

2019 DRAFTING REQUEST

Bill

For: **Administration-Budget 266-0239** Drafter: **eshea**
 By: **Stinebrink** Secondary Drafters:
 Date: **10/26/2018** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**
elisabeth.shea@legis.wisconsin.gov
Elizabeth.wheeler@legis.wisconsin.gov

Pre Topic:

DOA:.....Stinebrink, BB0035 -

Topic:

Juvenile placements at Mendota Juvenile Treatment Center

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	eshea 11/28/2018	aernstr 11/30/2018			
/P1	eshea 12/18/2018	aernstr 12/20/2018	dwalker 11/30/2018		State S&L
/P2	eshea 2/15/2019	aernstr 2/18/2019	lparisi 12/20/2018		State S&L
/P3	eshea 2/25/2019		dwalker 2/18/2019		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P4		aernstr 2/25/2019	dwalker 2/25/2019		State S&L

FE Sent For:

<END>

Shea, Elisabeth

From: Hanaman, Cathlene
Sent: Friday, October 26, 2018 12:23 PM
To: Wheeler, Elizabeth; Shea, Elisabeth
Subject: FW: Statutory Language Drafting Request - 2019-21
Attachments: MJTC.docx

From: Stinebrink, Cory R - DOA
Sent: Friday, October 26, 2018 12:17 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>; Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Subject: Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Mendota Juvenile Treatment Center

Tracking Code: BB0035

SBO Team: HSI

SBO Analyst: Stinebrink, Cory R - DOA
Phone: (608) 266-0239
E-mail: Cory.Stinebrink@Wisconsin.gov

Agency Acronym: 435

Agency Number: 435

Priority: Low

Intent:

See attached file for request/intent.

Attachments: True

Please send completed drafts to SBOSatlanguage@spsmail.enterprise.wistate.us

The intent of this request is to make the following statutory changes.

1. Request statutory changes to eliminate Act 185 language in 46.057(1) language allowing county courts to place a juvenile at MJTC upon the recommendation of DHS. Request statutory language allowing counties and DOC to request MJTC placements. Request statutory language providing the director of MJTC, or his or her designee, the responsibility for the admission, treatment, and release of juvenile offenders at MJTC.
2. Request statutory changes allowing DHS to bill DOC and counties for MJTC placements. Request elimination of statutorily required amounts transferred from MJTC to DOC, while allowing DHS to continue receiving payments for DOC juveniles. Request statutory language in 20.435 (2)(gk) allowing DHS to bill counties for MJTC services for juveniles transferred from county facilities.
3. Request statutory changes to eliminate the statutory language in Act 185 Section 110(7)(g) requiring JFC approval of the expansion.

The following are portions of a budget request related to the Mendota Juvenile Treatment Center. Also included are an Appendix of the DHS's desired statutory changes.

Requesting Changes to Act 185 Language

1. To maintain the integrity of the current MJTC treatment model, the Department recommends changes to Act 185 provisions.
2. *Joint Finance Committee Review.* Act 185 states that construction of the MJTC expansion is "subject to the approval of the Joint Committee on Finance." The provision is duplicative and could delay the construction process, which needs to be completed by January 1, 2021 to comply with Act 185 deadlines. These are ambitious construction timeframes. The Joint Finance Committee will have the opportunity to review and approve the capital budget and operating budget aspects of the expansion as part of the 2019-21 biennial budget. For these reasons, the Department requests deletion of this provision.
3. *Admissions to MJTC.* The Department recommends changes to Act 185 as well as other statutory provisions to preserve the current MJTC admissions process.
4. Under current policy and pre-Act 185 law, DOC is the only entity able to refer juveniles to MJTC, and transfers may occur only with the approval of DHS. This policy allows DHS and DOC to identify the juveniles who would benefit from MJTC treatment from those juveniles who would be better served in a DOC institution. DOC staff have years of established policy and precedent to rely on when making placement recommendations to DHS and maintain a close working relationship with their DHS counterparts to ensure the correct individuals receive treatment when needed, and to keep the number of patients

within MJTC's operational capacity. DOC also funds the MJTC placements through a memorandum of understanding (MOU) with DHS and a statutory transfer of DOC funds to DHS. Act 185 amended s. 938.357 (3)(b)(2c) to allow county courts to place juvenile offenders into MJTC with the concurrence of DHS, in addition to the DOC's juvenile placements.

5. Currently, all juveniles placed at MJTC are still under the supervision of DOC and are the responsibility of DOC once they leave MJTC.
6. The statutory language currently in Act 185 allows county courts to order juveniles placed into MJTC, "upon the recommendation of DHS." DHS is concerned this language could lead to a county court ordering a juvenile into MJTC regardless of DHS's recommendation, even if his or her treatment needs or behavioral characteristics are not those that MJTC can address.
7. Furthermore, if courts can place juveniles directly to MJTC, it is possible they will do so without regard to MJTC's operational capacity, which could result in populations exceeding capacity. County courts would not be required to account for operational capacity when ordering placements. The situation could result in an admissions list for juveniles, and "forth with" orders from courts, similar to the forensic adult population at MMHI.
8. To maintain the current process as much as possible, DHS would request statutory changes to eliminate the Act 185 language allowing courts to place individuals directly into MJTC upon the recommendation of DHS and add new language explicitly stating that courts may not directly place juveniles to MJTC. Instead, this language should allow DOC or county agencies to request placement of juveniles under their supervision to MJTC. It could also add new language as follows;

46.057 (1m) The director of the Mendota juvenile treatment center, or her or his designee, shall be responsible for decisions regarding admission, treatment, and the release and return of the juvenile offenders to the appropriate state or county facility.
9. The effect of these changes would be that DHS would control the admission and discharge of juveniles to and from MJTC.
10. Because MJTC is a treatment facility and not strictly a correctional facility, it should not become a permanent holding facility for juvenile inmates. The ability to discharge juveniles upon their completion or rejection of treatment underlies the success of the MJTC model. Act 185 does not ensure DHS has the authority to discharge a juvenile from MJTC to a county facility if MJTC staff determine the juvenile cannot be effectively treated at MJTC. DCTS is concerned a situation could arise where a county refuses to accept a MJTC discharge, and MJTC would become the permanent home for the juvenile.

