



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #259

### Juvenile Correctional Services Program Revenue Deficit (DOC -- Juvenile Corrections)

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#### CURRENT LAW

The juvenile correctional services program revenue appropriation [s. 20.410(3)(hm) of the statutes] funds the operation of secured juvenile correctional facilities and certain aftercare services provided to juveniles following their release from the facilities. The amounts credited to the appropriation derive primarily from county payments for the care and treatment of juveniles at the facilities and state payments for certain serious juvenile offenders. The payments are based on statutory daily rates established in each biennial budget process.

#### GOVERNOR

No provision.

#### DISCUSSION POINTS

1. Daily rates for secured correctional facility care are set by statute during each biennial budget, based on budgeted costs for facility care in each fiscal year and estimates of the average daily population (ADP) of juveniles placed in the facilities in each fiscal year.

2. As a result, revenue generated in a given fiscal year is determined by the established daily rate and the actual number of juveniles placed in each type of care. The Department of Corrections (DOC) must adjust expenditures to account for changing populations and the actual revenues credited to the appropriation account.

3. If moneys generated by the daily rate exceed actual institutional costs in a fiscal year by 2% or more, all moneys in excess of 2% must be remitted to the counties during the subsequent calendar year, or to the state during the subsequent fiscal year, in amounts proportionate to the total

number of days of juvenile placements at the facilities for each county and for the state.

4. In recent fiscal years, the amounts retained in the appropriation by DOC resulted in a fluctuating, but consistently positive, ending balance each June 30. Ending balances for the period 1996-97 through 1999-00 were as follows:

<u>Fiscal Year</u>	<u>Ending Balance (PR)</u>
1996-97	\$2.0 million
1997-98	5.1 million
1998-99	4.4 million
1999-00	1.5 million

5. In 2000-01, however, expenditures exceeded revenue by \$4.1 million and the appropriation ended the fiscal year with a deficit of \$2,549,900 PR, which was carried into 2001-02. The Department indicates that a number of collective bargaining agreements became effective in April, 2000, and resulted in increased salary and fringe benefit costs in 2000-01 that exceeded budgeted amounts. Program revenue, which is tied to the established daily rates and actual juvenile populations, was insufficient to support the increased costs incurred by the Department.

6. In 2001-02, revenue exceeded expenditures by \$488,500, thereby reducing the deficit to \$2,061,400 as 2002-03 began. However, the Department is currently projecting that expenditures will exceed available revenues in 2002-03 by \$1,384,200, which would increase the projected total deficit in the appropriation to \$3,445,600 on June 30, 2003.

7. DOC officials attribute the 2002-03 shortfall to two factors. First, funding needs for fringe benefits were mistakenly budgeted at approximately 40% of payroll costs rather than the correct 43.5%. The resulting 3.5% calculation error (applied to approximately \$30.0 million of salary costs) accounts for about \$1.0 million of the 2002-03 deficit.

8. Second, 2002-03 revenues are less than projected due to an unanticipated decline in juvenile populations at the facilities. Under 2001 Wisconsin Act 16, juvenile institutional ADP was estimated at 945 in 2001-02 and 961 in 2002-03. These annual population estimates were used respectively to establish the daily rates in each fiscal year. The actual ADP in 2001-02 totaled 869 and the revised estimate for 2002-03 is 805 juveniles. The magnitude of this ADP decline significantly reduces revenue receipts from projected levels. The balance of the 2002-03 shortfall is attributable to this second factor.

9. Under s. 16.513 of the statutes, any agency with a program revenue appropriation must make quarterly reports to DOA projecting the revenues and expenditures for the ensuing quarterly period for each such appropriation. Upon reviewing the reports, DOA must report to the Joint Committee on Finance any projected insufficiency of program revenues to meet anticipated

expenditures. The report must indicate any encumbrances made by agencies attributable to a PR appropriation that are in excess of the moneys, assets or accounts receivable required to remove the liabilities created by the encumbrances.

10. If projected funds, assets or accounts receivable are insufficient to cover the appropriation's anticipated expenditures, the agency must submit a plan to DOA detailing how the agency proposes to cover the projected expenditures. DOA may approve, disapprove or approve with modifications each plan. If DOA approves the plan, it must forward it to Joint Finance under a 14-day passive review process.

