



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #270

### **Statutory Daily Rates, Juvenile Appropriation Deficit, and SJO Funding (Corrections -- Juvenile Corrections)**

[LFB 2011-13 Budget Summary: Pages 155 #3, Page 155 #4, Page 156 #6, and Page 158 #10]

#### **CURRENT LAW**

##### **Statutory Daily Rates**

Daily rates for juvenile care in a given biennium are specified in statute by fiscal year for juvenile correctional facilities, the corrective sanctions program, and aftercare supervision. The daily rates for the juvenile correctional facilities, the corrective sanctions program, and aftercare supervision are calculated based on the projected annual cost and the estimated average daily population for each type of care.

##### **Juvenile Correctional Services Appropriation**

The juvenile correctional services program revenue appropriation [s. 20.410(3)(hm)] funds the operation of juvenile correctional facilities and certain juvenile aftercare services following release from the facilities. The state's three juvenile correctional facilities currently include: for adjudicated males, the Ethan Allen School and Lincoln Hills School, and for adjudicated females, the Southern Oaks Girls School. Base funding for the appropriation is \$57,195,800 PR annually.

The program revenue credited to this appropriation derives from daily rates charged for juvenile care that are paid by counties or the state for certain serious juvenile offenders. The juvenile correctional services appropriation is estimated to have a deficit of approximately \$21.6 million PR by the end of the 2010-11 fiscal year.

##### **Serious Juvenile Offender (SJO) Program**

The Department administers the SJO program for juveniles adjudicated delinquent and ordered to participate in the program. Under the program, a juvenile is subject to supervision, care and rehabilitation that is more restrictive than ordinary supervision in the community. The

program provides for component phases (various sanctions) that are intensive, highly structured, and based on both public safety considerations and the juvenile's needs. A juvenile is subject to a SJO placement as follows: (a) if the juvenile is 14 years of age or more and has been adjudicated delinquent for committing a delinquent act that is equivalent to certain Class A, Class B, or Class C felony offenses; or (b) the juvenile is 10 years of age or more and has been adjudicated delinquent for attempting or committing first-degree intentional homicide, or for committing first-degree reckless homicide or second-degree intentional homicide. A SJO disposition may only be made for these juveniles if the judge finds that the only other disposition that would be appropriate is placement in a juvenile correctional facility.

The SJO appropriation reimburses juvenile correctional facilities, corrective sanctions providers, aftercare providers, and alternate care providers for costs incurred for juveniles who receive a SJO disposition. All components of the SJO disposition are state-funded. Base funding for the SJO appropriation is \$18,621,600 GPR.

**GOVERNOR**

**Statutory Daily Rates**

Establish the following statutory daily rates for juvenile correctional facilities, corrective sanctions, and aftercare supervision. The statutory daily rates would include a \$17 increase in each year for the purpose of eliminating the deficit in the juvenile correctional services appropriation (see below).

**Statutory Daily Rates**

	7-1-10 thru 6-30-11	Governor's Recommendation	
		7-1-11 thru 6-30-12	7-1-12 thru 6-30-13
Juvenile Correctional Facilities*	\$275	\$284	\$289
Corrective Sanctions	103	99	100
Aftercare Supervision	41	40	40

\*Including transfers from a juvenile correctional facility to the Mendota Juvenile Treatment Center.

**Juvenile Correctional Services Appropriation Deficit**

Provide that, to the extent that revenue generated from daily rates exceeds actual fiscal year costs, all available program revenue balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation.

Under a separate provision (see above), the bill sets the statutory daily rates for juvenile care. In the Budget in Brief, the Governor indicates that the proposed daily rates for the juvenile facilities include a \$17 increase in each year to eliminate the deficit over the next ten years.

The bill also includes a technical cross reference change to the Department's juvenile

correctional appropriations for currently-authorized medical assistance case management services for certain juvenile offenders.

### **SJO Program**

Decrease funding by \$3,429,400 GPR in 2011-12 and \$4,336,900 GPR in 2012-13 to reflect decreased costs associated with the state-funded SJO program. The average daily population for the SJO population is estimated to be 202 juveniles in 2011-12 (84 in juvenile correctional facilities, 78 in the corrective sanctions program, and 40 in aftercare supervision) and 182 juveniles in 2012-13 (83 juvenile correctional facilities, 65 in corrective sanctions, and 34 in aftercare supervision). Total funding would be \$15,192,200 GPR in 2011-12 and \$14,284,700 GPR in 2012-13.

### **DISCUSSION POINTS**

1. This paper primarily addresses the statutorily-established daily rates assessed by the Department of Corrections for juvenile correctional facilities, corrective sanctions, and aftercare supervision. However, because of the interaction between the current juvenile correctional facilities appropriation deficit and the serious juvenile offender program with the daily rates, these issues are also addressed.