Appendix C – Proposed Statutory Language Changes

1. Per recommendation 3 above, DHS requests the following requested statutory language amended to eliminate Act 185 language in 46.057(1) language allowing county courts to place a juvenile at MJTC upon the recommendation of DHS, allow counties and DOC to request MJTC placements, and to provide the director of MJTC, or his or her designee, the responsibility for the admission, treatment, and release of juvenile offenders at MJTC.

Current Language

46.057 Mendota juvenile treatment center. (1) The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a juvenile correctional facility, as defined in s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile correctional facilities and whose mental health needs can be met at the center. With the approval of the department of health services, the department of corrections may transfer to the center any juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections under s. 938.183, 938.34 (4h) or (4m), or 938.357 (3), (4), or (5) (e) in the same manner that the department of corrections transfers juveniles between other juvenile correctional facilities. Upon the recommendation of the department of health services, a court may place a juvenile at the center in a proceeding for a change in placement order under s. 938.357 (3).

Proposed Change

46.057 Mendota juvenile treatment center. (1) The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a juvenile correctional facility, as defined in s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile correctional facilities

and whose mental health needs can be met at the center. With the approval of the department of health services, the department of corrections *or county agency* may transfer to the center any juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections *or a county* under s. 938.183, 938.34 (4h) or (4m), or 938.357 (3), (4), or (5) (e) in the same manner that the department of corrections *or a county* transfers juveniles between other juvenile correctional facilities. ~~Upon the recommendation of the department of health services, a court may place a juvenile at the center in a proceeding for a change in placement order under s. 938.357 (3).~~ *A court may not order the department of health services to accept direct placement of the juvenile under 938.357, or otherwise.* (3)(c)

New Language

46.057 (1m) The director of the Mendota juvenile treatment center, or her or his designee, shall be responsible for decisions regarding admission, treatment, and the release and return of the juvenile offenders to the appropriate state or county facility.

2. Per recommendation 4 above, DHS requests statutory changes to allow DHS to bill DOC and counties for MJTC placements, requests the elimination of statutorily required amounts transferred from MJTC to DOC requests allowing DHS to continue receiving payments for DOC juveniles and requests statutory language in 20.435 (2)(gk) allowing DHS to bill counties for MJTC services for juveniles transferred from county facilities.

Current Language

46.057 Mendota juvenile treatment center. (2) From the appropriation account under s. 20.410 (3) (ba), the department of corrections shall transfer to the appropriation account under s. 20.435 (2) (kx) \$1,365,500 in each fiscal year and, from the appropriation account under s. 20.410 (3) (hm), the department of corrections shall transfer to the appropriation account under s. 20.435 (2) (kx) \$2,869,200 in fiscal year 2017-18 and \$2,932,600 in fiscal year 2018-19, for services for juveniles placed at the Mendota juvenile treatment center. The department of health services may charge the department of corrections not more than the actual cost of providing those services.

20.435 (2) (gk) Institutional operations and charges. The amounts in the schedule for care, other than under s. 51.06 (1r), provided by the centers for the developmentally disabled, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s. 46.043, provided by the mental health institutes, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of

state-owned housing at centers for the developmentally disabled and mental health institutes; for repair or replacement of property damaged at the mental health institutes or at centers for the developmentally disabled; for reimbursing the total cost of using, producing, and providing services, products, and care; and to transfer to the appropriation account under sub. (5) (kp) for funding centers. All moneys received as payments from medical assistance on and after August 1, 1978; as payments from all other sources including other payments under s. 46.10 and payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical assistance payments, other payments under s. 46.10, and payments under s. 51.42 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of state-owned housing and other institutional facilities at centers for the developmentally disabled and mental health institutes; for the sale of electricity, steam, or chilled water; as payments in restitution of property damaged at the mental health institutes or at centers for the developmentally disabled; for the sale of surplus property, including vehicles, at the mental health institutes or at centers for the developmentally disabled; and for other services, products, and care shall be credited to this appropriation, except that any payment under s. 46.10 received for the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which the state is liable under s. 51.05 (3), of forensic patients committed under ch. 971 or 975, admitted under ch. 975, or transferred under s. 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the Mendota Mental Health Institute or the Winnebago Mental Health Institute shall be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and except that moneys received under s. 51.06 (6) may be expended only as provided in s. 13.101 (17).

Proposed Changes

46.057 Mendota juvenile treatment center. (2) ~~From the appropriation account under s. 20.410 (3) (ba), — The department of corrections shall transfer to the appropriation account under s. 20.435 (2) (kx) \$1,365,500 in each fiscal year and, from the appropriation account under s. 20.410 (3) (hm), the department of corrections shall transfer to the appropriation account under s. 20.435 (2) (kx) \$2,869,200 in fiscal year 2017-18 and \$2,932,600 in fiscal year 2018-19, payments for services for juveniles placed at the Mendota juvenile treatment center. *The department of health services may bill county departments and the department of corrections for care provided at the Mendota juvenile treatment center at rates which the department of health services sets.*~~

20.435 (2) (gk) Institutional operations and charges. The amounts in the schedule for care, other than under s. 51.06 (1r), provided by the centers for the developmentally disabled, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s. 46.043, provided by the mental health institutes, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and

add here

after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for care of juveniles referred by counties under 46.057 (1) to the Mendota juvenile treatment center, to reimburse the cost of providing the services; for maintenance of state-owned housing at centers for the developmentally disabled and mental health institutes; for repair or replacement of property damaged at the mental health institutes or at centers for the developmentally disabled; for reimbursing the total cost of using, producing, and providing services, products, and care; and to transfer to the appropriation account under sub. (5) (kp) for funding centers. All moneys received as payments from medical assistance on and after August 1, 1978; as payments from all other sources including other payments under s. 46.10 and payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical assistance payments, other payments under s. 46.10, and payments under s. 51.42 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of state-owned housing and other institutional facilities at centers for the developmentally disabled and mental health institutes; for the sale of electricity, steam, or chilled water; as payments in restitution of property damaged at the mental health institutes or at centers for the developmentally disabled; for the sale of surplus property, including vehicles, at the mental health institutes or at centers for the developmentally disabled; and for other services, products, and care shall be credited to this appropriation, except that any payment under s. 46.10 received for the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which the state is liable under s. 51.05 (3), of forensic patients committed under ch. 971 or 975, admitted under ch. 975, or transferred under s. 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the Mendota Mental Health Institute or the Winnebago Mental Health Institute shall be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and except that moneys received under s. 51.06 (6) may be expended only as provided in s. 13.101 (17).

