000 suspects are awaiting official criminal charges and the courts are only operating at 30 to 40% capacity due to COVID-19 precautions (as of April, 2021). Milwaukee County courts ceased hearing criminal trials from March, 2020, through late July, 2020, and only 60 criminal jury trials were heard in the past year, down "hundreds" from a typical year.

15. Backlogs exist in rural counties as well. For example, news outlets indicate Marathon County will not fully reopen until Fall, 2021, and a District Attorney from the area said "it could take years to get back to normalcy." In addition, the Director of State Courts Office (DSCO) indicates that the number of pending felony cases increased by 80% in Columbia County in 2020 (statewide, the number of felony cases pending in circuit court increased by 9,991 (approximately 35%) across all counties).

16. According to DSCO, estimating how long it will take to address case backlog "is very difficult to answer because there are so many factors that go into calculating the backlog and recovery, and this is [the courts'] first experience with a backlog of this magnitude. In addition we don't know what the new normal will look like or how long it will take to get there." Given the difficulty in projecting the pace at which charges are brought and assessed and cases are scheduled (which differs by county), in addition to the unknown number of cases that will be dismissed or conclude with a plea deal as opposed to a jury trial, it is unknown when courts will be able to address the backlog of criminal cases.

17. In reestimating the populations, the projection assumes that under current law, Corrections populations will return to pre-pandemic levels by the end of the 2021-23 biennium. This assumption is based on the fact that COVID-19 accounted for most, if not all, of the decrease in current population numbers, and most COVID-related impacts are lessening (admissions rates are going up, and courts are starting to hear jury trials and address backlogs). The assumption, however, assumes that it will take up to 24 months to fully "return to normal." Milwaukee County indicated that backlog may take up to two additional years to address; further, the Department of Corrections Secretary indicated that the admissions rate to prison has increased to 110 individuals per week, but the pre-pandemic admission rate was closer to 160 individuals per week.

18. Utilizing the above assumptions, the estimate assumes a 2022-23 endpoint (June 30, 2023) adult institutional population of 23,471 (1,530 females and 21,941 males), to match the most

recent pre-pandemic institutional populations from late-February, 2020 (this date was also used in the Corrections projection). Given that the population as of May 21, 2021, is at 19,384 (1,246 females and 18,138 males), a monthly growth rate of 0.90% for females and 0.83% for males would apply, resulting in an institutional population of 21,241 (1,375 females and 19,867 males) at the end of 2021-22, and 23,471 at the end of 2022-23 (1,530 females and 21,941 males). The corresponding ADP would be 20,300 in 2021-22 and 22,431 in 2022-23.

19. The reestimated ADP is 1,180 fewer individuals in 2021-22 and 951 more individuals in 2022-23 than as estimated in AB 68/SB 111. While the reestimated population growth rate is significantly higher than the rate used to reestimate populations in the 2019-21 biennium (0.26% for females and 0.12% for males), the increasing rate of prison admissions and criminal court hearings will likely cause a prison populations increase at a rate that will result in a return to pre-pandemic levels.

Total Adult Correctional Facility Average Daily Populations (Male and Female)

	<u>Total</u>
2021-22 Revised Estimated Populations	20,300
2021-22 DAI Capacity*	23,240
2021-22 Number of Inmates Exceeding Capacity	- 2,940
2022-23 Revised Estimated Populations	22,431
2022-23 DAI Capacity*	23,240
2022-23 Number of Inmates Exceeding Capacity	- 809

*Includes Institutions and Centers (including the Oakhill Assisted Needs Facility, set to open in October, 2021, and WRC).

20. As noted by the table, the 2021-22 revised estimate is below the Division of Adult Institution capacity by 2,940, and the 2022-23 revised estimate is below the budgeted capacity by 809.

21. While the Department pays a daily contract bed rate for state inmates serving sentences in Wisconsin County jails, the Department is not responsible for the variable costs of inmates in contract beds. The estimated revised populations would include approximately 22 inmates in contract beds (discussed later in this paper) for overcrowding purposes in 2022-23. The Department also places inmates at the Wisconsin Resource Center (WRC), but the facility is operated by the Department of Health Services, and Corrections is not responsible for inmate variable costs at WRC (which has a capacity of 402 individuals annually). The adult institutional populations for which Corrections must provide variable cost funding, therefore, would be lower than the total reestimated population.

22. The population estimate under the bill would result in corresponding population and inflationary cost changes of -\$7,358,200 GPR in 2021-22 and \$3,863,000 GPR in 2022-23 to reflect population-related cost adjustments for prisoners in DAI facilities including: (a) food and food equipment costs; (b) variable non-food costs, such as inmates wages, bedding, clothing, kitchen utensils, and other supplies; and (c) inmate non-food health services. The recommendation for inmate

health services assumes that per capita adult inmate costs will increase from an estimated \$4,814 in 2020-21 to \$5,269 in 2021-22 and \$5,767 in 2022-23. Health care costs include pharmaceutical costs, third party administrator costs, and contracting costs with the University Hospital and Clinics, the University of Wisconsin Medical Foundation, Waupun Memorial Hospital, St. Agnes Hospital, and other community hospitals.

23. Using the reestimated inmate average daily populations and adjusting for contract beds and WRC inmates, variable costs would be -\$16,437,100 in 2021-22 and \$11,552,400 in 2022-23 as follows: (a) -\$2,781,200 in 2021-22 and \$647,700 in 2022-23 for food and food equipment costs; (b) -\$2,599,300 in 2021-22 and -\$312,600 in 2022-23 for variable non-food costs; and (c) -\$11,056,600 in 2021-22 and \$11,217,300 in 2022-23 for health services costs.

Contract Beds

24. The Department currently contracts with counties to house state inmates at a per diem rate of \$51.46 for all county facilities. Further, for individuals under the age of 18 who have been convicted as adults, the Department contracts with the Division of Juvenile Corrections (DJC) at a statutory daily rate (for an estimated 20 beds per year). While the Department calculated the daily rate at \$803 in 2021-22 and \$820 in 2022-23, the DJC daily rate will be reestimated, and the contract rate for these 20 beds will be corrected, under the Department of Corrections, Division of Juvenile Corrections. The Department also currently contracts for temporarily lock-up and federal beds at a per diem rate of \$60. Base funding for the contract bed appropriation is \$32,890,800 GPR.

25. In total, the bill projects a need of 728 contract beds annually. These beds include: (a) 200 beds annually for state inmates in Wisconsin County jails; (b) 500 beds annually used by the Division of Community Corrections (DCC) for extended supervision sanctions; and (c) 28 beds annually the Department would use for inmates in intergovernmental facilities, adult inmates in DJC facilities, and temporary lock-ups of inmates from correctional centers. For the purposes of assessing contract beds for adult institutional inmates, the focus of this paper is on the 200 beds for DAI inmates in Wisconsin Counties.

26. Based on the population estimates under the bill, additional contract beds would not be needed for overcrowding purposes, as the population projection is below the institutional capacity. However, under the bill, 200 contract beds would be provided annually for quarantine/isolation purposes, as needed. According to Corrections, a "quarantine" bed separates and restricts the movement of people who were potentially or directly exposed to a contagious disease to see if they become sick. An "isolation" bed separates sick people experiencing symptoms related to a contagious disease from people who are not sick. As of May 20, 2021, 952 inmates were in quarantine and 17 inmates were isolated. The 728 prison contract beds annually, including 200 contract beds for Wisconsin Counties, would require adjustments of -\$13,514,500 GPR in 2021-22 and -\$13,390,400 GPR in 2022-23.

27. As indicated previously, reestimated average daily populations are 20,300 in 2021-22 and 22,431 in 2022-23. Inflationary variable costs for this population would require adjustments of -\$16,437,100 GPR in 2021-22 and \$11,552,400 GPR in 2022-23. In addition, the bill projected a total need of 728 prison contract beds annually, including 200 contract beds annually for Wisconsin

Counties, which would require adjustments of -\$13,514,500 in 2021-22 and -\$13,390,400 in 2022-23. In combination, the projected variable cost and quarantine/isolation bed needs would require adjustments of -\$29,951,600 GPR in 2021-22 and -\$1,838,000 GPR in 2022-23. [Alternative 1a.]

28. While it is difficult to estimate how many isolation/quarantine contract beds may be needed in the future, it is likely that fewer than 200 isolation/quarantine contract beds would be needed in 2021-22, as the projected population is significantly below the budgeted capacity, allowing Corrections to isolate/quarantine some inmates within certain institutions. In addition, it is likely that fewer than 200 isolation/quarantine contract beds would be needed in 2022-23, as more individuals are vaccinated against COVID-19. As of May 5, 2021, 10,913 vaccine doses for inmates have been administered, and vaccination eligibility is currently open to all Wisconsin residents age 12 or older. However, as populations increase to pre-pandemic levels, less institutional space will be available to isolate and quarantine inmates. In addition, some inmates may choose to remain unvaccinated, and it is unknown if or when new variants of the virus may create future outbreaks.

29. In addition, the reestimated populations are higher than the population estimates under the bill as introduced in 2022-23. While the 2022-23 average daily population (22,431) is below the institutional capacity (23,240), the projected 2022-23 endpoint population (23,471) is above the institutional capacity, necessitating contract beds for overcrowding purposes. The revised estimate projects the population to exceed the capacity by May and June, 2023. Specifically, 37 contract beds would be needed in May, 2023, and an additional 194 in June, 2023 (for a total of 231 in June, 2023). On an average daily basis, just over 22 Wisconsin County contract beds per day for overcrowding purposes are estimated to be needed.

30. As a result, the Committee may wish to provide for 100 Wisconsin County contract beds in 2021-22 for quarantine/isolation purposes (for a total of 628 contract beds), and provide for 50 Wisconsin County contract beds in 2022-23 (for a total of 578 contract beds) (approximately half would be used to address overcrowding and half for isolation/quarantine, if needed) (for a total adjustment of -\$15,392,800 GPR in 2021-22 and -\$16,207,900 GPR in 2022-23). As the population and COVID-19 trends change, the Department may end up utilizing a different proportion of the available beds in 2022-23 for each purpose, but funding for the beds would be available for either, or both, purposes as needed. When combined with the inflationary costs related to the reestimated population projection for prisoners in DAI facilities (-\$16,437,100 GPR in 2021-22 and \$11,552,400 GPR in 2022-23) this alternative would require -\$31,829,900 in 2021-22 and -\$4,655,500 in 2022-23. [Alternative 1b.]