11. No plan under s. 16.513 of the statutes has been forwarded to Joint Finance to address the persistent deficit under the juvenile correctional services appropriation. Instead, on December 26, 2002, DOC submitted a request to Joint Finance under s. 13.10 of the statutes requesting a one-time transfer of \$2,062,300 PR from other PR appropriations to eliminate the juvenile correctional services appropriation's 2001-02 deficit. [The estimated 2002-03 deficit of \$1,384,200 had not yet been projected.] It was subsequently determined that a request to transfer program revenue balances was not subject to Joint Committee on Finance action under s. 13.10 procedures. Consequently, the Department withdrew the request. This paper has been prepared to develop options to address this deficit.

12. According to Department officials, the projected \$3,445,600 year end juvenile correctional services appropriation deficit could be addressed through transfers to the appropriation from two other juvenile corrections PR appropriation accounts and from the GPR appropriation for serious juvenile offenders. The proposed transfers are shown in the following table:

**DOC Proposal**

<u>Appropriation</u>	<u>Transfer Amount</u>	<u>Fund</u>
Juvenile Residential Aftercare	\$439,200	PR
Corrective Sanctions Program	2,437,100	PR
Serious Juvenile Offenders	<u>569,300</u>	GPR
Total transfer	\$3,445,600	

13. The Department projects that these PR appropriation accounts have adequate balances to make these proposed transfers. The juvenile residential aftercare appropriation opened the year with a cash balance of \$867,000 PR and the juvenile corrective sanctions program appropriation opened the year with a cash balance of \$1,935,600 PR. The Department indicates that the proposed transfers to the juvenile correctional services appropriation would utilize all projected unobligated cash balances for both the residential aftercare and corrective sanctions appropriations.

14. Earlier this year, the serious juvenile offenders appropriation was projected to have a surplus of approximately \$2.2 million GPR. Under 2003 Wisconsin Act 1, selected agencies had their largest GPR sum certain state operations appropriation reduced, but agencies were authorized

to propose reallocating the reduction to other sum certain GPR appropriations. DOC reallocated \$1.5 million GPR of its \$2.3 million GPR reduction in 2002-03 to the serious juvenile offender appropriation.

15. An estimated \$700,000 GPR would remain in the appropriation for possible use to address a portion of the juvenile correctional services appropriation deficit, as originally proposed by the Department. The Committee could provide that \$569,300 GPR that otherwise would have lapsed at the end of the 2002-03 fiscal year, instead be used to partially offset this deficit in 2003-04. However, such a transfer to help liquidate the deficit would represent a loss of \$569,300 in 2002-03 of funds that otherwise would lapse to the general fund.

16. While these transfers would address the current deficit, they would not address the underlying problem that has emerged in recent years. Because the appropriation is funded with program revenue that is dependent on the established daily rates and actual juvenile populations, the revenue amounts are subject to fluctuation. Expenditures can be controlled to some extent, but the operation of large facilities includes certain minimum fixed costs that cannot be reduced beyond a certain point. If unbudgeted costs emerge (for example, changes in collective bargaining agreements) or revenues drop significantly (for example, due to unanticipated population decreases), there is no opportunity under current law to address a deficit situation under this appropriation.

17. The current law process under s. 16.513 that requires the development of a plan to eliminate any PR deficit is of limited value where revenue enhancement is limited by law (as is the case with daiy rates) to a level that may be insufficient to cover increased costs.

18. While it may be possible to develop a mechanism to adjust daily rates more easily outside of the biennial budget process, this approach could have negative consequences for both county and state budgeting. Having the daily rates established for a two-year period assists both the counties and the state in budgeting for juvenile care.

19. It can be argued that the costs of caring for county juvenile offenders and state serious juvenile offenders should be fully borne by the counties and the state. As noted above, if moneys generated by the daily rate exceed actual fiscal year institutional costs by 2% or more, all moneys in excess of that 2% must be remitted to the counties or the state. It would be reasonable to make a parallel argument that if costs are not fully covered by the daily rates, counties and the state should be assessed for the insufficiency. However, as noted, changing daily rates outside the biennial budget process through additional assessments is likely to be viewed as undesirable from a fiscal planning standpoint.

20. The Committee may wish to consider an alternative option. In each biennial budget process, the year-end balance in the juvenile correctional services appropriation for the odd numbered year can be estimated. If the balance is projected to be negative, the amount of the estimated deficit could be added to the cost basis for calculating the daily rates for the ensuing biennium, as follows: 50% of the deficit amount would be added in the cost basis in the first year of

the subsequent biennium and 50% of the deficit amount would be added to the cost basis in the second year of the subsequent biennium.

21. This adjustment would result in a marginal increase in the rates for the two years. The revenues from this share of the daily rate would not be available to the Department for expenditure, but would defray the deficit from the prior biennium. Any revenue received from this part of the daily rate in excess of the prior biennium's deficit would be returned to the counties and the state under current law procedures governing the return of excess revenues exceeding 2% under this account. This process could be made statutory so that it would be available to address any deficit situations in future years.

