



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0607/P4
EHS:ahe

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

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

1. Closing Lincoln Hills and Copper Lake Schools

[2017 Wisconsin Act 185](#) requires, by January 1, 2020, the closure of the Lincoln Hills School 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 the Mendota Juvenile Treatment Center (MJTC), which is a Type 1 facility operated by DHS, on the recommendation of DHS and after a court hearing. Under this bill, a court may place such a juvenile at MJTC only if DHS approves. In addition, only the Mendota Mental Health Institute director or his or her designee may make decisions regarding the admission of juveniles to and the 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

juveniles from a Type 1 facility to MJTC, and DOC is required to transfer an amount specified by statute each fiscal year to DHS for services DHS provides for those juveniles. 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 that 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; 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 from counties for the care of juveniles placed at the Mendota juvenile treatment center; 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).

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

46.057 (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 or in secured residential care centers for children and youth 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 Subject to s. 938.357 (3) (c), with the approval 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).

SECTION 3. 46.057 (1) of the statutes, as affected by [2017 Wisconsin Act 185](#), section [15](#), and 2019 Wisconsin Act ... (this act), is repealed and recreated to read:

46.057 (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 or in secured residential care centers for children and youth 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. Subject to s. 938.357 (3) (c), with the approval 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).

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

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

SECTION 5. 938.357 (3) (a) of the statutes is amended to read:

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

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

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

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

938.357 (3) (d) A juvenile who is placed in a Type 1 juvenile correctional facility under par. (b) or (c) is the financial responsibility of the county department of the

county where the juvenile was adjudicated delinquent ~~and that.~~ The county department shall reimburse the department of corrections at the rate specified under s. 301.26 (4) (d) 2. or 3., whichever is applicable, for the cost of the a juvenile's care while placed in a Type 1 juvenile correctional facility other than the Mendota juvenile treatment center. The county department shall reimburse the department of health services at a rate specified by that department for the cost of a juvenile's care while placed at the Mendota juvenile treatment center and these payments shall be deposited in the appropriation account under s. 20.435 (2) (gk).

SECTION 8. [2017 Wisconsin Act 185](#), section [110 \(7g\)](#) is amended to read:

[\[2017 Wisconsin Act 185\]](#) Section 110 (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.~~

SECTION 9319. Initial applicability; Health Services.

(1) MENDOTA JUVENILE TREATMENT CENTER. The treatment of ss. 46.057 (1m) and 938.357 (3) (a), (c), and (d), with respect to a county department's supervision of a juvenile, first applies to a juvenile adjudicated delinquent by the court of the county and placed at that county's secured residential care center for children and youth under s. 938.34 (4m) on the effective date of this subsection.

SECTION 9419. Effective dates; Health Services.

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

(END)