

Fiscal Estimate Narratives
DOC 3/18/2010

LRB Number	09-3048/3	Introduction Number	AB-0732	Estimate Type	Original
Description The age at which a person who is alleged to have violated a criminal law, a civil law, or a municipal ordinance is subject to circuit court or municipal court jurisdiction rather than juvenile court jurisdiction; creating a community youth and family aids surcharge; authorizing the Department of Corrections to set the youth aids daily rates for care of a juvenile in a juvenile correctional facility or a treatment facility; providing an exemption from rule-making procedures; and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

This bill increases the age at which a person would be subject to procedures and sentencing outlined in the adult criminal code from 17 to 18. There would still remain the ability for courts to waive a person under the age of 18 into adult court, and juveniles alleged to have committed certain crimes would be under the original jurisdiction of the adult court for criminal proceedings. Transitioning of 17-year-olds to the juvenile justice system would be gradually implemented over the course of a year, with July 1, 2011 being the date the change would be finalized.

This bill also eliminates statutorily set daily rates for juvenile correctional institutions (JCI) and instead directs the Department of Corrections (DOC) to set one cost assessment for short-term placements (30 days or less) and another for long-term placements of more than 30 days. DOC would be required to submit a plan to the Joint Committee on Finance (JCF) on the implementation of proposed assessments at least annually. If the proposed cost assessments submitted were an increase from existing assessments, DOC could also submit a request to JCF to provide increased Community Youth and Family Aids (commonly referred to as Youth Aids) funding to counties to cover the increased charges resulting from the proposed assessment. The additional funds would be provided through the JCF supplemental appropriation.

Finally, this bill would impose a "Youth Aids surcharge" of \$14 when courts impose forfeitures for a traffic violation. These funds would be placed into a new appropriation "Community youth and family aids surcharges", where the additional funds would be allocated to counties through Youth Aids.

The changes provided in this bill would mean that most 17-year-olds currently admitted to county jails, state prisons, probation, or extended supervision would instead be admitted to county secure detention facilities, state juvenile correctional institutions (JCI), or juvenile supervision provided by either the county or state. A 17-year-old alleged to have attempted or committed first degree intentional homicide or committed second degree intentional homicide, first degree reckless homicide, or assault and/or battery to staff while in a juvenile correctional institution, juvenile detention facility or a secured residential care center, and/or battery to a probation & parole agent while on supervision would be under the original jurisdiction of the adult court.

The Office of Justice Assistance's publication "Wisconsin Adult Jail Populations – 2003" included information on the number of 17-year-old admissions to county jails during 2002 and 2003. In 2002, 57 jails reported 13,868 admissions of 17-year-olds and in 2003, 47 jails reported 11,075 admissions. If these 17-year-olds were considered juveniles in criminal proceedings, an unknown number would be placed in secure detention facilities (e.g. for predisposition custody or short-term sanctions) instead of in jails. County jails and secure detention facilities are funded with county dollars. The cost to house a juvenile in a secure detention facility ranges from \$140 to \$215 per day while the cost to house an adult in a county jail is about \$50 per day. Only 16 counties operate secure detention facilities, while 71 counties operate jails. Therefore, this bill would require most counties to either transport 17-year-olds to other counties in order to find available beds, resulting in increased transportation costs, or to build or expand their own facilities.

During CY07, there were 107 offenders admitted to state prison who were 17 years old at the time of their offense. While this bill would likely cause a population shift from adult prisons to JCIs, it is not possible to determine the number of 17-year-olds who would enter a JCI. The average FY09 annual cost to house an inmate in a state prison was approximately \$31,800. This figure reflects all expenditures for operating a prison (i.e. staff, fuel and utilities, supplies and services etc.) However, when there are small to moderate changes in the inmate population it is the per capita variable or incremental costs that are affected (i.e. food, health care and clothing). In FY09 these costs were \$4,900/year per inmate. If the population change affects the need for contract beds, these costs are \$18,800 annually per person.

If populations increased to a level that required additional bed space for 100 juveniles, it is anticipated JCI expenditures would increase by an estimated \$5,100,000 and an additional 64 FTE would be needed. An increase of 200 juveniles would increase expenditures an estimated \$10,000,000 and would require an additional 126 FTE. An increase of 300 juveniles would increase JCI expenditures by an estimated \$15,100,000 and an additional 192 FTE would be needed.

