

# Juvenile Corrections

(LFB Budget Summary Document: Page 88 and Page 104)

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June, 2019

Joint Committee on Finance

Paper #250

### **Wisconsin Juvenile Secure Out-of-Home Placement: Before 2017 Act 185 Implementation (Corrections-- Juvenile Corrections)**

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#### **INTRODUCTION**

Wisconsin has a unique bifurcated juvenile justice system for secure out-of-home placement options available to a court at the time the judge makes the final dispositional order. To place a juvenile in secure out-of-home placement, a judge must determine whether the state or county should have custody of the juvenile and whether the juvenile should be placed at a state or county facility. From custody and placement decisions, a judge has three options to place a juvenile: (a) in state custody in a state facility; (b) in county custody in a state facility; or (c) in county custody in a county facility. State secure facilities are currently Lincoln Hills, Copper Lake, and Mendota Juvenile Treatment Center (MJTC).

The juvenile courts access two of these options through two statutory dispositional options that result in a juvenile being placed in a state juvenile correctional facility: (a) a direct secured correctional placement in a state facility; and (b) the disposition of the juvenile as a serious juvenile offender (SJO) with placement in a state facility. The state must accept placement of a juvenile in a state facility under these two provisions if ordered to do so. A juvenile court may also place the juvenile in a county juvenile detention center for up to 365 days, if the county board has authorized such placements. If a county maintains such a facility. It should be noted that while there are approximately 39,000 juvenile (17 or under) arrests a year, there are currently less than 300 juveniles (17 or under) in state and county secure post-dispositional placements in Wisconsin.

Given the bifurcated nature of Wisconsin's juvenile justice system and reporting requirements, a number of statistics (such as number of credits completed toward a high school diploma) and performance measures (such as recidivism) are available with regards to juveniles placed in state juvenile facilities. These same statistics are not as readily available for juveniles placed in a county juvenile detention center, and is not required to be collected by the state. This gap in data makes estimating the fiscal effect of any proposed changes to the juvenile justice system difficult to determine. In addition, each county has different programming and resources available to juveniles, which makes comparisons between counties or counties and the state problematic.

A significant change to the juvenile justice system was enacted as 2017 Act 185. The act removes the option for courts to place a juvenile in a state juvenile correctional facility and county custody at disposition through a correctional placement starting January 1, 2021. The short-term effect of Act 185 will be to transfer approximately 100 juveniles with correctional placements in a state facility back to their counties of origin. Act 185 pairs this transition of juveniles from state to county facilities with a commitment to regional and program focused state and county facilities. In order to facilitate this transition, Act 185 allocated money for the construction of new state facilities and grants are to be made available to counties to build Secure Residential Care Centers for Children and Youth (SRCC).

Despite the changes made by Act 185 in the second year of the biennium, under the 2019-21 biennial budget bill, the Committee is being asked to make budgetary decisions such as establishing a daily rate for state facilities, establishing operating costs for state facilities, making capital budget decisions related to county and state juvenile facilities, potentially providing support for county run juvenile facilities, and determining operational costs for the Mendota Juvenile Treatment Center. However, given the lack of information about juveniles currently in county juvenile detention facilities, it is difficult to determine the number of state or SRCC beds that should be built and, therefore, whether the funding provided under Act 185 is sufficient. Further, given the role of the county courts in placing juveniles, it is uncertain if the balance of state and county secure juvenile beds created after Act 185 goes into effect will be the balance of beds necessary going forward. Thus, budgeting at this time without knowledge of proposed changes to statute and capitol building program is not possible. As a result, budgeting for historically routine juvenile justice items will need to be addressed in the current budget bill and in subsequent legislation, which may provide certainty regarding populations, operations, and building needs.

This paper and the papers that follow will describe in more detail the current secure juvenile placements in Wisconsin and how Act 185 may change the balance between county and state secure placements. This paper provides information on correctional placements (direct correctional and SJO program) and secure facilities at both the county (juvenile detention centers) and state (Lincoln Hills, Copper Lake, and Mendota Juvenile Treatment Center) level as the system existed before the implementation of Act 185.

### **Dispositional Option: Secured Juvenile Correctional Placement**

A court may place any adjudicated juvenile in a juvenile correctional facility if the following conditions are met: (a) the juvenile was found delinquent for the commission of an act which, if committed by an adult, would be punishable by a sentence of six months or more; and (b) the juvenile was found to be a danger to the public and to be in need of restrictive custodial treatment.

If the court has determined that a juvenile is not appropriate for placement in the SJO Program, the following conditions are deemed to provide sufficient evidence for a finding that the juvenile is a danger to the public and in need of restrictive custodial treatment: (a) the juvenile has committed any one of various violent acts that would be a felony if committed by an adult; (b) the juvenile possessed, used or threatened to use a firearm while committing a delinquent act that would be a felony if committed by an adult; or (c) the juvenile illegally possessed or went armed with a dangerous weapon.

## **Dispositional Option: Serious Juvenile Offender Program**

The Serious Juvenile Offender program was created under 1995 Wisconsin Act 27. Under the program, a juvenile is subject to an SJO placement for certain acts, 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. An 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.

For a juvenile receiving a disposition as a serious juvenile offender, the court is required to make the order apply for a period of five years if the adjudicated act was a Class B or Class C felony offense, or until the juvenile reaches 25 years of age if the adjudicated act was a Class A felony offense. The disposition includes the concept of Type 2 status, which allows the Department to administratively transfer a juvenile through an array of component phases, including both juvenile correctional facility and community placements.