- ✓ 3. Per recommendation 5 above, DHS requests statutory changes to eliminate the statutory language in Act 185 Section 110(7)(g) requiring JFC approval of the expansion.

Current Language

(7g) MENDOTA JUVENILE TREATMENT CENTER. The department of health services shall construct an expansion of the Mendota juvenile treatment center to accommodate no fewer than 29 additional juveniles, subject to the approval of the joint committee on finance.

Proposed Change

(7g) MENDOTA JUVENILE TREATMENT CENTER. The department of health services shall construct an expansion of the Mendota juvenile treatment center to accommodate no fewer than 29 additional juveniles, ~~subject to the approval of the joint committee on finance.~~



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0607/DPI
EHS: ahe

DOA:.....Stinebrink, BB0035 - Juvenile placements at Mendota Juvenile Treatment Center

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

In 11/28

Due 11/30

SA ✓

NOGEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM ✓

JUVENILE CORRECTIONAL SYSTEM ✓

Insert Analysis

School

Stat

This bill makes changes to how juveniles may be transferred to the Mendota Juvenile Treatment Center (MJTC) from other facilities and how the services provided to a juvenile at MJTC are paid. ✓

2017 Wisconsin Act 185 requires, by January 1 (2021) ²⁰²⁰ the closure of the Lincoln Hills and Copper Lake School, which is a Type 1 juvenile correctional facility (Type 1 facility) operated by DOC, and the establishment of new DOC-operated Type 1 facilities and new county-operated secured residential care centers for children and youth (SRCCCYs) for juveniles with correctional placements under the Juvenile Justice Code. Under the Act, a juvenile under the supervision of a county at an SRCCCY may be transferred to MJTC on the recommendation of DHS and after a court hearing. Under this bill, a court may only place such a juvenile at MJTC if DHS approves. In addition, only the MJTC director or his or her designee may make decisions regarding the admission of juveniles to and treatment of juveniles at MJTC and the release and return of juveniles to the appropriate state or county facility. ✓

Under current law, a county pays DOC a daily rate for each juvenile from that county placed at a Type 1 facility under DOC supervision. DOC may transfer

, which is a Type 1 facility operated by DHS,

juveniles from a Type 1 facility to the Mendota Juvenile Treatment Center (MJTC), which is a Type 1 facility operated by DHS, and DOC is required to transfer an amount specified by statute each fiscal year to DHS for services DHS provides for those juveniles. This bill instead allows DHS to charge DOC a rate that DHS sets for the care provided to juveniles under DOC supervision placed at MJTC.

Under Act 185, if a juvenile is transferred from an SRCCCY to MJTC, the juvenile is under DOC supervision just as if the juvenile were at a DOC-operated Type 1 facility, and the county pays DOC a daily rate for that juvenile. Similarly, DOC reimburses DHS for the juvenile's care at MJTC the same way it pays for other juveniles under its supervision at MJTC. Under this bill, such a juvenile remains under the supervision of the county and DHS may directly charge the county a rate that DHS sets for care provided to such juveniles at MJTC.

Act 185 requires DHS to construct an expansion of MJTC to accommodate no fewer than 29 additional juveniles, subject to the approval of JCF. This bill eliminates the requirement the DHS obtain approval of JCF before constructing the expansion.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (2) (gk) of the statutes is amended to read:

20.435 (2) (gk) *Institutional operations and charges.* The amounts in the schedule for care, other than under s. 51.06 (1r), provided by the centers for the developmentally disabled, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s. 46.043, provided by the mental health institutes, to reimburse the cost of providing the services and to remit any credit balances to county departments that occur on and after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for care of juveniles placed at the Mendota juvenile treatment center for whom counties are financially responsible under s. 938.357 (3) (d), to reimburse the cost of providing that care and to remit any credit balances to county departments for maintenance of state-owned

1 housing at centers for the developmentally disabled and mental health institutes; for
2 repair or replacement of property damaged at the mental health institutes or at
3 centers for the developmentally disabled; for reimbursing the total cost of using,
4 producing, and providing services, products, and care; and to transfer to the
5 appropriation account under sub. (5) (kp) for funding centers. All moneys received
6 as payments from medical assistance on and after August 1, 1978; as payments from
7 all other sources including other payments under s. 46.10 and payments under s.
8 51.437 (4rm) (c) received on and after July 1, 1978; as medical assistance payments,
9 other payments under s. 46.10, and payments under s. 51.42 (3) (as) 2. received on
10 and after January 1, 1979; as payments from counties for the care of juveniles placed
11 at the Mendota juvenile treatment center; as payments for the rental of state-owned
12 housing and other institutional facilities at centers for the developmentally disabled
13 and mental health institutes; for the sale of electricity, steam, or chilled water; as
14 payments in restitution of property damaged at the mental health institutes or at
15 centers for the developmentally disabled; for the sale of surplus property, including
16 vehicles, at the mental health institutes or at centers for the developmentally
17 disabled; and for other services, products, and care shall be credited to this
18 appropriation, except that any payment under s. 46.10 received for the care or
19 treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which the state is
20 liable under s. 51.05 (3), of forensic patients committed under ch. 971 or 975,
21 admitted under ch. 975, or transferred under s. 51.35 (3), or of patients transferred
22 from a state prison under s. 51.37 (5), to the Mendota Mental Health Institute or the
23 Winnebago Mental Health Institute shall be treated as general purpose revenue —

1 earned, as defined under s. 20.001 (4); and except that moneys received under s.
2 51.06 (6) may be expended only as provided in s. 13.101 (17).