31. If the Committee takes no action, the contract bed base budget and variable cost base budgets would remain unchanged, and not be reflective of estimated 2021-23 populations. [Alternative 2]

ALTERNATIVES

1. Reestimate average daily populations in adult correctional facilities to be 20,300 in 2021-22 and 22,431 in 2022-23, and provide -\$16,437,100 GPR in 2021-22 and \$11,552,400 GPR in 2022-23 for associated inflationary costs. In addition, choose one of the following options to fund

contract beds:

a. *728 Contract Beds Annually.* Provide -\$13,514,500 GPR in 2021-22 and -\$13,390,400 in 2022-23 for 728 contract beds annually (including 200 annual contract beds for state inmates in Wisconsin County jails).

ALT 1a.	Change to Base
GPR	- \$31,789,600

b. *628 Contract Beds/578 Contract Beds.* Provide -\$15,392,800 GPR in 2021-22 and -\$16,207,900 GPR in 2022-23 for 628 contract beds in 2021-22 (including 100 contract beds for state inmates in Wisconsin County jails) and 578 contract beds in 2022-23 (including 50 contract beds for state inmates in Wisconsin County jails).

ALT 1b.	Change to Base
GPR	- \$36,485,400

2. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #241

Educational Initiatives (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 124, #5]

CURRENT LAW

The Department of Corrections offers Adult Basic Education (ABE) instruction at nearly all of its adult institutions. These studies generally include reading, writing, math, and life skills. The type of instruction in these areas vary depending on the individual teacher, site, and inmate-student need. Instruction may be individualized, computer-assisted, peer or community tutor assisted, small-group, and/or regular class format.

The Department of Corrections additionally offers Career and Technical Education (CTE)/vocational programs in 17 different institutions across 24 different program areas. The programs are connected to the Wisconsin Technical College System member colleges and include focuses such as: barbering/cosmetology, cabinetry, masonry, machine tool operations (such as welding), and refrigeration essentials, among others subject areas.

DISCUSSION POINTS

1. Under the bill, funding and positions would be provided for two specific educational initiatives: the ABE program and the CTE program.

Adult Basic Education

2. All individuals processed at Dodge Correctional Institution (for males) and Taycheedah Correctional Institution (for females) are asked a series of questions about his or her basic academic experience upon admission. At the end of 2019-20, 31.2% of the Division of Adult Institution population indicated that their highest level of education attained was twelfth grade or less (no high school graduation). If an inmate indicates that they do not have a high school diploma (or High School

Equivalency Diploma (HSED) or General Education Development (GED)), a Test of Adult Basic Education (TABE) is administered when the inmate is received at their first permanent institutional site. The TABE is an achievement test that measures basic academic skills commonly found in adult education curricula in high school and adult instructional programs, and indicates what grade level an individual is able to read at. The TABE scores are used to create an adult basic education plan for each inmate-student.

3. The pace at which inmate-students complete the ABE curriculum varies depending on the institution and education level at intake. According to Corrections, in May, 2019 (the most recent data available), the average time length ranged from 200 to 2,032 days. Class sizes are generally small (eight to 12 students per class), to accommodate individualized student needs and learning challenges.

4. The ABE courses are designed to prepare students for the successful completion of the HSED or GED test. Once individuals have successfully passed the HSED/GED test, they are considered to have successfully completed ABE.

5. A total of 2,221 inmates were enrolled in ABE programming at some point in 2019-20. Of these 2,221 ABE participants, 257 (11.6%) successfully completed the program, 541 (24.3%) failed to complete the program for a reason related to the participant's actions (such as voluntarily dropping out to participate in other programs, like the earned release program), 789 (35.5%) failed to complete the program for a reason unrelated to the participant's actions (such as releasing to the community before completion), 530 (23.9%) were still enrolled as of the end of March, 2021, and 104 (4.7%) were placed back on the waitlist (for various reasons, including other programming priorities. These individuals can re-join the program at any point).

6. While the program has a relatively low completion rate, the 23.9% still enrolled and the 4.7% placed back on the waitlist may successfully complete the program at a later date. In addition, those who do complete the program have a high employment success rate upon release to the community. Of ABE participants released to community supervision in 2019, 76.1% were employed within one year of release, or were not seeking employment (for example, individuals who were disabled, retired, students, or homemakers, among others). The four-year average is higher, at 81.3%. The Department did not track employment rates for a non-ABE participant comparison group, so it is difficult to determine what impact, if any, ABE programming had on the post-release employment rate.

7. Further, while Corrections does not have data that specifically correlates education attainment with reduced recidivism, the Federal Bureau of Prisons indicates that "research shows inmates who participate in correctional education and literacy programs have 43% lower [recidivism] odds of returning to prison than those who do not." In addition, participants may feel a general sense of personal growth and accomplishment by successfully completing ABE programming, and can obtain skills relevant to everyday life, such as reading and writing.

8. While educational programs were limited or suspended during the COVID-19 pandemic, classes have since resumed with social distancing precautions. As of July 1, 2020, 2,075 individuals were participating in ABE, and 2,326 were on the waitlist. The waitlisted individuals are spread across all Division of Adult Institution (DAI) facilities. As a result, the proposed ABE

expansion under the bill would allocate additional teacher positions to institutions that indicated they have the need and existing infrastructure to accommodate a new teacher(s). The resulting allocation and approximate number of new inmate-students served would be as follows:

<u>Facility</u>	<u>New Teachers</u>	<u>Approximate New Participants</u>
Columbia Correctional Institution	2.0	20
Robert E. Ellsworth Correctional Center	2.0	20
Drug Abuse Correctional Center	1.0	10
Jackson Correctional Institution	1.0	10
Kettle Moraine Correctional Institution	1.0	10
Milwaukee Woman's Correctional Center	1.0	10
New Lisbon Correctional Institution	1.0	10
Oakhill Correctional Institution	1.0	10
St. Croix Correctional Center	1.0	10
Taycheedah Correctional Institution	1.0	10
Winnebago Correctional Center	1.0	10
Wisconsin Secure Program Facility	<u>1.0</u>	<u>10</u>
TOTAL	14.0	140

9. According to Corrections, the increased staffing would allow for at least an additional 140 to 168 inmate-students to participate in ABE. However, because ABE is open-ended and self-paced, the Department cannot predict an exact number of new participants, or how those new participants would exactly be allocated between the institutions. Generally, each teacher has a class size between eight and 12 individuals, and most teachers only teach one cohort per year (given that the average class time length ranges from 200 days to over five years).

10. Under the bill, 5.0 vacant GPR teacher positions would be reallocated for this purpose. Initially, the vacant positions identified for reallocation were from educational programs at various DAI facilities. However, Corrections and the State Budget Office indicate that the intent is for Corrections to be able to make substitutions, if any of the vacant positions become filled or a more-suitable position(s) for reallocation is identified. As a result of the proposed reallocation, the Department would need additional position authority for 9.0 of the 14.0 teacher positions, and would use approximately \$287,500 of existing budget authority by reallocating the remaining 5.0 positions, as shown below:

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$17,400	\$23,200	0.00
Adult Institutions	Bureau of Health Services	3,000	0	0.00
Adult Institutions	Institutions, Division Administration	780,400	926,800	14.00
Adult Institutions	Green Bay Correctional Institution	-57,500	-57,500	-1.00
Adult Institutions	Columbia Correctional Institution	-115,000	-115,000	-2.00
Adult Institutions	Racine Correctional Institution	-57,500	-57,500	-1.00
Adult Institutions	New Lisbon Correctional Institution	<u>-57,500</u>	<u>-57,500</u>	<u>-1.00</u>
	TOTAL	\$513,300	\$662,500	9.00

11. Given the size of the ABE waitlist (currently, Corrections is providing programming for less than half of the individuals with an identified need), and the existing programming space available at specific institutions, the Committee could provide \$513,300 GPR in 2021-22, \$662,500 GPR in 2022-23, and 9.0 GPR teacher positions annually to expand ABE programming. This alternative would require the Department to reallocate an additional 5.0 vacant GPR positions (for a total of 14.0 positions) and associated funding to fully staff the expansion. [Alternative A1] The initial 5.0 reallocated positions were determined by comparing positions included in each budget item with long term vacancies (12 months or more). As noted, however, DOA intends to provide the Department with discretion to make substitutions when necessary.

12. The Committee could alternatively provide 10.0 total positions (including the 5.0 positions identified in the bill from reallocations, and approximately half (5.0) of the 9.0 newly-created teacher positions identified under the bill as introduced) to allow the Department to expand ABE, albeit on a smaller scale. The cost of 10.0 teacher positions would be \$572,000 GPR in 2021-22 and \$678,600 GPR in 2022-23. This cost is partially offset by the reallocation of 5.0 vacant GPR positions and funding identified under the bill (-\$287,500 annually) (for a total cost of \$284,500 GPR in 2021-22, \$391,100 GPR in 2022-23, and 5.0 GPR positions annually). [Alternative A2] This alternative would require Corrections to reallocate 5.0 vacant positions and to identify institutions of highest priority for the 10.0 teacher positions.

13. The Department did not identify this item in its 2021-23 agency budget request. In addition, the 2019-20 ABE completion rate was only 11.6% (although a portion of the remaining 88.4% may complete the program in the future). As a result, the Committee may choose to take no action. [Alternative A3]

Career and Technical Education

14. The CTE program allows inmate-students the opportunity to earn a technical certification and/or diploma in 24 different program areas. The Department contracts with local Wisconsin Technical College System member colleges to provide instruction. According to the Department's Becky Young Recidivism Reduction Annual Report for Fiscal Year 2020, all CTE fields offered are projected to see statewide growth. While COVID-19 temporarily suspended CTE programming in 2019-20, 127 of 151 participants (84.1%) completed programming (or were continuing programming in 2020-21).

15. Between 2014-15 and 2019-20, inmate-students participating in CTE programming had an 86% post-release employment success rate across all programs, with an average starting hourly wage of \$14.67. On average, participants obtained employment after 51.2 days in the community.

16. According to Corrections, equipment needs to be updated periodically to maintain current industry standards (such as welding equipment). In addition to general upkeep and modernization, funding would allow the Department to purchase equipment for newly created programs to keep up with the current job market (such as a culinary arts program). While specific equipment needs and future new programs have not yet been identified, Corrections provided industry examples of high-cost machines including: \$12,000 for a three-dimensional printer, \$40,200 for a milling machine, \$40,300 for hydraulic shears, and \$100,000 to replace five welding machines (\$20,000 per machine).