2. Each biennium, statutory daily rates for the juvenile correctional facilities, corrective sanctions, and the aftercare program are set in the biennial budget, based on the population projections and estimated costs of each program. For the 2011-13 biennium, the average daily population (ADP) for juveniles in the juvenile correctional facilities are projected to decline from 610 ADP in 2010-11 to 340 annually, as shown in the table below. Population projections for the corrective sanctions program, and aftercare services are also identified. The population projections include juveniles in the SJO program.

#### **Average Daily Population**

	Year-to-Date ADP <u>Thru Feb, 2011*</u>	<u>Projected ADP</u>	
		<u>2011-12</u>	<u>2012-13</u>
Juvenile Correctional Facilities	368	340	340
Other Placements			
Corrective Sanctions	130	136	136
Aftercare Services	<u>71</u>	<u>75</u>	<u>75</u>
Subtotal -- Other	201	211	211
Total ADP	569	551	551

\*Latest population data available.

3. A review of more recent juvenile population trends indicates that the estimated ADP for the juvenile placements as provided in the bill is appropriate. Based on the estimated ADPs and projected program expenditures, the corrective sanctions daily rates would be \$99 in 2011-12 and \$100 in 2012-13, and the aftercare daily rates would be \$40 annually.

4. Due to the significant decline in juvenile correctional facility populations, the Governor recommends under a separate provision that the Ethan Allen School (EAS) and the Southern Oaks Girls School (SOGS) be closed [see Budget Paper #271]. Juveniles would be moved from EAS and SOGS to Lincoln Hills School in Irma, Wisconsin, where a girls school, Copper Lake School, would also be opened. Based on the projected savings of closing the facilities, and the projected costs of continued facility operations, the daily rates for juvenile correctional facilities would be \$267 in 2011-12 and \$272 in 2012-13. However, the bill additionally includes a \$17 increase in each year in order to address the deficit in the juvenile correctional services appropriation. As a result, the daily rates for juvenile correctional facilities would be \$284 in 2011-12 and \$289 in 2012-13.

5. The serious juvenile offender (SJO) program is funded each biennium on the basis of the projected ADP and daily rate for each type of juvenile care. The bill assumes that following a 26-month period of institutional care, certain percentages of juveniles will be placed in the corrective sanctions program and under aftercare supervision, respectively. The projected ADP was calculated based on SJO admissions, releases, and type of placements for the prior fiscal year and appear appropriate. Based on the daily rates set in the bill, SJO funding would decrease by \$3,429,400 GPR in 2011-12 and \$4,336,900 GPR in 2012-13 as a result of declining SJO populations, projected to be 202 juveniles in 2011-12 and 182 juveniles in 2012-13. Since SJO funding is based on the daily rates, if the daily rates were modified, SJO funding would need to be modified as well.

6. The juvenile correctional services appropriation receives revenue from payments by counties and the state based on the statutory daily rates. As a result, the revenue generated in a given fiscal year is determined by the established rate and the actual number of juveniles placed in the facilities. Since the 2000-01 fiscal year, expenditures in the appropriation have generally exceeded revenue, resulting in year-end deficits. The table below identifies the amount of the deficit by year.

	<u>Ending Cash Balance</u>
2000-01	-\$2,761,255
2001-02	-2,061,428
2002-03	-3,138,824
2003-04	671,263
2004-05	-1,391,307
2005-06	-3,631,580
2006-07	-9,965,545
2007-08	-5,788,653
2008-09	-2,203,723
2009-10	-8,819,417
2010-11 (thru April)	-19,799,589

7. The recurring deficits are the result of insufficient revenue to support costs, generally as a result of declines in juvenile populations. For example, under the 2005-07 biennial budget act, the ADP for juvenile correctional facilities was estimated to be 660 annually, while the actual ADP for 2006-07 was 591 juveniles. Populations have continued to decline, with a current juvenile ADP for 2010-11 (through February) of 368 juveniles.

8. One way the Department has attempted to address the deficit in prior biennia, is to transfer any remaining program revenue balances from the corrective sanctions and aftercare appropriations to the juvenile correctional services appropriation. The bill also would include this provision.

9. Another way Corrections has addressed the deficit is by reducing operating expenditures. Over the past several biennia, the Department has closed juvenile housing units, avoided filling position vacancies, and eliminated long-term vacant positions and associated funding. The bill includes a provision to reduce funding by \$707,200 PR and 13.0 PR positions annually associated with long-term vacancies in the Division of Juvenile Corrections. However, since many costs associated with the facilities are fixed costs, reducing operational expenditures can be difficult, such as necessary minimum staffing requirements and ongoing infrastructure costs. These types of fixed costs do not vary substantially due to a moderate increase or decrease in juvenile populations. As such, the bill also proposes closing the two juvenile facilities. According to the Governor's Budget in Brief: "The Department of Corrections has been unable to reduce operating expenses at juvenile correctional facilities enough to accommodate lower populations, resulting in an increasing deficit."