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; 2013 a. 20, 92; 2013 a. 116 s. 31; 2013 a. 126, 127, 129, 131, 132, 137; 2013 a. 166 s. 77; 2013 a. 168 s. 21; 2013 a. 195, 203, 246; 2015 a. 55, 153, 172, 195, 265, 274; 2017 a. 12, 28; 2017 a. 59 ss. 369 to 392, 451; 2017 a. 96, 184, 186, 250, 261, 266, 296.

****NOTE: *other purposes in this appropriation include language about remitting credit balances to county departments*
All added "and to remit any credit balances to county departments" to mirror the first two purposes in the appropriation. *Does that make sense in this context?*

3 **SECTION 2.** 46.057 (1) of the statutes, as affected by 2017 Wisconsin Act 185,

4 **SECTION 14,** is amended to read:

5 46.057 (1) The department shall establish, maintain, and operate the Mendota
6 juvenile treatment center on the grounds of the Mendota Mental Health Institute.
7 The department may designate staff at the Mendota Mental Health Institute as
8 responsible for administering, and providing services at, the center.
9 Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the
10 Mendota juvenile treatment center as a juvenile correctional facility, as defined in
11 s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33
12 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as
13 defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center
14 shall provide psychological and psychiatric evaluations and treatment for juveniles
15 whose behavior presents a serious problem to themselves or others in other juvenile
16 correctional facilities or in secured residential care centers for children and youth
17 and whose mental health needs can be met at the center. With the approval of the
18 department of health services, the department of corrections may transfer to the
19 center any juvenile who has been placed in a juvenile correctional facility or a secured
20 residential care center for children and youth under the supervision of the

and should similarly language be added here

1 department of corrections under s. 938.183, 938.34 (4h) or (4m), or 938.357 (3), (4),
 2 or (5) (e) in the same manner that the department of corrections transfers juveniles
 3 between other juvenile correctional facilities. Upon the recommendation of Subject
 4 to s. 938.357 (3) (c), with the approval of the department of health services, a court
 5 may place a juvenile at the center in a proceeding for a change in placement order
 6 under s. 938.357 (3).

NOTE: Sub. (1) is amended by 2017 Wis. Act 185 effective on the date specified in the department of corrections notice published in the Wisconsin Administrative Register under 2017 Wis. Act 185, section 110 (2) (b), or 1-1-21, whichever is earlier, to read:

(1) The department shall establish, maintain, and operate the Mendota juvenile treatment center on the grounds of the Mendota Mental Health Institute. The department may designate staff at the Mendota Mental Health Institute as responsible for administering, and providing services at, the center. Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the Mendota juvenile treatment center as a juvenile correctional facility, as defined in s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center shall provide psychological and psychiatric evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile correctional facilities and whose mental health needs can be met at the center. With the approval of the department of health services, the department of corrections may transfer to the center any juvenile who has been placed in a juvenile correctional facility or a secured residential care center for children and youth under the supervision of the department of corrections under s. 938.183, 938.34 (4h), or 938.357 (3), (4), or (5) (e) in the same manner that the department of corrections transfers juveniles between other juvenile correctional facilities. Upon the recommendation of the department of health services, a court may place a juvenile at the center in a proceeding for a change in placement order under s. 938.357 (3).

History: 1995 a. 216; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 832, 9121 (6) (a); 2009 a. 28; 2011 a. 32; 2013 a. 20; 2015 a. 55; 2017 a. 59, 185.

7 plain SECTION 3. 46.057 (1) of the statutes, as affected by 2017 Wisconsin Act 185,
 8 SECTION 15, is amended to read: and 2019 Wisconsin Act, ... (this act),

9 46.057 (1) The department shall establish, maintain, and operate the Mendota
 10 juvenile treatment center on the grounds of the Mendota Mental Health Institute.
 11 The department may designate staff at the Mendota Mental Health Institute as
 12 responsible for administering, and providing services at, the center.
 13 Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the
 14 Mendota juvenile treatment center as a juvenile correctional facility, as defined in
 15 s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33
 16 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as
 17 defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center
 18 shall provide psychological and psychiatric evaluations and treatment for juveniles
 19 whose behavior presents a serious problem to themselves or others in other juvenile
 20 correctional facilities or in secured residential care centers for children and youth

1 and whose mental health needs can be met at the center. With the approval of the
 2 department of health services, the department of corrections may transfer to the
 3 center any juvenile who has been placed in a juvenile correctional facility or a secured
 4 residential care center for children and youth under the supervision of the
 5 department of corrections under s. 938.183, 938.34 (4h), or 938.357 (3), (4), or (5) (e)
 6 in the same manner that the department of corrections transfers juveniles between
 7 other juvenile correctional facilities. ~~Upon the recommendation of Subject to s.~~
 8 938.357 (3) (c), with the approval of the department of health services, a court may
 9 place a juvenile at the center in a proceeding for a change in placement order under
 10 s. 938.357 (3).

NOTE: Sub. (1) is amended by 2017 Wis. Act 185 effective on the date specified in the department of corrections notice published in the Wisconsin Administrative Register under 2017 Wis. Act 185, section 110 (2) (b), or 1-1-21, whichever is earlier, to read:

History: 1995 a. 216; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 832, 9121 (6) (a); 2009 a. 28; 2011 a. 32; 2013 a. 20; 2015 a. 55; 2017 a. 59, 185.

****NOTE: The draft does not add references to counties in the sentence regarding DOC transferring juveniles to MJTC, as proposed, because the only way for a juvenile to be transferred from an SRCCCY to MJTC under Act 185 is through a court order under s. 938.357 (3) (c). Therefore, it would be confusing to allow a county to do this "in the same manner it transfers juveniles between other juvenile correctional facilities." Instead, the draft requires DHS approval before a court may order the transfer from an SRCCCY to MJTC, and prohibits a court from ordering DHS to accept a juvenile (see s. 938.357 (3) (c) in the draft).

11 ~~§~~ SECTION 4. 46.057 (1m) of the statutes is created to read:

12 46.057 (1m) Only the director of the Mendota juvenile treatment center, or his
 13 or her designee, is authorized to make decisions regarding the admission of juveniles
 14 to and treatment of juveniles at the center and the release and return of juveniles
 15 to the appropriate state or county facility.