17. As provided in the bill, the Committee could provide \$1,500,000 GPR annually for ongoing high-cost CTE equipment maintenance and purchase. [Alternative B1]

18. Under 2019 Act 9 (the 2019-21 biennial budget) \$440,000 GPR was provided annually to operate two new technical mobile labs, including a welding mobile lab and an electrical/mechanical mobile lab. Of the \$440,000 GPR provided, \$200,000 annually was for vocational training program realignment, which involves updating and replacing program equipment. The Department indicated that the funds may be used for mobile lab equipment, or for any other vocational program that the Department operates. Funding was allocated as supplies and services under the Becky Young community corrections appropriation.

19. Given that there is not a specific piece(s) of equipment identified that need updating or purchasing, and that funding was provided last budget partially for this purpose, the Committee could provide a different funding level. If, for example, half of the amount of funding (\$750,000 GPR annually) were provided, Corrections could purchase or upgrade its highest priority items, once such items are identified. [Alternative B2]

20. The Department did not request additional CTE funding in its 2021-23 agency budget request. If the Committee chose to take no action, the Department would continue operate CTE programming with existing equipment. [Alternative B3]

ALTERNATIVES

A. Adult Basic Education

1. Provide \$513,300 GPR in 2021-22, \$662,500 GPR in 2022-23, and 9.0 GPR positions annually to expand ABE programming. Require Corrections to reallocate an additional 5.0 vacant GPR positions (for a total of 14.0 positions) and associated funding to staff the expansion.

ALT A1	Change to Base	
	Funding	Positions
GPR	\$1,175,800	9.00

2. Provide \$284,500 GPR in 2021-22, \$391,100 GPR in 2022-23, and 5.0 GPR positions annually to expand ABE programming. Require Corrections to reallocate an additional 5.0 vacant GPR positions (for a total of 10.0 positions) and associated funding to staff the expansion.

ALT A2	Change to Base	
	Funding	Positions
GPR	\$675,600	5.00

3. Take no action.

B. Career and Technical Education

1. Provide \$1,500,000 GPR annually to upgrade and purchase CTE/vocational equipment.

ALT B1	Change to Base
GPR	\$3,000,000

2. Provide \$750,000 GPR annually to upgrade and purchase CTE/vocational equipment.

ALT B2	Change to Base
GPR	\$1,500,000

3. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #242

Medication-Assisted Treatment (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 125, #7]

CURRENT LAW

Medication-assisted treatment (MAT) provides medication, in combination with counseling and behavioral therapies, to treat opioid use disorders. Currently, the Department of Corrections provides pre- and post-release MAT services in 13 Division of Adult Institution facilities and three Division of Community Corrections regions (one full region and two partial regions).

DISCUSSION POINTS

1. In the late 1990's, an opioid crisis developed in the United States. Since 1990, more than 750,000 people have died from a drug overdose nationwide. Wisconsin mirrors these national trends. Between 1999 and 2019, there has been a nearly 900% increase in opioid overdose deaths in Wisconsin (including 916 opioid-related deaths in 2019).
2. Substance use is particularly prevalent among the Corrections population. In 2020, 63% of inmates had an identified substance use disorder (SUD) treatment need. In addition, a 2017 report from the Department showed a 141.2% increase in opioid-related deaths among individuals released from correctional facilities from 2012 to 2017.
3. Given Corrections' high-need population and controlled setting (where inmates are forced to abstain from substance use and correctional staff can consistently provide treatment), a correctional institution may be considered an ideal location for SUD programming. While incarcerated, inmates can prioritize treatment, which better educates and equips them with coping skills to continue on the path to recovery when re-entering society, and may contribute to reduced post-release overdoses and deaths, illicit drug use, and recidivism rates.

4. One specific way the state (including the Department of Corrections) is working to combat opioid use is through medication-assisted treatment, which uses medications, in combination with counseling and behavioral therapies, to treat opioid use disorders. There are three Food and Drug Administration (FDA) approved medications that can be used for MAT, including methadone, buprenorphine, and naltrexone. According to the federal Substance Abuse and Mental Health Services Administration (SAMHSA), all three medications relieve withdrawal symptoms and psychological cravings that cause chemical imbalances in the body.

5. According to SAMHSA, "research shows that a combination of medication and therapy can successfully treat these disorders and...can help sustain recovery and/or to prevent or reduce opioid overdose." In addition, "MAT has proved to be clinically effective and to significantly reduce the need for inpatient detoxification services."

6. Correction's MAT program is loosely based on the Vivitrol program, initiated in the 2015-17 biennial budget, which provided \$836,700 annually to implement an opioid addiction treatment program by treating individuals prior to and after release from incarceration. Specifically, funding covered medication-assisted treatment with Vivitrol (also known as naltrexone), medical services associated with Vivitrol, and alcohol and other drug abuse (AODA) treatment services.

7. The Vivitrol pilot program has since evolved into the current MAT program. The Department's MAT program generally provides up to 12 months of MAT (and a corresponding 12 injections) and other treatment services. Currently, the Corrections-funded MAT program requires counseling in conjunction with the shot. However, Corrections works with doctors to align best treatment options with specific client needs. Potential participants are identified based on a risk assessment and/or by self-reporting of use or misuse of substances. While incarcerated, participants complete AODA treatment, receive their first shot up to seven days prior to release, and are assigned to a specialty trained MAT agent (a probation and parole agent with specific MAT training and a MAT-focused caseload; MAT agents serve as a resource and liaison to community providers). In addition, participants must volunteer for the program, pass a medical screening, and reside in a geographic area of the state where MAT services are provided, upon release.

8. Under 2019 Act 119, the Department of Health Services (DHS), in consultation with Corrections, is required to study each prison and county jail for the availability of medication-assisted treatment for opioid use disorders, behavioral health counseling, inpatient detoxification, and assessment and treatment for opioid use disorder for women upon entry. The Act also requires DHS, in consultation with Corrections, to develop a proposal to implement, or identify county officials to implement, a pilot project to make all medications for medication-assisted treatment for opioid use disorder available in at least one prison or county jail by April 1, 2021.

9. On March 23, 2021, the Corrections Secretary and the interim DHS Secretary submitted a report to the Committee Co-Chairs in accordance with 2019 Act 119, including a survey of all state and local correctional facilities. The survey of prisons and jails yielded an 89% response rate (97% of prisons and 85% of jails). A majority of jails (59%) and prisons (51%) indicated that they had behavioral health counseling available on the premises. Most of these services were through contract providers for jails (67%), but according to the survey, all of the prison behavioral health services were provided by Corrections staff. In addition, 13 prisons indicated that they have the capacity to offer

MAT with naltrexone medication (although only five are actively providing MAT) and 25 jails indicated that they provide MAT, mostly with naltrexone (84%), but a few jail facilities also offer buprenorphine and methadone medication.

10. While the report concluded with a recommendation to implement a \$3 million MAT pilot program offering all three FDA-approved MAT medications in a county jail over three years, Corrections indicates that the DHS would be best equipped to operate the program. As a result, the MAT expansion provided under AB 68/SB 111 and discussed in this paper only relates to the Division of Community Corrections (DCC) post-release portion of the program, and not any pre-release programming at institutions or jails.

11. After receiving programming and a first shot while incarcerated, an inmate is released to the community, usually under the supervision of a MAT-trained probation, parole, and extended supervision agent. Corrections establishes contracts to provide MAT services based on evidenced based practices and cognitive behavioral therapy, and MAT agents work with the MAT participant to connect them with contracted providers. Currently, the Department contracts with 13 providers for MAT services.

12. Currently, all of the Department's DCC Region 4 (Brown, Calumet, Door, Kewaunee, Outagamie, and Winnebago Counties), most of Region 7 (Fond du Lac, Manitowoc, Ozaukee, Sheboygan, Washington, and Waukesha Counties), and one county in Region 8 (Waupaca County) participate in the MAT program. Unserved regions include Region 1 (Southwest Wisconsin), Region 2 (Southeast), Region 3 (Milwaukee), Region 5 (Northwest), and Region 6 (North Central and Northeast) (in addition to part of Regions 7 and 8). Individuals with SUD needs in unserved counties may still receive SUD programming, but cannot receive MAT injections.

13. According to Corrections, DCC MAT participants are instructed to receive an injection every 28 days. An individual who skips a shot or programming is not, however, automatically terminated from the program. Participants can be terminated for long-term absences or for abusing illegal substances. Clients are drug-tested weekly with a 13 panel drug test. In addition, illicit drug use may be uncovered and reported by the vendor, agent, or self-reporting by the client.

14. Participants can pay for MAT through employment sponsored healthcare or by self-paying (through private or governmental insurance) for some or all parts of the program. The Department of Corrections is the payer of last resort for those who do not have another funding source available. Given the fluctuating population, the percentage of individuals that have the ability to pay is not constant. The Department indicates that manner in which billing and participant data is maintained does not allow the Department to provide an estimated amount of employer sponsored or self-paid support for MAT.

15. According to the Department, it is challenging to estimate how many individuals qualify for MAT services; however, as of March 31, 2020, there were 4,400 individuals on extended supervision with at least one active offense related to opioids. On the same day, there were 2,050 individuals incarcerated with at least one active offense related to opioids. At the end of 2019-20, the Department compiled a list of approximately 200 individuals who were considered eligible for the MAT program (one eligibility requirement was that the individual was residing in one of the regions

where the program was being offered). By expanding to additional regions, the number of individuals considered eligible would also increase.

16. According to Corrections, program expansion would focus on the post-release portion of MAT, and specifically, on counties that are currently unserved "where the need exists." The Department indicates that Region 6 (Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Sawyer, Shawano, Taylor, and Vilas Counties) would be a primary focus, as it experiences a high level of opioid deaths and has local providers who are ready and able to engage in contracts with the Department for this type of programming. The Department is also currently working with Tribal and inter-county agencies to identify opportunities for expansion. Ultimately, the Department will look at need, provider availability, and opioid death statistics to determine areas appropriate for expansion, but it hopes to eventually expand to all DCC regions.

17. Each shot costs \$1,700, and each participant receives monthly shots for up to 12 months (for a total cost of \$20,400 per year, per participant, for those who need a full year of treatment). However, as noted previously, not all shots are paid for by Corrections. In addition, each participant has different dosage needs, so not all participants are in the program for the same length of time. Under current programming, the Department monitors 75 to 80 participants per month (including those funded by the Department's current budget and those not funded through the Department) and has the same base budget (\$836,700 annually) as provided for the initial pilot program.