10. Further, with the goal of eliminating the deficit in ten years, the Department calculated an increase of \$17 to the daily rate for juvenile correctional facilities, based on the assumption of a continued ADP of 340 juveniles (\$17 multiplied by 340 juveniles multiplied by 365 days would generate an additional \$2,109,700 annually; \$2,115,500 in a leap year). The actual amounts generated by the increase will vary each year, depending on actual ADPs and potential transfers to the appropriations as the result of surpluses in other appropriations.

11. The Governor's proposal to increase the daily rate in order to reduce the deficit is similar to the statutory mechanism that has been proposed and enacted by the Legislature in the past several budgets (later vetoed by the Governor). The previously proposed mechanism would have required that the deficit amount be included into the projected costs for operating the facilities during the biennium, and thus accounted for in the calculations for determining the daily rates. However, the previously proposed mechanism would have increased the daily rates by a much higher amount than the Governor's current recommendation since the calculations would assume addressing the whole deficit in one biennium. The Governor's recommendation, on the other hand, would address the deficit over several biennia. It should be noted that the Department's projection of eliminating the deficit over ten years assumes that the \$17 increase will be included in setting the rates for future biennia. However, no such requirement is included in the bill. The daily rates for juvenile correctional facilities are identified, but there is no indication that the rates include a \$17 increase to address the deficit. In order to ensure that the increase will be included in future statutory daily rates, the Committee may wish to require the increase in non-statutory language to address the deficit. [Alternative 2]

12. The approach of reducing the deficit over several biennia would balance the goal of eliminating the deficit without increasing the daily rates excessively. As such, the Committee may wish to approve the Governor's recommendation. Alternatively, the Committee may wish to include an increase to the daily rates, but at a higher or lower amount than \$17. A higher rate would have the effect of reducing the deficit sooner, although increasing the financial pressures on counties and

the state. A lower increase would result in a longer time period before the deficit would be eliminated, but ease financial pressures on the counties and state to pay the increased charges. The below table identifies the effect on the statutory daily rates if the increase of \$17 was modified to one of the following amounts: \$5, \$10, \$20, or \$25. It should be noted that if the Committee were to modify the increase amount to the statutory rates, funding for the serious juvenile offender (SJO) program would also need to be modified (funding for the SJO program is calculated based on the rate amounts). The table also identifies the funding changes to the SJO program if the increase were modified. [Alternative 3]

**Alternative Increases to Daily Rates**

Increase Amount	Daily Rates		Modification to SJO Funding		
	<u>2011-12</u>	<u>2012-13</u>	Difference from Bill	<u>2011-12</u>	<u>2012-13</u>
\$5	\$272	\$277	-\$12	-\$368,900	-\$363,600
\$10	277	282	-7	-215,200	-212,100
\$17 (bill)	284	289	0	0	0
\$20	287	292	3	92,200	90,900
\$25	292	297	8	246,000	242,300

**ALTERNATIVES**

1. Approve the Governor's recommendation to establish the statutory daily rates for juvenile correctional facilities, corrective sanctions, and aftercare supervision. The daily rates for the juvenile correctional facilities would include a \$17 increase in each year for the purpose of eliminating the deficit in the juvenile correctional services appropriation.

**Statutory Daily Rates**

	7-1-10 thru <u>6-30-11</u>	Governor's Recommendation	
		7-1-11 thru <u>6-30-12</u>	7-1-12 thru <u>6-30-13</u>
Juvenile Correctional Facilities	\$275	\$284	\$289
Corrective Sanctions	103	99	100
Aftercare Supervision	41	40	40

[As a result of approving the Governor's recommendation for the daily rates, this alternative also approves the funding amounts for the serious juvenile offender program, and the juvenile deficit plan.]

2. Create a non-statutory provision specifying that the amount added to the statutory rates in the 2011-13 biennium to address the juvenile correctional services deficit be added to the statutory rates in future biennia until the deficit is eliminated.

3. Approve the Governor's recommendation to establish the statutory daily rates for the

juvenile correctional facilities, corrective sanctions, and aftercare supervision. Modify the increase to the statutory daily rates for juvenile correctional facilities for the purpose of eliminating the juvenile correctional services deficit to one of the below alternatives. As a result, adjust funding for the serious juvenile offender program as identified. [This alternative may be adopted with Alternative 2]

	Daily Rate Deficit <u>Charge</u>	<u>Statutory Daily Rates</u>		Change from Bill <u>SJO Funding</u>
		7-1-11 thru <u>6-30-12</u>	7-1-12 thru <u>6-30-13</u>	
a.	\$5	\$272	\$277	-\$732,500
b.	\$10	\$277	\$282	-427,300
c.	\$20	\$287	\$292	183,100
d.	\$25	\$292	\$297	488,300

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