16 ~~§~~ SECTION 5. 46.057 (2) of the statutes is amended to read:

17 46.057 (2) From the appropriation account accounts under s. 20.410 (3) (ba)
 18 and (hm), the department of corrections shall transfer to the appropriation account
 19 under s. 20.435 (2) (kx) \$1,365,500 in each fiscal year and, from the appropriation

1 ~~account under s. 20.410 (3) (hm), the department of corrections shall transfer to the~~
2 ~~appropriation account under s. 20.435 (2) (kx) \$2,869,200 in fiscal year 2017-18 and~~
3 ~~\$2,932,600 in fiscal year 2018-19, payments for services for juveniles placed at the~~
4 ~~Mendota juvenile treatment center. The department of health services may charge~~
5 ~~the department of corrections not more than the actual cost of providing those~~
6 ~~services for the care provided at the center for a juvenile who is under the supervision~~
7 ~~of the department of corrections at a rate that the department of health services sets.~~

History: 1995 a. 216; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 832, 9121 (6) (a); 2009 a. 28; 2011 a. 32; 2013 a. 20; 2015 a. 55; 2017 a. 59, 185.

***NOTE: I kept the reference to the appropriation accounts from which DOC transfers the money because otherwise it would not be clear where the payments are transferred from. Let me know if these appropriation accounts are still the correct ones.

***NOTE: The authority of DHS to charge counties is added under s. 938.357 (3) (d).

8 ~~SECTION 6.~~ 938.357 (3) (a) of the statutes is amended to read:

9 938.357 (3) (a) Subject to subs. (4) (b), (c), and (d) and (5) (e), if the proposed
10 change in placement would involve placing a juvenile in a juvenile correctional
11 facility or a secured residential care center for children and youth, notice shall be
12 given as provided in sub. (1) (am) 1. A hearing shall be held, unless waived by the
13 juvenile, parent, guardian, and legal custodian, before the court makes a decision on
14 the request. The juvenile is entitled to counsel at the hearing, and any party
15 opposing or favoring the proposed new placement may present relevant evidence and
16 cross-examine witnesses. The department of corrections shall have the opportunity
17 to object to a change of placement of a juvenile from a secured residential care center
18 for children and youth to a Type 1 juvenile correctional facility, except for the
19 Mendota juvenile treatment center, under par. (b). The proposed new placement may

1 be approved only if the court finds, on the record, that the conditions set forth in s.
2 938.34 (4m) (a) and (b) have been met.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258; 2013 a. 334; 2015 a. 55, 197, 373; 2017 a. 185; s. 35.17 correction in (3) (a).

Cross-reference: See also ch. DOC 393, Wis. adm. code.

****NOTE: Because DOC would no longer be involved in a transfer of a juvenile from an SRCCCY to MJTC, the draft removes DOC's ability to object to such a transfer.

3 **SECTION 7.** 938.357 (3) (c) of the statutes is amended to read:

4 938.357 (3) (c) ~~Upon the recommendation of~~ If the department of health
5 services approves, the court may order the placement of a juvenile under par. (b) at
6 the Mendota juvenile treatment center. A court may not order the department of
7 health services to accept a juvenile placement under par. (b) at the Mendota juvenile
8 treatment center that the department has not approved. A juvenile under the
9 supervision of a county in a secured residential care center for children and youth
10 who is transferred to Mendota juvenile treatment center under this paragraph
11 remains under the supervision of that county.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258; 2013 a. 334; 2015 a. 55, 197, 373; 2017 a. 185; s. 35.17 correction in (3) (a).

Cross-reference: See also ch. DOC 393, Wis. adm. code.

12 **SECTION 8.** 938.357 (3) (d) of the statutes is amended to read:

13 938.357 (3) (d) A juvenile who is placed in a Type 1 juvenile correctional facility
14 under par. (b) or (c) is the financial responsibility of the county department of the
15 county where the juvenile was adjudicated delinquent ~~and that.~~ The county
16 department shall reimburse the department of corrections at the rate specified
17 under s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the a juvenile's
18 care while placed in a Type 1 juvenile correctional facility other than the Mendota
19 juvenile treatment center. The county department shall reimburse the department

1 of health services at a rate specified by that department for the cost of a juvenile's
2 care while placed at the Mendota juvenile treatment center.

payments and these payments shall be deposited in the appropriation account under s. 20.435(2)(k)

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258; 2013 a. 334; 2015 a. 55, 197, 373; 2017 a. 185; s. 35.17 correction in (3) (a).

Cross-reference: See also ch. DOC 393, Wis. adm. code.

3 SECTION 9. 2017 Wisconsin Act 185, SECTION 110 (7g) is amended to read:

4 [2017 Wisconsin Act 185] Section 110 (7g) MENDOTA JUVENILE TREATMENT
5 CENTER. The department of health services shall construct an expansion of the
6 Mendota juvenile treatment center to accommodate no fewer than 29 additional
7 juveniles, ~~subject to the approval of the joint committee on finance.~~

Cross-reference: See also ch. DOC 393, Wis. adm. code.

8 SECTION 10. Initial applicability; Health services

9 (1) The treatment of s. 938.357 (3) (a), (c), and (d), with respect to a county
10 department's supervision of a juvenile, first applies to a juvenile adjudicated
11 delinquent by the court of the county and placed at that county's secured residential
12 care center for children and youth under section 938.34 (4m) of the statutes.

13 SECTION 11. Effective dates. This act takes effect on the day after publication,

14 except as follows:

15 (1) The treatment of s. 46.057 (1) by SECTION 3 takes effect on the effective date
16 specified in 2017 Wisconsin Act 185, SECTION 112 (1).

17 (END) plain

MENDOTA JUVENILE TREATMENT CENTER.

on the effective date of this subsection

CS

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0607/Plins
EHS:...

(MJTC)
This bill makes changes to how juveniles may be transferred to the Mendota Juvenile Treatment Center from county-operated and DOC-operated facilities and how the costs of services provided by DHS to a juvenile at MJTC are reimbursed. The bill also eliminates the requirement that DHS obtain the approval of JCF before carrying out construction of an expansion to MJTC required by 2017 Wisconsin Act 185.