18. In addition to shots, funding would go towards counseling, drug tests, liver enzyme testing, pregnancy testing, and contracted personnel for injections or substance use disorder treatment. The contract positions would include primary care physicians for prescriptions and injections, physician administrative support for billing and invoicing, and substance use treatment counselors. According to Corrections, the exact number of positions cannot be determinate as "data isn't collected in a way to accommodate such a calculation." In addition, costs for each of these non-shot items will depend on the contracts entered into after a formal bidding and procurement process. Examples of potential costs could include \$200 per AODA assessment, \$315 per medical screening visit, \$65 per drug panel, \$90 for AODA individual counseling per attendee, per hour, and \$40 for AODA group therapy per attendee, per hour.

19. As a result of these factors, it is difficult to estimate how many more individuals can be served with additional funding. If the Committee provides \$800,000 GPR annually (as under AB 68/SB 111) for supplies and services, Corrections estimates that it could potentially expand MAT access to approximately 80 additional participants (twice the current number served). This alternative would nearly double the current MAT budget. According to Corrections, an expansion would first occur in Division of Community Corrections Region 6 (northeastern Wisconsin), with the goal of expanding to all regions and entities, if additional funding allows. [Alternative 1]

20. Corrections indicates that if a lower amount of increased funding were provided, for example \$400,000 GPR annually (half of the recommended funding), it could still expand MAT, albeit on a smaller scale. [Alternative 2] Similarly, Corrections indicates that if double the recommended funding were provided (\$1,600,000 GPR annually), the need exists and providers are available to expand MAT to additional regions. [Alternative 3]. In either of these scenarios, the

Department would need to assess bids and contract proposals relative to the budgeted funding.

21. This item was not requested by the Department in its 2021-23 agency budget request. In addition, AB 68/SB 111 includes two additional MAT items under Department of Health Services which may expand MAT reimbursement (LFB 2021-23 Budget Summary Page 263, Item #14) and programming (Page 301, Item #11) (however, these items are not targeted specifically at Corrections populations). If the Committee takes no action, the Department could continue to serve approximately 75 to 80 MAT participants per month. [Alternative 3]

ALTERNATIVES

1. Provide \$800,000 GPR annually to expand the medication-assisted treatment program to additional Division of Community Corrections regions.

ALT 1	Change to Base
GPR	\$1,600,000

2. Provide \$400,000 GPR annually to expand the medication-assisted treatment program to additional Division of Community Corrections regions.

ALT 2	Change to Base
GPR	\$800,000

3. Provide \$1,600,000 GPR annually to expand the medication-assisted treatment program to additional Division of Community Corrections regions.

ALT 3	Change to Base
GPR	\$3,200,000

4. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #243

Oakhill Correctional Institution Assisted Needs Facility (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 125, #8]

DISCUSSION POINTS

1. Under 2017 Act 9, Corrections was authorized \$7,000,000 in general fund-supported borrowing for the construction of a geriatric correctional facility (re-named Assisted Needs Facility under 2019 Act 9) for male offenders. The 65-bed barracks bunk-style housing unit (15 hospital beds and 50 standard beds) will provide limited medical services to assist inmates with daily living activities. The project was designed to help the Department address the growing number of inmates that require alternate accommodations, increased access to medical resources due to lack of mobility, diminishing cognitive ability, poor physical health, or other impairments that prevent an inmate from being fully independent.

2. The project is being built on the Oakhill Correctional Institution grounds (a minimum-security facility) in Oregon, Wisconsin. Construction of the facility began in August, 2020, and is anticipated to be completed in early October, 2021. As a result, staffing is needed to operate the unit in early 2021-22 (so that staff are hired and trained prior to the opening, given the specialized nature of the unit) and annually thereafter.

3. The Department's institutional population includes a high geriatric population (on July 1, 2020, 7.7% of the male inmate population and 4.2% of the female inmate population was 60 years or older), in addition to inmates with disabilities or other impairments. As a result, the Department anticipates filling the 65 beds "almost immediately" upon opening. Inmates best suitable for placement in the Assisted Needs Facility will be determined closer to the opening date of the unit, and will likely include factors such as use of wheelchairs/walkers, need to be in a lower bunk, inability to use stairs, and specialized mattress/bed needs.

4. In order to open the unit, additional staffing is needed. Specifically, 58.35 GPR positions were identified under the budget bill including: 17.5 nursing assistants, 12.5 nurse clinicians, 12.5 correctional officers, 6.25 correctional sergeants, 2.0 food service leaders, 1.0 facilities maintenance specialist-advanced, 1.0 therapist (recreation), 1.0 licensed psychologist, 1.0 nursing supervisor, 1.0 clinical social worker, 1.0 medical program assistant associate, 1.0 correctional program supervisor, and 0.6 advanced practice nurse prescriber. This staffing pattern is consistent with skilled nursing units at Dodge Correctional Institution (DCI) and Oshkosh Correctional Institution (OSCI), which similarly work with high-needs inmate populations.

5. Under the bill, 22.75 vacant GPR positions would be reallocated for this purpose. Initially, the positions identified for reallocation were from various programs in the Divisions of Adult Institutions and Management Services and included: 12.5 correctional officers, 6.25 correctional sergeants, 1.0 nursing supervisor, 1.0 nursing assistant, 1.0 facilities maintenance specialist-advanced, and 1.0 licensed psychologist. However, Corrections and the State Budget Office indicate that the intent is for Corrections to be able to make substitutions, if any of the vacant positions became filled or a more-suitable position(s) for reallocation is identified. As a result of the proposed reallocation, the Department would need additional position authority for 35.6 of the 58.35 positions, and would use approximately \$2,029,200 in 2021-22 and \$2,254,400 in 2022-23 of existing budget authority by reallocating the remaining 22.75 positions, as shown below:

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$72,400	\$96,600	0.00
Management Services	Training Centers	201,000	48,100	0.00
Adult Institutions	Bureau of Health Services	105,600	206,300	-2.00
Adult Institutions	Institutions, Division Administration	292,300	386,500	0.00
Adult Institutions	Waupun Correctional Institution	-931,300	-944,700	-14.50
Adult Institutions	Green Bay Correctional Institution	-92,300	-103,900	-1.00
Adult Institutions	Wisconsin Women's Correctional System	-133,100	-147,800	-1.00
Adult Institutions	Fox Lake Correctional Institution	-104,000	-116,000	-1.00
Adult Institutions	Columbia Correctional Institution	-35,000	-46,000	0.00
Adult Institutions	Kettle Moraine Correctional Institution	-33,800	-44,400	0.00
Adult Institutions	Oakhill Correctional Institution	4,541,300	4,861,900	58.35
Adult Institutions	Dodge Correctional Institution	-121,400	-138,800	-1.00
Adult Institutions	Racine Correctional Institution	-54,200	-71,200	0.00
Adult Institutions	Wisconsin Resource Center	-11,400	-14,900	0.00
Adult Institutions	Oshkosh Correctional Institution	-137,000	-154,200	-1.25
Adult Institutions	Jackson Correctional Institution	-30,600	-40,100	0.00
Adult Institutions	Wisconsin Secure Program Facility	-25,900	-34,100	0.00
Adult Institutions	Racine Youthful Offender Correctional Facility	-22,700	-29,700	0.00
Adult Institutions	Redgranite Correctional Institution	-30,000	-39,400	0.00
Adult Institutions	New Lisbon Correctional Institution	-31,600	-41,500	0.00
Adult Institutions	Wisconsin correctional center system	-119,100	-135,800	-1.00
Adult Institutions	Chippewa Valley Correctional Treatment Institution	-18,700	-24,500	0.00
Adult Institutions	Prairie du Chien Correctional Institution	-21,300	-28,000	0.00
Adult Institutions	Stanley Correctional Institution	-37,400	-49,100	0.00
Adult Institutions	Milwaukee Secure Detention Facility	-38,400	-50,300	0.00
TOTAL		\$3,183,400	\$3,345,000	35.60

6. The twenty-four hours a day, seven days per week medical staff would provide assistance and high-level daily care in a safer and more appropriate setting for aged and infirm residents, beyond what a general housing unit could support. While this specialized staffing and unit structure may result in a reduction of emergency medical trips (which may reduce costs), the Department indicates that "as the aging population increases, there may be more medical trips [including] planned appointments or emergency medical trips." This could be likely, given that: (a) the "baby boomer" population is currently between ages 57 and 75; (b) truth-in-sentencing legislation requires most inmates to serve their full incarceration sentences with no modifications; and (c) the facility, by its nature, will house inmates with complex medical issues. The unit does not operate or have the equipment that a hospital or medical clinic would, so certain medical needs would still require transportation offsite. The closest contracted hospital to the Oakhill Assisted Needs Facility is the University of Wisconsin Hospital (approximately 15 miles away).

7. Assembly Bill 68/Senate Bill 111 additionally would provide funding for start-up supplies and services (including whiteboards, desks, computers, and desk chairs) as well as \$50,000 in 2021-22 and \$10,000 in 2022-23 for the purchase of a handicapped van and vehicle upkeep. Corrections currently owns 17 handicapped vans, which are permanently assigned to specific institutions. Each van is equipped with two wheelchair seats and five traditional seats. The vans are used to transport inmates to court hearings and outside medical appointments. Given that a single institution may have multiple individuals needing to go to different appointments, possibly at different locations, through the course of a single day, multiple vans at certain facilities may be necessary. In addition, certain appointments may take all day, certain inmates may not be able to be transported together due to security restrictions, and/or unexpected delays at appointments may cause cascading delays for other scheduled trips. This is especially true for institutions with high elderly or disabled populations, such as DCI and OSCI, which have skilled nursing units, and Oakhill, which will have the Oakhill Assisted Needs Facility in the 2021-23 biennium.

8. Dodge Correctional Institution had an average daily population of 1,630 in 2019-20, including 60 high-need infirmary beds, and three handicapped vans. Oshkosh Correctional Institution had an average daily population of 2,035 in 2019-20, including 17 long-term care beds, and two handicapped vans. Oakhill Correctional Institution had an average daily population of 745 (810, when including the 65 beds to be added to the Assisted Needs Facility in 2021) and currently two handicapped vans. When looking at just the high-need units (with populations most likely to need the handicapped vans), DCI has an inmate-to-van ratio of 20:1, OSCI has a ratio of 8.5:1, and OCI would have a ratio of 21.7:1 for the new facility's population, including a third van. Even with the additional vehicle, OCI would still have a higher ratio than similarly-situated institutions.