22. The following example illustrates how the mechanism might work to eliminate the projected deficit in the current fiscal year (\$1,384,200). A total of \$692,100 (50% of the current year deficit) would be added to the cost basis for calculating daily rates in both 2003-04 and 2004-05. Daily rates would increase by \$2.36 in 2003-04 and \$2.37 in 2004-05 (based on an ADP of 800 juveniles annually in the 2003-05 biennium). If the population estimates prove accurate, this small increment to the daily rate charges would be sufficient to defray the deficit by June 30, 2005. If populations exceed the estimated ADP, revenue from this portion of the daily rate would be in excess of the deficit amount and this excess amount would be returned proportionately to the counties and the state. If populations are less than the anticipated ADP, the deficit would likely remain after June 30, 2005, and a further adjustment to daily rates in the 2005-07 biennium would be made.

23. If this mechanism were utilized to address the entire projected 2002-03 deficit (\$3,445,600), daily rates would have to increase by nearly \$6.00. This would be a significant increase. Daily rates under the bill increase by 10.1% in 2003-04 and 12.5% in 2004-05, as compared to the 2002-03 rate. An additional \$6.00 increase would add another 3.5% to this increase to current rates. This level of increase is not necessary given that available revenue from other juvenile care appropriations (\$2,876,300) can still be transferred by legislative action to address a significant share of the projected deficit.

24. While these program revenue balances could be transferred to eliminate much of the current total deficit, the Committee may wish to use the mechanism described above to liquidate the remainder of the deficit (instead of GPR from the serious juvenile offenders appropriation). Under this alternative, the remaining \$569,300 of the deficit would be built into the daily rates for 2003-04 and 2004-05. This adjustment would increase the daily rate by \$0.97 annually in the 2003-05 biennium. The unexpended funding from the serious juvenile offenders appropriation would then lapse to the general fund at the end of 2002-03.

25. Finally, the Committee may wish to have greater ongoing oversight of the juvenile correctional services appropriation. It could require DOC to submit quarterly reports to the Committee detailing year-to-date revenues and expenditures in the appropriation, and to project in each report any anticipated year-end surpluses or deficits. If deficits are projected, the Department should report on what efforts it is making to reduce costs to minimize any potential deficit.

## ALTERNATIVES

1. Include a nonstatutory provision that \$3,345,600 in 2003-04 be transferred to Department of Correction's juvenile correctional services appropriation from the following sources: (a) \$439,200 PR from the juvenile residential aftercare appropriation balance; (b) \$2,437,100 PR from the juvenile corrective sanctions program appropriation balance; and (c) \$569,300 GPR that would otherwise have lapsed at the end of the 2002-03 fiscal year from the serious juvenile offenders appropriation.

2. Create a statutory mechanism to require that, on or before March 15 of each odd-numbered year, the Department of Corrections estimate the unexpended revenues, less encumbrances, that will remain in the appropriation account s. 20.410(3)(hm) on June 30 of that year and provide this estimate to the Department of Administration and to the Joint Committee on Finance. Provide that if the estimated balance is projected to be negative (as determined by the Committee), the amount of the estimated deficit would be included in the cost basis for the calculation of the secured correctional facilities daily rates for the subsequent biennium. Require that 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium. Require that the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated deficit be reserved for the purpose of retiring the deficit. Provide that any revenue reserved for this purpose that exceeds the amount of the deficit on June 30, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state, on before September 30, of that calendar year, in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

3. *In addition to Alternative 2*, provide that \$2,876,300 in 2003-04 be transferred to the Department's juvenile correctional services appropriation, as follows: (a) \$439,200 PR from the juvenile residential aftercare appropriation; and (b) \$2,437,100 PR from the juvenile corrective sanctions program appropriation. Provide that \$569,300 be added to the cost basis for daily rates in the 2003-05 biennium under the calculation procedure under Alternative 2.

4. Require the Department of Corrections to submit quarterly reports to the Joint Committee on Finance, on or before September 15, December 15, March 15, and June 15, of each year, detailing year-to-date revenues and expenditures under its s. 20.410(3)(hm) appropriation account, and to project, in each report, the unexpended revenues, less encumbrances, that will remain in the appropriation account on June 30 of that year. If the estimated unexpended revenue amount is projected to be negative, require the Department to report on what efforts it is making to reduce operating costs in order to minimize any potential deficit.

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