Shea, Elisabeth

From: Stinebrink, Cory R - DOA
Sent: Monday, December 17, 2018 2:10 PM
To: Shea, Elisabeth
Subject: LRB-0607/P1

Good afternoon-

Some feedback on the Mendota Juvenile Treatment Center draft, BB0035/LRB 0607/P1. The draft is fine, as drafted, for all of the spots where you made drafter's notes. The only tweak we would make at this point is a bit of a technical one.

- Section 4, line 9, page 5. Please change "director of the Mendota juvenile treatment center" to "director of the Mendota mental health institute." The MMHI director functions as the MJTC director.

Let me know if you have any questions.

Thanks,

Cory R Stinebrink
Executive Policy and Budget Analyst
Health Services and Insurance Team
(608)267-9546
Cory.Stinebrink@wisconsin.gov



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0607/PT ^{pl} p2
EHS:ahe

DOA:.....Stinebrink, BB0035 - Juvenile placements at Mendota Juvenile Treatment Center

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

In 12/18
Due 12/20

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

This bill makes changes to how juveniles may be transferred to the Mendota Juvenile Treatment Center (MJTC) from county and DOC facilities and how the costs of services provided by DHS to a juvenile at MJTC are reimbursed. The bill also eliminates the requirement that DHS obtain the approval of JCF before carrying out construction of an expansion to MJTC required by 2017 Wisconsin Act 185.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 20.435 (2) (gk) of the statutes is amended to read:

3 20.435 (2) (gk) *Institutional operations and charges.* The amounts in the
4 schedule for care, other than under s. 51.06 (1r), provided by the centers for the

1 developmentally disabled, to reimburse the cost of providing the services and to
2 remit any credit balances to county departments that occur on and after
3 July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s.
4 46.043, provided by the mental health institutes, to reimburse the cost of providing
5 the services and to remit any credit balances to county departments that occur on and
6 after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for care of juveniles
7 placed at the Mendota juvenile treatment center for whom counties are financially
8 responsible under s. 938.357 (3) (d), to reimburse the cost of providing that care; for
9 maintenance of state-owned housing at centers for the developmentally disabled
10 and mental health institutes; for repair or replacement of property damaged at the
11 mental health institutes or at centers for the developmentally disabled; for
12 reimbursing the total cost of using, producing, and providing services, products, and
13 care; and to transfer to the appropriation account under sub. (5) (kp) for funding
14 centers. All moneys received as payments from medical assistance on and after
15 August 1, 1978; as payments from all other sources including other payments under
16 s. 46.10 and payments under s. 51.437 (4rm) (c) received on and after July 1, 1978;
17 as medical assistance payments, other payments under s. 46.10, and payments
18 under s. 51.42 (3) (as) 2. received on and after January 1, 1979; as payments from
19 counties for the care of juveniles placed at the Mendota juvenile treatment center;
20 as payments for the rental of state-owned housing and other institutional facilities
21 at centers for the developmentally disabled and mental health institutes; for the sale
22 of electricity, steam, or chilled water; as payments in restitution of property damaged
23 at the mental health institutes or at centers for the developmentally disabled; for the
24 sale of surplus property, including vehicles, at the mental health institutes or at
25 centers for the developmentally disabled; and for other services, products, and care

1 shall be credited to this appropriation, except that any payment under s. 46.10
2 received for the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20
3 for which the state is liable under s. 51.05 (3), of forensic patients committed under
4 ch. 971 or 975, admitted under ch. 975, or transferred under s. 51.35 (3), or of patients
5 transferred from a state prison under s. 51.37 (5), to the Mendota Mental Health
6 Institute or the Winnebago Mental Health Institute shall be treated as general
7 purpose revenue — earned, as defined under s. 20.001 (4); and except that moneys
8 received under s. 51.06 (6) may be expended only as provided in s. 13.101 (17).

****NOTE: Other purposes in this appropriation include language about remitting credit balances to county departments. Does that make sense in this context and should similar language be added here?

9 **SECTION 2.** 46.057 (1) of the statutes is amended to read:

10 46.057 (1) The department shall establish, maintain, and operate the Mendota
11 juvenile treatment center on the grounds of the Mendota Mental Health Institute.
12 The department may designate staff at the Mendota Mental Health Institute as
13 responsible for administering, and providing services at, the center.
14 Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the
15 Mendota juvenile treatment center as a juvenile correctional facility, as defined in
16 s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33
17 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as
18 defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center
19 shall provide psychological and psychiatric evaluations and treatment for juveniles
20 whose behavior presents a serious problem to themselves or others in other juvenile
21 correctional facilities or in secured residential care centers for children and youth
22 and whose mental health needs can be met at the center. With the approval of the
23 department of health services, the department of corrections may transfer to the

1 center any juvenile who has been placed in a juvenile correctional facility or a secured
2 residential care center for children and youth under the supervision of the
3 department of corrections under s. 938.183, 938.34 (4h) or (4m), or 938.357 (3), (4),
4 or (5) (e) in the same manner that the department of corrections transfers juveniles
5 between other juvenile correctional facilities. ~~Upon the recommendation of Subject~~
6 to s. 938.357 (3) (c), with the approval of the department of health services, a court
7 may place a juvenile at the center in a proceeding for a change in placement order
8 under s. 938.357 (3).