9. Funding and positions need to be provided, if the facility is to open in October, 2021. Given that the staffing pattern is consistent with other high-needs units, and that additional handicapped individuals will reside at the facility, the Committee could provide \$3,136,100 GPR in 2021-22, \$3,345,000 GPR in 2022-23, and 35.60 positions to staff the facility and provide for additional handicapped vehicle. This alternative includes a minor modification to the funding provided under the bill in 2021-22 to correctly reflect inmate supply costs. In addition, this alternative would require the Department to reallocate an additional 22.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to fully staff the unit. [Alternative 1]

10. The initial 22.75 reallocated positions were determined by comparing positions included in each budget item with long-term vacancies (12 months or more). As noted, however, DOA intends to provide the Department with discretion to make substitutions when necessary. The Committee could require Corrections to identify and reallocate 17.0 additional vacant GPR positions to fully staff the Oakhill facility (approximately half of the newly created positions identified in the bill), which would require a total of 39.75 reallocations (the initial 22.75 plus an additional 17.0) and 18.6 newly-created positions. As of May 1, 2021, the Department had 184.08 vacant positions in the general program operations appropriation (to which the Assisted Needs Facility positions would be budgeted) existing for one year or more. Given that the Department would have discretion to choose which positions to reallocate, an average annual salary (\$42,400) and fringe benefit cost (\$21,500) for all of the 184.08 vacant positions could be used to reduce funding for the new positions by -\$1,086,300 annually (for a total cost of \$2,049,800 GPR in 2021-22 and \$2,258,700 GPR in 2022-23). This alternative would require Corrections to reallocate 39.75 vacant GPR positions and would require position authority for the remaining 18.6 to fully staff the facility. This alternative would also exclude reallocated supplies and services funding, given the differences between position types and institutions. [Alternative 2] Note that additional reallocated positions may not align with the position's intended purpose (for example, a teacher position may be reclassified and reallocated as a social worker position).

11. In addition, while long-term vacancies exist in the requisite appropriation, the Department indicates that "because there is so much uncertainty about where future DAI and DCC [Division of Community Corrections] populations are going to trend, there would be a concern in DOC to continue making additional reallocations for the 2021-23 biennial budget beyond the...long-term vacant positions already proposed for reallocation." Alternative 2 provides additional reallocations, beyond what was identified in the bill. However, additional position reallocations beyond this amount were not identified for various reasons, including:

- Beginning March 20, 2020, a hiring freeze was instituted for executive branch agencies, with the following exceptions: (a) positions in support of the COVID-19 response; (b) positions deemed essential by the agency head; and (c) non-essential positions approved by the Secretary of the Department of Administration. As such, vacant positions, including longer-term vacancies, have not generally been permitted to be filled by agency heads under this policy, which currently remains in effect.

- Of the 184.08 long-term vacancies in the general program operations appropriation, 109.0 (59.2%) are in security positions. Given that correctional institutions require twenty-four hour, seven-day-a-week security at certain staffing levels for safety reasons, existing security personnel are required to work overtime to staff all needed posts. Eliminating security position vacancies would not eliminate the need to staff security posts, but it would eliminate the possibility that the positions could be filled by additional staff in the future (and thereby, reduce overtime).

- While positions may be identified as vacant as of May 1, 2021, it is likely that Corrections is currently in the process of recruiting individuals to fill some of the positions, or has completed the recruitment process. Therefore, some of the positions identified may be filled in the near future. In addition, a vacancy does not mean the position is not needed.

- While it is unknown to what extent the COVID-19 pandemic impacted vacancies, it likely had a negative impact as: (a) potential employees may have had concerns about the current health risks of the prison work environment, given the nature in which COVID-19 is spread, and may have been hesitant to apply for vacant positions; and (b) turnover may have occurred as a direct result of COVID-19 infections.

12. Ultimately, requiring the Department to identify 39.75 vacant GPR positions for reallocation represents an approximate middle ground between the reallocations identified under the bill (22.75 positions), and reallocating all 58.35 recommended positions. If the Committee chooses Alternative 2 and Corrections is unable to reallocate the necessary positions, the Department would be able to request additional positions under the s. 13.10 process, if needed in the future. Funding for the positions, however, would need to be reallocated from within existing appropriations.

13. The 2021-23 budget instructions required each agency to request positions in the first year (2021-22) for nine months or less, to give agencies time to recruit and hire newly authorized positions in the budget. However, given that the opening date of the Assisted Needs Facility is October, 2021, and that specialized training is needed for all staff prior to opening given the unique needs of unit residents, the bill would provide positions for nine months in 2021-22, and additionally would create pool code (surplus) positions for the first three months of 2021-22 to allow staff to be hired and trained in advance of the opening. This position structure is not optimal as it requires the Department to prepare for new positions (recruitment) in 2020-21 before knowing if the positions will be authorized, and it creates administrative difficulties as pool code positions then need to be created and subsequently deleted in October, 2021, when the full-time equivalent (FTE) positions are officially authorized to start.

14. To avoid these issues, the Committee could authorize the Department to hire staff for 11 months in 2021-22 (and 10 months for officers and sergeants, since they will still have pre-service training). While this alternative increases the length of FTE staffing in 2021-22, it would allow the pool code positions to be deleted, and as a result, would require slightly less funding than Alternative 1 (\$3,124,100 GPR in 2021-22 and \$3,345,000 GPR in 2022-23 for the same 35.60 positions). Under this alternative, Corrections would have approximately one month to recruit and hire staff in 2021-22, and staff would have approximately two months to be trained before the facility opens. Like Alternative 1, this alternative would still require the Department to reallocate an additional 22.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to staff the unit. [Alternative 3]

15. If the Committee chooses to take no action, the facility will likely not be able to begin operation in October, 2021. [Alternative 4]

ALTERNATIVES

1. Provide \$3,136,100 GPR in 2021-22, \$3,345,000 GPR in 2022-23, and 35.60 GPR positions annually to staff the Oakhill Assisted Needs Facility and to purchase and maintain a handicapped van. Require Corrections to reallocate an additional 22.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to staff the facility.

ALT 1	Change to Base Funding Positions	
GPR	\$6,481,100	35.60

2. Provide \$2,049,800 GPR in 2021-22, \$2,258,700 GPR in 2022-23, and 18.6 GPR positions annually to staff the Oakhill Assisted Needs Facility and to purchase and maintain a handicapped van. Require Corrections to reallocate an additional 39.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to staff the facility.

ALT 2	Change to Base Funding Positions	
GPR	\$4,308,500	18.60

3. Provide \$3,124,100 GPR in 2021-22, \$3,345,000 GPR in 2022-23, and 35.6 GPR positions annually to staff the Oakhill Assisted Needs Facility under a modified staffing structure which would provide security positions for 10 months and non-security positions for 11 months in 2021-22 (instead of nine months), and eliminate the need for temporary pool code positions, and to purchase and maintain a handicapped van. Require Corrections to reallocate an additional 22.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to staff the facility.

ALT 3	Change to Base Funding Positions	
GPR	\$6,469,100	35.60

4. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #244

Racine Youthful Offender Correctional Facility (RYOCF) Behavior Modification Unit (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 126, #9]

CURRENT LAW

The Racine Youthful Offender Correctional Facility (RYOCF) is a medium-security facility located in Racine, Wisconsin. The facility serves male offenders aged 18 through 24 who have been sentenced to prison by an adult court.

DISCUSSION POINTS

1. The Racine Youthful Offender Facility includes two housing units with 120 cells for 450 offenders. In addition, RYOCF has a 27-bed restrictive housing unit, a visiting room, multi-purpose/chapel room, meeting rooms, staff offices, health services and educational areas, a recreation field and gymnasium, and a support building that houses Career Technical Education and food service programs, as well as laundry and warehouse space. In 2019-20, RYOCF had an average of 207 staff persons and an average daily population of 447 inmates.
2. The RYOCF facility is unique in that it is the only Wisconsin Correctional Institution that specifically houses young adult men aged 18 to 24. According to the Department, research suggests that individuals in this age group are still developing and maturing, and may not have fully-formed impulse control, which could result in more emotionally-charged behaviors when compared to the general adult prison population. This is also the age range when serious mental illnesses are often first observed. For these reasons, the bill identifies RYOCF as the most appropriate and in-need location for a behavior modification unit (BMU).
3. A behavior modification unit is similar to a general population unit, except that it often includes a sensory space, therapeutic features that provide a calming and positive environment, and a

centralized location for treatment staff to meet with high-need inmates. A BMU also usually offers specific programming and a positive reinforcement system. While Wisconsin does not currently operate any BMUs, several other states, as well as the federal government, have used similar specialized units.

4. For example, California began a behavior modification unit pilot program (with reward systems similar to the proposal at RYOCF, described below) in six prison facilities in 2005. A 2010 report of the program identified instances of poor operation and significant staff misconduct towards inmates. At least three of these programs have since been closed. Similarly, for several decades, the federal Bureau of Prisons operated behavior modification units as an alternative to long-term segregation. Some years ago, the Comptroller of the United States submitted a report which concluded "the Bureau has not effectively managed these programs." It is unknown how many states operate BMUs or units similar to BMUs, and the Department indicates that it did not model its proposed BMU off of any other state (instead, it was modeled off of Waupun Correctional Institution's (WCI) behavioral health unit (BHU), discussed later in this paper).

5. The specific BMU at RYOCF would have a 30-bed capacity and would be used for individuals who have demonstrated rule-breaking behavior, struggle with impulsivity, or who are frequently placed in restrictive housing units. Inmates in the RYOCF BMU would be required to participate in programming, with a specific focus on Thinking for a Change programming.

6. Thinking for a Change is a 14-week, cognitive behavioral program aimed at achieving long-term, skills-based behavioral change, rather than short-term compliance. The goal is to help inmates learn to identify habits of thinking that directly connect to their criminal behavior and to see and appreciate the scope of consequences related to their present way of thinking. The program specifically focuses on developing emotional regulation, cognitive self-change, social skills, and problem-solving skills. The Department currently operates Thinking for a Change programming at a majority of its adult institutions, including at RYOCF. However, the Department indicates that "due to time, staffing, and resource limits, persons in [the Department's] care typically only receive Thinking for a Change programming near the end of their sentence, when they are preparing for release." It may be beneficial to allow the RYOCF population to receive this type of programming earlier, given their high needs and the availability of trained staff and a highly-structured setting (though the BMU).