Because DOC adult institutions are operating above their operating capacity, there would not be a corresponding decrease in the total adult institution per capita costs. Assuming the Department would save only variable costs in adult institutions, these costs would decrease \$490,000 with a 100-bed reduction in adult prison populations, \$980,000 with a 200-bed reduction and \$1,470,000 with a 300-bed reduction in adult prison populations. If the Department is able to reduce the number of contract beds, the savings would be greater.

In addition to a change in where incarcerated 17-year-olds would be housed, there would be a change in how 17-year-olds would be supervised while on probation and extended supervision. Currently, all adults under community supervision are supervised with state GPR funds and state employees. Counties do all of the supervision for juveniles who would be considered to be on probation in the adult correctional system. The only state supervision of people under 17 is for a small number of juveniles placed on state aftercare or state corrective sanctions once they have completed a stay in a JCI. Currently, 22 counties contract for state aftercare of their juveniles once they have completed a stay in a JCI.

During CY07, 2,115 offenders were placed on probation who were 17 years old at the time of their offense. As with state prison populations, it is not possible to determine the number of 17-year-olds that would be affected by this bill. The FY09 annual per capita cost to supervise an adult on probation or parole was \$2,600 and a juvenile on state aftercare supervision was \$14,500. The cost for county supervision of a juvenile varies from county to county.

Courts may also order a variety of other juvenile dispositions including out-of-home care. Foster Care placements are approximately \$72 per day, while Residential Care Centers typically average \$298 per day. As with other dispositional options, we are not able to determine the cost to counties for out-of-home care placements of 17-year-old offenders if they were returned to the juvenile system.

It is not possible to determine how courts would sentence 17-year-olds under this bill. The courts would be able to waive 17-year-olds to adult court, and 17-year-olds alleged to have committed certain offenses would be under the original jurisdiction of adult court as per s.938.183. A review of offenders who were 17 when they committed their offense showed 6 inmates were admitted to prison in CY07 for offenses which under current statutes give juveniles original adult court jurisdiction (these offenses include first degree intentional and reckless homicide). Even though some 17-year-olds would be sent to adult prison as a result of being waived or having committed a serious crime with original adult court jurisdiction, it is likely there would be a reduction in county jail, state prison, and state adult community supervision populations as a result of this bill. This could result in a reduction to state GPR costs. However, an increase in the populations of secure detention facilities, state juvenile correctional institutions, and state and county juvenile supervision populations would result in an increase to state PR costs, state PR FTE, and county costs to pay for the higher costs associated with housing and supervising more juveniles.

This bill would increase the amount of Youth Aids that would be allocated to counties through the creation of a new appropriation s.20.410(3)(gr), Community youth and family aids surcharges. The courts would impose a \$14 surcharge on traffic violations, with the funds collected from the surcharge being deposited into this appropriation. These funds would be allocated to counties through Youth Aids, and would be available for use on juvenile correctional services and local delinquency-related and juvenile justice services. Some of the increased costs that would result from the addition of 17-year-olds to the juvenile justice system would be alleviated as a result of the additional Youth Aids that would be allocated to counties. The Department cannot predict the amount of additional funding that would be available as a result of this surcharge, and the bill does not provide a mechanism for allocating these new funds, which is necessary in order for DOC to properly determine how much each county would receive.

In addition to the increased Youth Aids funding counties would be provided from the Youth Aids surcharge, this bill also would eliminate the statutorily set JCI daily rate which is currently established at \$270 for FY10 and \$275 for FY11. Instead, DOC would be required to annually submit plans to JCF for cost assessments for juveniles placed in JCIs. Should the proposed assessments be an increase from current assessments, DOC could also request an increase to Youth Aids through supplemental funds available in s.20.865(4)(a), Joint committee on finance supplemental appropriations. JCF would then determine whether or not additional funding should be allocated to s.20.410(3)(cd), Community youth and family aids. DOC would

then allocate these funds to counties based on their JCI usage. It is not possible to predict future requests for additional Youth Aids funding, since it is not possible to accurately predict future JCI cost assessments.

Long-Range Fiscal Implications