9 **SECTION 3.** 46.057 (1) of the statutes, as affected by 2017 Wisconsin Act 185,
10 section 15, and 2019 Wisconsin Act (this act), is amended to read:

11 46.057 (1) The department shall establish, maintain, and operate the Mendota
12 juvenile treatment center on the grounds of the Mendota Mental Health Institute.
13 The department may designate staff at the Mendota Mental Health Institute as
14 responsible for administering, and providing services at, the center.
15 Notwithstanding ss. 301.02, 301.03, and 301.36 (1), the department shall operate the
16 Mendota juvenile treatment center as a juvenile correctional facility, as defined in
17 s. 938.02 (10p). The center shall not be considered a hospital, as defined in s. 50.33
18 (2), an inpatient facility, as defined in s. 51.01 (10), a state treatment facility, as
19 defined in s. 51.01 (15), or a treatment facility, as defined in s. 51.01 (19). The center
20 shall provide psychological and psychiatric evaluations and treatment for juveniles
21 whose behavior presents a serious problem to themselves or others in other juvenile
22 correctional facilities or in secured residential care centers for children and youth
23 and whose mental health needs can be met at the center. With the approval of the
24 department of health services, the department of corrections may transfer to the
25 center any juvenile who has been placed in a juvenile correctional facility or a secured

1 residential care center for children and youth under the supervision of the
2 department of corrections under s. 938.183, 938.34 (4h), or 938.357 (3), (4), or (5) (e)
3 in the same manner that the department of corrections transfers juveniles between
4 other juvenile correctional facilities. ~~Upon the recommendation of Subject to s.~~
5 938.357 (3) (c), with the approval of the department of health services, a court may
6 place a juvenile at the center in a proceeding for a change in placement order under
7 s. 938.357 (3).

****NOTE: The draft does not add references to counties in the sentence regarding DOC transferring juveniles to MJTC, as proposed, because the only way for a juvenile to be transferred from an SRCCCY to MJTC under Act 185 is through a court order under s. 938.357 (3) (c). Therefore, it would be confusing to allow a county to do this "in the same manner it transfers juveniles between other juvenile correctional facilities." Instead, the draft requires DHS approval before a court may order the transfer from an SRCCCY to MJTC, and prohibits a court from ordering DHS to accept a juvenile (see s. 938.357 (3) (c) in the draft).

8 **SECTION 4.** 46.057 (1m) of the statutes is created to read:

9 **46.057 (1m)** Only the director of the Mendota ^{Mental Health Institute} juvenile treatment center, or his

10 or her designee, is authorized to make decisions regarding the admission of juveniles
11 to and treatment of juveniles at the center and the release and return of juveniles
12 to the appropriate state or county facility.

13 **SECTION 5.** 46.057 (2) of the statutes is amended to read:

14 **46.057 (2)** From the appropriation ~~account~~ accounts under s. 20.410 (3) (ba)
15 and (hm), the department of corrections shall transfer to the appropriation account
16 under s. 20.435 (2) (kx) \$1,365,500 in each fiscal year and, ~~from the appropriation~~
17 ~~account under s. 20.410 (3) (hm), the department of corrections shall transfer to the~~
18 ~~appropriation account under s. 20.435 (2) (kx) \$2,869,200 in fiscal year 2017-18 and~~
19 ~~\$2,932,600 in fiscal year 2018-19,~~ payments for services for juveniles placed at the
20 Mendota juvenile treatment center. The department of health services may charge
21 the department of corrections not more than the actual cost of providing those

1 services for the care provided at the center for a juvenile who is under the supervision
2 of the department of corrections at a rate that the department of health services sets.

****NOTE: I kept the reference to the appropriation accounts from which DOC transfers the money because otherwise it would not be clear where the payments are transferred from. Let me know if these appropriation accounts are still the correct ones.

****NOTE: The authority of DHS to charge counties is added under s. 938.357 (3) (d).

3 **SECTION 6.** 938.357 (3) (a) of the statutes is amended to read:

4 938.357 (3) (a) Subject to subs. (4) (b), (c), and (d) and (5) (e), if the proposed
5 change in placement would involve placing a juvenile in a juvenile correctional
6 facility or a secured residential care center for children and youth, notice shall be
7 given as provided in sub. (1) (am) 1. A hearing shall be held, unless waived by the
8 juvenile, parent, guardian, and legal custodian, before the court makes a decision on
9 the request. The juvenile is entitled to counsel at the hearing, and any party
10 opposing or favoring the proposed new placement may present relevant evidence and
11 cross-examine witnesses. The department of corrections shall have the opportunity
12 to object to a change of placement of a juvenile from a secured residential care center
13 for children and youth to a Type 1 juvenile correctional facility, except for the
14 Mendota juvenile treatment center, under par. (b). The proposed new placement may
15 be approved only if the court finds, on the record, that the conditions set forth in s.
16 938.34 (4m) (a) and (b) have been met.

****NOTE: Because DOC would no longer be involved in a transfer of a juvenile from an SRCCCY to MJTC, the draft removes DOC's ability to object to such a transfer.

17 **SECTION 7.** 938.357 (3) (c) of the statutes is amended to read:

18 938.357 (3) (c) ~~Upon the recommendation of~~ If the department of health
19 services approves, the court may order the placement of a juvenile under par. (b) at
20 the Mendota juvenile treatment center. A court may not order the department of
21 health services to accept a juvenile placement under par. (b) at the Mendota juvenile

1 treatment center that the department has not approved. A juvenile under the
2 supervision of a county in a secured residential care center for children and youth
3 who is transferred to Mendota juvenile treatment center under this paragraph
4 remains under the supervision of that county.

5 **SECTION 8.** 938.357 (3) (d) of the statutes is amended to read:

6 938.357 (3) (d) A juvenile who is placed in a Type 1 juvenile correctional facility
7 under par. (b) or (c) is the financial responsibility of the county department of the
8 county where the juvenile was adjudicated delinquent and that. The county
9 department shall reimburse the department of corrections at the rate specified
10 under s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the a juvenile's
11 care while placed in a Type 1 juvenile correctional facility other than the Mendota
12 juvenile treatment center. The county department shall reimburse the department
13 of health services at a rate specified by that department for the cost of a juvenile's
14 care while placed at the Mendota juvenile treatment center and these payments
15 shall be deposited in the appropriation account under s. 20.435 (2) (gk).

16 **SECTION 9.** 2017 Wisconsin Act 185, section 110 (7g) is amended to read:

17 [2017 Wisconsin Act 185] Section 110 (7g) MENDOTA JUVENILE TREATMENT
18 CENTER. The department of health services shall construct an expansion of the
19 Mendota juvenile treatment center to accommodate no fewer than 29 additional
20 juveniles, subject to the approval of the joint committee on finance.