7. In addition to Thinking for a Change, the BMU would offer six out-of-cell programs that all focus on "growth needs outside of mood regulation and impulse control." The Department indicates that participants in the BMU would matriculate through the programs in a "phase system," where participants advance as they complete programming, demonstrate pro-social behaviors, and keep conduct reports to a minimum. Participants would be rewarded for advancing to different phases with additional out-of-cell free time, increases in personal property allotments, and the ability to purchase or rent items (such as small hygiene items, loaner electronics, or more out-of-cell time) through the token economy once per week (where tokens are rewarded to participants successfully completing the day's target behaviors and tasks). The token system would be funded through canteen funds and donations, and is designed to positively reinforce and motivate participants to continue through the program. As noted by the Department, this structured, positive system is beneficial as

"this young age group is still developing their ability to understand delayed gratification."

8. In addition to having a population suitable for a BMU, the existing infrastructure at RYOCF could accommodate a BMU with minimal construction, given that an existing quad space on the south side of the premises could be converted for this purpose. The Department indicates that one existing cell would be converted into a sensory room and door rekeying and cosmetic changes (such as painting) would take place, but otherwise, the BMU would look similar to a general population unit. According to the Department, these minor renovations could take place over the course of one to two months.

9. As noted, Wisconsin does not currently operate any BMUs. Lincoln Hills/Copper Lake Schools have a specialty management unit for youth with a pattern of highly disruptive behavior. However, this unit is not comparable to the proposed RYOCF BMU, since youth at the specialty management unit receive the same programming as other youth in the facility, and the youth population has much different needs and programming structures than adult populations, even young adult populations, as in the case of RYOCF. Instead, the proposed BMU is modeled on a BHU at WCI. While a BMU and a BHU differ in that the BMU is intended to keep residents more thoroughly isolated from the general population than is the case for the BHU (due to the specialized needs of the young adult population and to prevent incidents that may lead to the use of restrictive housing), both specialized units require similar staffing and infrastructure.

10. Assembly Bill 68/Senate Bill 111 would provide \$702,000 GPR in 2021-22, \$823,500 GPR in 2022-23, and 9.6 GPR positions annually to establish and staff the BMU at RYOCF. Positions would include: 5.0 correctional officers, 2.0 correctional sergeants, 1.0 licensed psychologist 1.0 clinical social worker, and 0.60 teacher. In order to give Corrections time to renovate the existing space, the bill provides staffing for nine months in 2021-22 and is annualized thereafter.

11. Under the bill, 5.6 vacant GPR positions would be reallocated for this purpose. Initially, the positions identified for reallocation were from various programs in the Division of Management Services and the Division of Adult Institutions. However, Corrections and the State Budget Office indicate that the intent is for Corrections to be able to make substitutions, if any of the vacant positions become filled or a more-suitable position(s) for reallocation is identified. As a result of the proposed reallocation, the Department would need additional position authority for 4.0 of the 9.6 positions, and would use approximately \$303,000 of existing budget authority by reallocating the remaining 5.6 positions, as shown below:

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$11,900	\$15,900	0.00
Management Services	Training Centers	75,100	18,000	0.00
Adult Institutions	Bureau of Health Services	2,100	0	0.00
Adult Institutions	Institutions, Division Administration	111,200	148,300	0.00
Adult Institutions	Wisconsin Women's Correctional System	-60,600	-60,600	-1.00
Adult Institutions	Kettle Moraine Correctional Institution	-60,600	-60,600	-1.00
Adult Institutions	Dodge Correctional Institution	-121,200	-121,200	-2.00
Adult Institutions	Racine Youthful Offender Correctional Facility	537,400	683,300	9.60
Adult Institutions	Racine Youthful Offender Correctional Facility	-35,700	-42,000	-0.60
Adult Institutions	Milwaukee Secure Detention Facility	<u>-60,600</u>	<u>-60,600</u>	<u>-1.00</u>
TOTAL		\$399,000	\$520,500	4.00

12. The staffing identified is largely consistent with the staffing of the Waupun Correctional Institution unit. The WCI BHU has 60 beds (twice the size of the RYOCF proposal) and approximately double the security staff, to reflect the larger size and higher security level. However, the Waupun unit has approximately the same number of non-security staff as the proposed RYOCF unit (including psychologists, social workers, and teachers). The Department indicates that a similar number of treatment staff is required, given the specialized needs of the young adult population at RYOCF. In addition, the non-security BMU positions would allow for BMU programming and classes to be completely separate from the general population classes.

13. Given the high-need population that exists at RYOCF, the Committee could provide a net \$399,000 GPR in 2021-22, \$520,500 GPR in 2022-23, and 4.0 GPR positions annually to establish a 30-bed BMU at RYOCF. This alternative would require the Department to reallocate an additional 5.6 vacant GPR positions (for a total of 9.6 positions) and associated funding to fully staff the unit. [Alternative 1]

14. The initial 5.6 reallocated positions were determined by comparing positions included in each budget item with long term vacancies (12 months or more). As noted, however, DOA intends to provide the Department with discretion to make substitutions when necessary. The Committee could require Corrections to identify and reallocate 9.6 vacant GPR positions to fully staff the RYOCF unit (which would require 4.0 additional reallocations, in addition to the 5.6 positions identified in the bill). As of May 1, 2021, the Department had 184.08 vacant positions in the general program operations appropriation (to which the RYOCF BMU positions would be budgeted) existing for one year or more. Given that the Department would have discretion to choose which positions to reallocate, a fulltime average annual salary (\$42,400) and fringe benefit cost (\$21,500) for all of the 184.08 vacant positions could be used to reduce funding for the new positions under Alternative 1 by -\$255,600 annually (for a total cost of \$143,400 GPR in 2021-22 and \$264,900 GPR in 2022-23). This alternative would require Corrections to reallocate 9.6 vacant GPR positions and would not require any additional position authority. The alternative would also exclude reallocated supplies and services funding, given the differences between position types and institutions. [Alternative 2]

15. Note that additional reallocated positions may not align with the position's intended initial purpose (for example, a teacher position may be reclassified and reallocated as a social worker

position). In addition, the Department indicates that "because there is so much uncertainty about where future DAI and DCC [Division of Community Corrections] populations are going to trend, there would be a concern in DOC to continue making additional reallocations for the 2021-23 biennial budget beyond the...long-term vacant positions already proposed for reallocation." Further, a vacancy does not mean the position is not needed, and several of the vacancies may exist due to the hiring freeze, or may soon be filled as the Department continues to recruit applicants. If the Committee chooses this alternative, the Department would be able to request additional positions under the s. 13.10 process, if needed in the future. Funding for the positions, however, would need to be reallocated from within existing appropriations.

16. At the beginning of May, 2021, WCI had a population of 946 inmates and 8.0 teachers (an approximate 118:1 inmate-to-teacher ratio), 10.0 social workers (95:1), and 2.0 licensed-psychologists (excluding supervisors and associates) (473:1). During the same time period, RYOCF had 288 inmates and 14.50 teachers (20:1), 5.0 social workers (58:1), and 1.0 licensed-psychologist (288:1). Under the bill, the RYOCF inmate-to-staff ratios would be reduced to 19:1 for teachers, 48:1 for social workers, and 144:1 for licensed psychologists. While the RYOCF ratios are and would continue to be much lower than the WCI ratios, the RYOCF population generally has higher educational and treatment needs, given the age of the inmates. This is especially true for educational programming, where 60% of the RYOCF population reported that their highest level of education was some high school (compared to 34% for WCI). Given these factors, the Committee may alternatively choose to maintain the 0.60 teacher position, but reduce the 2.0 treatment staff positions to 0.6 each (0.6 social workers and 0.6 licensed-psychologists). This change would maintain the 30 bed capacity of the BMU and would necessitate \$342,900 GPR in 2021-22, \$453,000 GPR in 2022-23, and 3.2 GPR positions (in addition to the 5.6 reallocated positions). [Alternative 3]

17. The Racine Youthful Offender Correctional Facility already offers related programing, including anger management, domestic violence, and Thinking for a Change. In addition, as noted above, the program as implemented in other states and the federal government has not produced consistently successful results. As such, the Committee could take no action. [Alternative 4]

ALTERNATIVES

1. Provide \$399,000 GPR in 2021-22, \$520,500 GPR in 2022-23, and 4.0 GPR positions annually to establish a BMU at RYOCF. Require Corrections to reallocate an additional 5.6 vacant GPR positions (for a total of 9.6 positions) and associated funding to staff the unit.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$919,500	4.00

2. Provide \$143,400 GPR in 2021-22 and \$264,900 GPR in 2022-23 to establish a BMU at RYOCF. Require Corrections to reallocate 9.6 vacant GPR positions and associated funding to staff the unit.

ALT 2	Change to Base
GPR	\$408,300

3. Provide \$342,900 GPR in 2021-22, \$453,000 GPR in 2022-23, and 3.2 GPR positions annually to establish a BMU at RYOCF. Require Corrections to reallocate an additional 5.6 vacant GPR positions (for a total of 8.8 positions) and associated funding to staff the unit.

ALT 3	Change to Base Funding	Positions
GPR	\$795,900	3.20

4. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #245

Windows to Work Expansion (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 128, #13]

CURRENT LAW

The Department of Corrections currently operates a "Windows to Work" job services program for inmates, pre- and post-release from prison. Current funding for the program is \$1,692,200 GPR annually.

DISCUSSION POINTS

1. Windows to Work (WTW) is a job services pre- and post-prison release program administered in partnership with the Department of Workforce Development's Workforce Development Boards (WDB). The program is designed to address criminogenic needs of medium- to high-risk offenders that may lead to recidivism, such as employment, education, anti-social cognition, anti-social personality, and anti-social companions. The goal of WTW is to "promote self-sufficiency for individuals returning to the community through the development of constructive skills and the modification of thought processes related to criminal behavior."

2. While still incarcerated, inmates participate in programming including cognitive intervention, general work skills and expectations, financial literacy, community resources, job seeking, applications, and resumes. The institutional portion of the program begins approximately three to 12 months prior to release from incarceration. Following a participant's release from incarceration, the WTW coach will work with the participant's Division of Community Corrections agent to assist participants with job search and job retention activities. Participants may receive additional assistance, as needed, in accessing available community resources to address needs for food, shelter, clothing, transportation, and other services, depending on the WDB area's funding. Post-release programming is provided for approximately 12 months after release, but may be extended with written approval by Correction's Reentry Employment Coordinator, if a WTW coach feels that a participant needs services beyond 12 months.

3. In 2019-20, the Windows to Work program had 418 newly-enrolled participants (admitted to the program at a participating institution during their incarceration) and 115 transfer participants (enrolled at participating institutions, but transferred to a new coach for the post-release portion of the program).

4. Workforce Development has 11 regional Workforce Development Boards responsible for labor training and development activities in specific geographical areas of the state. Corrections contracts with each of these boards to provide a pre- and post-release WTW program at correctional institutions or county jail facilities in the particular workforce development area.

5. Facilities where WTW programs operate and the WDB with which Corrections contracts include the following:

<u>Facility/Jail</u>	<u>Workforce Development Board Area(s)</u>
Chippewa Valley Correctional Treatment Facility	Northwest, West Central
Fox Lake Correctional Institution	South Central
Green Bay Correctional Institution*	Bay Area
Jackson Correctional Institution	Western
Kettle Moraine Correctional Institution	Bay Area
Milwaukee Secure Detention Facility	Milwaukee
New Lisbon Correctional Institution	Western
Oakhill Correctional Institution	South Central
Oshkosh Correctional Institution	Fox Valley
Prairie du Chien Correctional Institution	Southwest
Racine Correctional Institution	Milwaukee, Southeast
Racine Youthful Offender Correctional Facility	Southeast
Redgranite Correctional Institution	Fox Valley
Stanley Correctional Institution	Northwest, West Central
Taycheedah Correctional Institution	Bay Area
Adams County Jail	North Central
Douglas County Jail	Northwest
Rock County Jail	Southwest
Washington County Jail	Waukesha-Ozaukee-Washington
Waukesha County Huber Facility (Jail)	Waukesha-Ozaukee-Washington
Wood County Jail	North Central

*Pilot site

6. Under 2019 Act 9 (the 2019-21 biennial budget) the 2018-19 WTW base budget (\$1,492,200) was increased by \$200,000 GPR annually. The Department used this funding to expand the WTW program to every minimum- and medium-security facility in Wisconsin (which most recently included the addition of Racine Youthful Offender Correctional Facility programming).

7. In addition, 2019-21 funding was used to plan and operate a pilot WTW program at Green Bay Correctional Institution (GBCI) starting in March, 2020 (the first WTW program at a maximum-security correctional facility in Wisconsin). In 2019-20, there were seven GBCI WTW participants and in 2020-21 there have been 10 participants (small group sizes were chosen as a

COVID-19 precaution). The program was temporarily suspended a week after starting due to the public health emergency, but has since resumed. As of March, 2021, all WTW programming at GBCI has been conducted virtually. A second group of six participants started virtual programming in May, 2021. While the program has not been active long enough to accumulate post-release employment data (especially due to the temporary suspension), the program has allowed GBCI residents to release to community supervision with job readiness programming, which they otherwise would not have had access to.

8. The WTW program has a current base budget of \$1,692,200 GPR annually. Funding is allocated as supplies and services under the Becky Young community corrections appropriation and supports costs such as coach positions, offender services, administrative costs, and training materials and supplies.

9. As indicated previously, WTW had 418 newly enrolled participants in 2019-20. According to the Department, enrollments were higher in 2017-18 (507 participants) and 2018-19 (517 participants) as the public health emergency impacted programming in the last quarter of 2019-20. The public health emergency continued to impact WTW enrollments in 2020-21, as the current average daily population for the program is down to 358 participants. However, the Department projects enrollment for 2021-22 and 2022-23 to be similar to pre-public health emergency fiscal years, plus more, if additional funding is provided.

10. During the 2019-20 fiscal year, participants obtained 447 episodes of employment at an average starting hourly rate of \$13.70 per hour. An episode of employment includes temporary placements, on-site job training, work experience, seasonal employment, and full- and part-time employment.

11. While WTW does not maintain a waiting list, approximately 2,200 individuals were identified as program-eligible as of March, 2021. An individual is eligible if he or she is: (a) currently incarcerated at a participating institution or county jail; (b) has an established agent in one of the contracted WDB areas; (c) is releasing from incarceration between three and 12 months; (d) has at least one year remaining on community supervision after release; (e) has no detainers that would prevent participation post-release; and (f) has a medium- to high-risk on a validated risk assessment. In addition to these criteria, individuals are further screened prior to enrollment as coaches and institutional staff look to identify the appropriateness of placement in the program (for example, if a WTW-eligible individual has other programming needs that take priority), mental health status of the individual, history of Social Security and Disability Insurance benefits to determine if the individual is able to work, and motivation level of the individual to participate (given that the program is voluntary). While 2,200 individuals are program-eligible, some may choose not to participate, or be screened out for other reasons.

12. Under current program operations, funding is provided to local WDBs by contract to support released participants in the area and inmate participants in areas with prison facilities. It is up to WDBs to determine how the funding they receive should be allocated. Many WDBs supplement the program utilizing additional federal and/or state funding (the exact amounts are not tracked by Corrections and may vary from year to year).

13. Corrections negotiates contracts with each of the WDBs to determine the exact allocation of funds provided under the bill. According to the Department, increased funding is intended to expand the pre-release portion of the program to: (a) include three new institutions; and (b) increase enrollments by approximately 90 individuals per year.

14. Specifically, the Department anticipates allocating increased funding to expand WTW to three maximum security facilities: Columbia Correctional Institution, Waupun Correctional Institution, and the Wisconsin Secure Program Facility. According to Corrections, 589 individuals are released to community supervision from these three institutions each year, without any job readiness programming. The Department plans to provide programming for approximately 30 participants at each of the three facilities (an increase of 90 participants annually). Each programming cycle takes an average of 90 days to complete. The Department indicates that it would request each facility conduct three group cycles in 2021-22, with eight to 10 participants per group, and four group cycles in 2022-23, with eight to 10 participants per group. According to the Department, "there is no disadvantage to participating while still in a maximum security institution. One of the eligibility requirements for the program is that a proposed participant's release date is between 90 days and 12 months from release. We will be screening and enrolling participants [that meet this criteria] and therefore, there will not be a long gap between pre-release and post-release programming."

15. The bill does not specify how the funding would be allocated between WDBs. Rather, as under the current program, Corrections would negotiate contracts with the WDBs to provide the services Corrections determines may be appropriate for WTW participants in a particular WDB area. This process requires the WDBs to outline the dollar amount and funding allocations necessary to expand the program to new institutions and to support an increased population. These assessments are sent to the Reentry WTW Coordinator, and are used by Corrections to determine the final allocation of funds. While the proposal would only expand the institutional, pre-release portion of the WTW program, funding still goes through the WDBs that have the new institutions in their jurisdiction, as opposed to going directly to the institutions. The WDBs contractually oversee all components of the WTW program, and often supervise the same individuals pre-release and post-release (transfers to other areas occur in less than 30% of cases), so it is beneficial for WDB staff to build rapport and begin working with inmates during the pre-release programming phase.

16. Given the program's successful post-release job placements, the Committee may wish to provide \$250,000 GPR annually to expand the program to allow for an additional 90 participants per year. Under this alternative, WTW would expand pre-release programming to three maximum security institutions (currently, GBCI is the only maximum-security institution with WTW programming). The Department, through contracts with the WDBs serving the geographic areas in which the institutions are located, would have discretion to allocate funding based on estimated offender need in the WDB area served. This would be similar to the manner in which the Committee provided additional funding to WTW in the 2019-21 biennial budget. [Alternative 1]

17. However, the number of participants in 2019-20 was lower than prior years, and the current 2020-21 average daily program population is lower yet. While the Department indicates that the enrollment rate has been impacted by the public health emergency and is anticipated to rebound in the 2021-23 biennium, as of May, 2021, institutional populations remain lower than the average

daily population in every fiscal year since 2011-12. In addition, the GBCI pilot program has not been active long enough to allow analysis of WTW program completion or post-release employment data for participants in maximum-security facilities. As a result, the Committee could provide \$200,000 GPR annually to expand the program on a smaller scale. Under this alternative, the Department would have to negotiate contract agreements and expand the program with a smaller budget available for distribution. [Alternative 2]

18. On the other hand, the Department projects enrollments for 2021-22 and 2022-23 to surpass pre-public health emergency fiscal years with additional funding for expansion, as program eligibility currently exceeds availability. Despite currently reduced institutional populations, the three institutions recommended for expansion release a combined 590 individuals each year who would be eligible for WTW, if programming was available (significantly more than the proposed expansion by 90 participants). In addition, if current trends continue, any impacts on programming from the public health emergency will continue to decrease. Given these factors, the Committee could provide additional funding, beyond what was identified under the bill as introduced. If an additional \$300,000 GPR annually was provided, the Department could allocate increased monies to WDBs to assist with increased populations and expand programming. [Alternative 3]

19. The Department currently has approximately \$1.7 million GPR in base resources budgeted for WTW. If the Committee does not take any action, base resources would be available to continue the existing program. Funding for the program was increased in the last biennial budget, and the Department did not request additional funding for WTW in the agency's 2021-23 budget request. [Alternative 4]

ALTERNATIVES

1. Provide \$250,000 GPR annually to expand the Department's Windows to Work program to Columbia Correctional Institution, Waupun Correctional Institution, and the Wisconsin Secure Program Facility, and to include 90 additional participants per year.

ALT 1	Change to Base
GPR	\$500,000

2. Provide \$200,000 GPR annually to expand the Department's Windows to Work program.

ALT 2	Change to Base
GPR	\$400,000

3. Provide \$300,000 GPR annually to expand the Department's Windows to Work program.

ALT 3	Change to Base
GPR	\$600,000

4. Take no action.

Prepared by: Shannon E. Huberty



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June, 2021

Joint Committee on Finance

Paper #246

Local Law Enforcement Reimbursement (Corrections -- Adult Institutions)

[LFB 2021-23 Budget Summary: Page 128, #14]

CURRENT LAW

Statutes require that county clerks may submit reimbursement claims of counties containing state prisons or juvenile correctional facilities to the Department of Corrections for certain expenses incurred or paid by the county in reference to all matters growing out of actions and proceedings involving prisoners in state prisons or juveniles in juvenile correctional facilities. Base funding for the appropriations is: (a) \$41,000 GPR associated adult correctional institutions; and (b) \$95,000 GPR associated with juvenile correctional institutions.

The Department of Corrections currently reimburses two jurisdictions (the Village of Allouez and the County of Dodge) for costs associated with local law enforcement investigative services to correctional facilities in those jurisdictions.