21 **SECTION 9319. Initial applicability; Health Services.**

22 (1) MENDOTA JUVENILE TREATMENT CENTER. The treatment of s. 938.357 (3) (a),
23 (c), and (d), with respect to a county department's supervision of a juvenile, first
24 applies to a juvenile adjudicated delinquent by the court of the county and placed at

1 that county's secured residential care center for children and youth under s. 938.34
2 (4m) on the effective date of this subsection.

3 **SECTION 9419. Effective dates; Health Services.**

4 (1) MENDOTA JUVENILE TREATMENT CENTER. The treatment of s. 46.057 (1) (by
5 SECTION 3) takes effect on the effective date specified in 2017 Wisconsin Act 185,
6 section 112 (1).

7 (END)

Shea, Elisabeth

From: Shea, Elisabeth
Sent: Friday, February 15, 2019 9:29 AM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB-0607/P2

Categories:

Hi Cory,

I think we're on the same page. I will add section 4 to the list of provisions that do not apply until the SRCCCYs are online (Section 9319 (1)). I will also remove section 5.

Lis

From: Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Sent: Thursday, February 14, 2019 2:15 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: RE: LRB-0607/P2

Lis-

Yes, I follow along on the minutiae. Feels like herding cats a bit, not that I actually know what that's like. A lot of moving parts between (I think) 3 separate drafts: This one, LRB-1844 and LRB-1711. On timing, it would seem based on your feedback that the draft is OK as currently drafted. But, just to be clear on what the intent is. We would want Section 4 of this draft, LRB-0607/P2, to be effective whenever it would be allowable for SRCCCYs to place children at MJTC. And, it appears the current draft achieves that.

Section 5 will have to be amended or removed from the draft, though. It involves s. 46.057(2) which is also impacted by LRB-1844/P1. Because of the timeline of when MJTC expansion, as authorized under Act 185, would be completed along with the uncertain timeline of DOC's closing of Lincoln Hills, we had determined that the cash transfer under s. 46.057(2) would continue, as re-estimated in LRB-1844/P1, until the next biennium when we would set rates for DOC. The amount of the transfer is amended by LRB-1844/P1, so I think we could remove Section 5 from this draft in its entirety. We would keep the language in Section 1 for s. 20.435(2)(gk) as we would need a mechanism to charge counties for any MMHI-approved placements at MJTC.

Let me know if you have further questions/feedback on this.

Thanks,
Cory

From: Shea, Lis - LEGIS <elisabeth.shea@legis.wisconsin.gov>
Sent: Thursday, February 14, 2019 12:16 PM
To: Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Subject: RE: LRB-0607/P2

Hi Cory,

Two things, and these are a little complicated so bear with me.

1. You'll notice that the draft amends s. 46.057 (1) twice: once in section 2 and once in section 3. The delayed effective date in the draft only applies to the treatment in section 3. The reason for this is because Act 185 also amends that statute (and a number of others) twice: once immediately, and again on January 1, 2021 when DOC will no longer have any juveniles under a s. 938.34 (4m) placement (ie., a correctional placement) because those juveniles will all be under county supervision. So in the act, all references to DOC supervision over juveniles under a correctional placement had to be removed as of that date (essentially just striking cross-references to s. 938.34 (4m) in a number of places). Therefore, when this bill amends s. 46.057 (1), it does it once to take effect immediately, and again when the second treatment under Act 185 goes into effect – otherwise the language in that second treatment under Act 185 would replace this draft's earlier amendment. We call this "double-drafting" and it is fairly common, though conceptually a little hard to explain.
2. I do not think we need to give everything in this draft a delayed effective date. The provisions relating to juveniles being transferred from SRCCCYs to MJTC all refer to the transfer being done under the process in s. 938.357 (3). Under Act 185, and under this draft, the changes to the process under s. 938.357 (3) first apply to a juvenile adjudicated delinquent and placed at an SRCCCY under s. 938.34 (4m) (see the Initial Applicability provision in section 9319 (1) of this draft). This will not happen until there are SRCCCYs up and running and accepting juveniles. Those SRCCCYs will be up and running no later than the deadline if January 1, 2021, but the Act contemplates that it may happen sooner. In other words, there may be SRCCCYs that are ready to accept juveniles prior to that date, and the act contemplates courts sending juveniles to SRCCCYs before that date if they are ready. If the whole draft has a delayed effective date, then it may not line up with the first time when juveniles could possibly be transferred to MJTC under the new Act 185 process.

Let me know if you have any questions about any of this. This is getting into drafting minutiae, but I want to make sure you understand for purposes of carrying out your intent.

Lis

Elisabeth H. Shea

Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 504-5885
elisabeth.shea@legis.wisconsin.gov

The information contained in this communication may be confidential and protected by the attorney-client privilege.

From: Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Sent: Friday, February 08, 2019 3:47 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: LRB-0607/P2

Lis-
A few thoughts.

I am sure this is part of the process at the end, so not sure if consulting with Elizabeth Wheeler, who is the drafter of LRB-1711/P1, the corrections piece of this, is needed at this point. But, the current intent is to push back the effective date of 2017 Wisconsin Act 185 to January 1, 2023. Her draft does that.

As it pertains to your draft, LRB-0607/P2, if I read this all correctly and can piece all of this together, this would mean that counties are not authorized to make placements at MJTC until the effective date of 46.057(1). So, from that perspective, nothing changes for the MJTC admissions process until that section is effective under Act 185.

So, if you agree with my assessment, perhaps we have this redrafted with an effective date for all of the changes in this draft be what is specified in Act 185, as you have under Section 9419 for 46.057(1).

The only exception to this would be Section 9, which is the construction expansion at MJTC and having it subject to approval of the joint committee on finance. Construction and expansion of MJTC will be taken up in the capital budget. I would think that the capital budget process would satisfy the requirements of Section 110 (7g) of Act 185 for expansion of MJTC being subject to approval of the joint committee on finance. Unless that section requires an additional approval of the committee beyond what would be in the capital budget process, I feel like we could get rid of Section 9 in your LRB-0607/P2 draft. Let me know if you disagree.

Also let me know if I rambled and you need clarification on anything I am getting at.

Thanks,

Cory R Stinebrink
Executive Policy and Budget Analyst
Health Services and Insurance Team
(608)267-9546
Cory.Stinebrink@wisconsin.gov