DISCUSSION POINTS

1. The Department has a sum sufficient GPR appropriation for reimbursement claims of counties containing state prisons. The appropriation is designed to "pay all valid claims made by county clerks of counties containing state prisons." This appropriation is currently used exclusively for reimbursing counties for expenses incurred in connection with certain inmate litigation, and not for local law enforcement investigative services. Examples of allowable reimbursements under this appropriation include lawsuits, costs related to writs of habeas corpus or writs of certiorari involving an inmate's status as a prisoner, and costs related to extradition. Examples of non-allowable reimbursements include civil lawsuits, costs related to inmate accounts, family related litigation, and any costs unrelated to litigation. An identical appropriation exists for juvenile correctional facilities.

2. To receive reimbursement under the reimbursement claims of counties with state prisons

appropriation, counties must establish a memorandum of understanding with the Department, complete a departmental form, and provide supporting documentation (for example, in a criminal case, the case number and caption of the case). The form and documents are then subject to the audit process outlined in statute (s. 16.51(7)) for expense claims in connection with prisoners in correctional facilities. After review, the requesting counties are reimbursed for all approved expenses.

3. When an incident occurs in or on the grounds of a state correctional facility beyond the control of existing correctional security staff, the local law enforcement entity is called to respond to the situation. Examples of incidents that may require local law enforcement response include death investigations, assaults or batteries on facility staff, Prison Rape Elimination Act (PREA) situations, and drug investigations.

4. The current statutory reimbursement appropriation language does not apply to local law enforcement investigative services, and also only includes counties (as opposed to other municipal jurisdictions). As a result, Corrections currently reimburses two local units of government for local law enforcement services rendered to adult correctional facilities directly from its general program operations appropriation.

5. The Dodge County Sheriff's Department receives reimbursement for actual expenses associated with local law enforcement investigations at correctional institutions within the county. Dodge County has more correctional facilities than other counties in the state. These facilities include the Dodge Correctional Institution, Waupun Correctional Institution, Fox Lake Correctional Institution, and the John C. Burke Center (along with the Waupun Farm, and the Fox Lake Farm). As a result, the Dodge County Sheriff's Department entered into a memorandum of understanding with the Department of Corrections, whereby one full-time detective responds to all calls to correctional facilities within the county (additional personnel may respond if the situation requires). The Sheriff's Department then sends quarterly invoices of the investigative costs to Corrections, subject to review by the Department, before receiving reimbursement for the approved expenses. In 2019-20, Dodge County submitted invoices and was reimbursed for \$36,300 in local law enforcement investigative services expenses. This amount is significantly lower than the average of the two preceding years (\$82,000 annually), largely due to the public health emergency, when inmate populations were reduced and in-cell confinement was increased.

6. In addition to Dodge County, the Village of Allouez (Brown County) also receives reimbursement from Corrections' general program operations appropriation for expenses associated with local law enforcement investigative costs at Green Bay Correctional Institution (GBCI). The Brown County Sheriff's Department provides law enforcement services to Allouez under contract, because Allouez does not have a local police department. Allouez pays Brown County per-hour for the law enforcement services rendered to the jurisdiction, including services rendered to GBCI. However, unlike Dodge County, reimbursement for Allouez was provided as a result of a budget motion in the 2019-21 biennial budget. Given that a specific amount of funding was provided (\$60,000 GPR per fiscal year) the reimbursement process differs from Dodge County. The Department of Corrections finalized a memorandum of understanding with the Village of Allouez for reimbursement at the end of 2020, and pays Allouez a set amount of \$15,000 per quarter.

7. In addition to Allouez and Dodge County, 2019 Assembly Bill 811 proposed

reimbursing the Village of Redgranite \$8,000 GPR annually for similar expenses. The bill was passed by the Assembly but did not pass the Senate, pursuant to 2019 Senate Joint Resolution 1.

8. The budget bill would modify the existing sum sufficient appropriations (one for state prisons and one for juvenile correctional facilities) to allow the Department to reimburse counties or municipalities (including cities, villages, or towns) for expenses relating to actions or proceedings that are commenced in counties with prisons or juvenile correctional facilities. In addition, the bill specifies that these actions include expenses relating to law enforcement investigative services provided for matters involving a prisoner in a state prison or a juvenile in a juvenile correctional facility within its jurisdiction. Reimbursement claims of counties or municipalities containing state prisons or juvenile correctional facilities must be made by clerks of counties, cities, villages, and towns. Further, the bill would create statutory language to provide that the clerk of any town or city (including 1st Class cities (Milwaukee)) that is entitled to reimbursement must make a certified claim against the state, without direction from the county board or common council, in all cases in which reimbursement is directed upon forms prescribed by the Department of Administration (DOA). The forms must contain information required by the clerk and must be filed annually with the DOC, on or before June 1st.

9. In addition to statutory changes, \$142,000 GPR annually would be reallocated from the Division of Adult Institutions' general program operations appropriation to the reimbursement claims of counties or municipalities containing state prisons appropriation for reimbursement purposes. The amount being transferred was determined based on the amounts provided to Allouez for local law enforcement investigative services provided to GBCI (\$60,000 annually) and the estimated amounts provided to Dodge County (approximately \$82,000 annually, based on an average of actual costs from 2017-18 and 2018-19). The recommended reallocation is in part based on historical averages for Dodge County in pre-public health emergency periods, and is likely more reflective of future costs than the 2019-20 reimbursement amount (\$36,300). The reallocation would move these amounts to the adult reimbursement claims appropriation and would allow for all reimbursement funds to come from the same account. Total funding in the appropriation would be estimated at \$183,000 GPR annually.

10. It is difficult to estimate the total cost to the Department, if all eligible jurisdictions submit invoices for reimbursement under the bill, because reimbursement is based on actual expenses, which hinge on number and size of incidents at correctional facilities requiring local law enforcement response.

11. As the Department has in the past with Dodge County, Corrections has indicated that it is willing to work directly with additional jurisdictions. The language included in the budget bill is the same as requested the Department in its 2021-23 agency budget request. For ease of organization and distribution of funds, the Committee may wish to approve the statutory changes and reallocation to more similarly provide reimbursements among jurisdictions with correctional facilities and to better align reimbursement funding with reimbursement appropriations. [Alternative 1] Under this alternative, Allouez and Dodge could still receive reimbursement, but would be required to follow the uniform process and once-per-year reimbursement criteria for actual expenses (including submitting documentation of actual expenses to Corrections), similar all other jurisdictions with

correctional facilities.

12. Alternatively, the Committee could adopt the statutory changes and reallocation described in Alternative 1, but specify that reimbursement for Allouez and Dodge County remain as-is under current practices. The recommended reallocation of \$142,000 would occur, and reimbursement of Allouez and Dodge would be provided from the reimbursement claims of counties or municipalities containing state prisons appropriation (as opposed to the general program operations appropriation), but Allouez would continue to receive a set amount of funding each quarter (\$15,000), as opposed to being required to submit invoices for actual expenses, and Dodge, while already submitting invoices for actual expenses, would continue to receive reimbursement each quarter, as opposed to once-per-year, as described under the bill. [Alternative 2].

13. In addition to the Department of Corrections appropriations used for reimbursement, DOA provides annual municipal service payments (MSP) to reimburse municipalities for a portion of eligible property tax supported expenses, including police expenses, incurred in providing services to state facilities and on state land. According to MSP guidelines, municipalities with correctional facilities receive a reduced MSP payment for police services, as state personnel (correctional officers and sergeants) assist with some police services within institutions. Specifically, DOA deducts 80% of the base entitlement for minimum- and medium-security correctional institutions, and 90% for maximum-security institutions. The Department of Administration pays a percentage of the remaining 20% or 10% respectively, to the municipality. These payments are provided to cities, towns, and villages, and not to counties. County sheriff's departments that provide services to a state facility may receive payment from a municipality under an intergovernmental agreement. Any compensation paid by the municipality to the sheriff's department would be an eligible police expense for which the municipality would be eligible for reimbursement.

14. In 2020, 21 municipalities received a police municipal services payment based on correctional facilities. Of the \$27,254,900 in police MSP costs in 2020, approximately \$700,900 was associated with these facilities. At an entitlement rate of 34.61%, only \$242,581 in MSP were made to municipalities associated with police costs at Corrections facilities.

15. Despite the small amount of MSP police payments associated with correctional facilities, some jurisdictions may receive more than 100% reimbursement under the bill. The bill provides 100% reimbursement to counties and municipalities for law enforcement services rendered to state correctional facilities. However, given the proposed statutory expansion and the structure of MSP payments, some of these jurisdictions may also be receiving partial reimbursement from DOA on top of the full reimbursement from Corrections for police services rendered to state facilities/lands. Given this possibility, the Committee may consider approving Alternative 1, but also requiring DOA to remove police MSP for correctional facilities from the MSP formula. This alternative would put the responsibility on the local jurisdictions to submit the required documentation to Corrections to receive reimbursement, and would also prevent any payments beyond a 100% reimbursement. [Alternative 3]. It is important to note that some municipalities have multiple state facilities/lands in their jurisdiction, including a combination of both correctional and non-correctional facilities/lands. This alternative would only impact MSP police costs, as they relate specifically to correctional facilities/lands. The alternative would allow monies not distributed as MSP associated with police

services at correctional institutions to be redistributed within the existing formula.

16. During 2019-21 budget discussions on the Allouez motion, Corrections indicated that it was willing to work with other law enforcement agencies to reimburse costs (similar to the manner in which Dodge County is currently reimbursed) without additional legislation. As a result, the Committee could take no action related to this item. However, without statutory language changes, any agreed-upon reimbursement would come from the general program operations appropriation (if funding is available), as opposed to the reimbursement claims of counties appropriation as discussed above. [Alternative 4]

ALTERNATIVES

1. Modify the current sum sufficient appropriations and other statutes related to reimbursement claims of counties containing state correctional facilities to allow the Department to reimburse all jurisdictions for local law enforcement investigative services rendered to state correctional facilities from the appropriations. Reallocate \$142,000 GPR within the Department for reimbursement purposes from general program operations to the reimbursement of claims of counties or municipalities containing state prisons appropriation.

2. Adopt Alternative 1, but additionally specify that Dodge and Allouez would continue to receive reimbursement as provided under current practices.

3. Adopt Alternative 1, but additionally require DOA to remove police municipal service payments for correctional facilities from their municipal service payments formula.

4. Take no action.

Prepared by: Shannon E. Huberty

Corrections -- Adult Institutions

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
4	Fuel and Utilities
10	Full Funding of the Wisconsin Secure Program Facility Programs Building
11	Central Generating Plant Position
12	Institutional Repair and Maintenance