All components of the SJO disposition, described below, are state funded; counties have no financial responsibility for a juvenile placed in the SJO program. The SJO program is funded under a separate, general purpose revenue (GPR) appropriation (with 2018-19 funding of \$19.1 million) and is authorized to pay the costs of: (a) the care of juveniles, including aftercare services, who have been adjudicated as serious juvenile offenders; and (b) the care of juveniles waived into adult court and sentenced to state prison, but placed by Corrections at a juvenile correctional facility or a secured residential care center for children and youth. Counties are required to pay the costs of all other adjudicated juveniles. The average daily population for the SJO program was 143 in 2017-18.

Under the SJO 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 participant's needs. The Department of Corrections determines that one or more component phases are provided to each juvenile in the program. The Department is authorized to contract with the Department of Health Services, a county department or any public or private agency for the purchase of goods, care and services for SJO participants. The available component phases include the following:

- Placement in a juvenile correctional facility. If the juvenile committed a Class A felony offense, he or she is subject to a mandatory minimum period of confinement of not less than one year within the duration of the order.
- Placement in alternate care, including placement in a foster home, treatment foster home, group home, residential care center, or secured care center for children and youth.
- Intensive or other field supervision, including community supervision.
- Electronic monitoring.

- Substance abuse outpatient treatment and services.
- Mental health treatment and services.
- Community service.
- Restitution.
- Transitional services for education and employment.
- Other programs as prescribed by Corrections.

The Department may provide the sanctions listed above in any order, provide more than one sanction at a time and return to a sanction that was used previously for a participant. A participant is not entitled to a hearing on the Department's exercise of authority regarding the selected sanctions unless a hearing is required by rule. (The community placement components under SJO are classified as Type 2 secured correctional placements. Such placements allow Corrections to provide less restrictive placements while keeping the juvenile in a custodial status that allows for a return to a more restrictive placement, without a hearing, if the conditions of the placement are violated by the juvenile.)

A juvenile under the SJO program always begins his or her placement in a juvenile correctional facility. The Office of Juvenile Offender Review has the authority to release a participant to community supervision at any time after the participant has completed two years of participation in the SJO program. Community supervision under SJO is provided by Corrections at state expense. The Department may discharge a participant from the program and from departmental supervision and control at any time after the participant has completed three years of participation in the program.

### **Secured Juvenile Facilities: County Juvenile Detention Facilities**

Under current law, a county board, or two county boards jointly, may establish a juvenile detention facility for holding juveniles in secure custody. Secure detention may be used if the juvenile is subject to a disposition that includes placement in secure detention.

Corrections has the statutory authority to establish standards and regulations for juvenile facilities to ensure compliance with both federal and state law. This authority is administered under Chapter DOC 346 of the Wisconsin Administrative Code. As of October, 2018, there are 13 county-operated juvenile detention facilities approved by Corrections, with a combined capacity of 483 beds. Counties may expand their existing secure juvenile detention bed capacity, under provisions in DOC 346, through the use of double-celling. Several counties have increased capacity in this manner.

Counties are allowed to keep juveniles at county facilities for 365 days subsequent to disposition. The Department of Corrections' Office of Detention Facilities (ODF) has statutory authority, in accordance with s. 301.37, for the regulation and oversight of local detention facilities including county jails, houses of correction, secure juvenile detention centers, unlocked Huber

facilities and municipal lockups. Through the Office of Detention Facilities, the Department establishes reasonable standards for the design, construction, repair, maintenance, operation and management of these facilities.

**Secured Juvenile Facilities: State Juvenile Correctional Facilities**

The Division of Juvenile Corrections (DJC) in the Department is authorized to operate juvenile correctional facilities. Currently, there is one facility for males and one facility for females for juveniles adjudicated delinquent. Both the male and female juvenile facilities are located near the town of Irma in north-central Wisconsin (Lincoln County), Lincoln Hills School for juvenile males; and Copper Lake School for juvenile females. In addition, DJC runs the Grow Academy, a non-secure residential program with an agricultural science-based curriculum and treatment program for male juveniles, utilizes a facility in Oregon (Dane County).

The Department of Health Services (DHS) also operates a secured mental health unit for juveniles transferred from other juvenile correctional facilities. The Mendota Juvenile Treatment Center, located at the Mendota Mental Health Institute (Dane County), provides treatment to male juvenile offenders with complex emotional and behavioral problems. Following treatment, juveniles either are placed in the community or are returned to the facility from which they were transferred. Corrections currently utilizes 29 beds at the Center. In 2018-19, Corrections is providing \$4,200,300 [\$1,365,500 general purpose revenue (GPR) and \$2,834,800 program revenue (PR)] to DHS as reimbursement for the costs of the facility's operation. This facility is discussed in greater detail in a subsequent paper.

Funding for the state costs of the juvenile justice system in 2018-19 totals \$71.3 million. Approximately half of the total is for the SJO program, community supervision, general operations, and alternate care services. Of the total, \$32.2 million is allocated to the operation of the state's juvenile correctional facilities. The table below shows the funding and positions allocated to each juvenile facility in 2018-19, the funding allocated to DHS for mental health treatment, and the actual average daily population (ADP) for each facility in fiscal year 2017-18.

**Secured Juvenile Facilities, 2018-19**

Facility	2018-19		2017-18
	Funding	Positions	Actual ADP
Lincoln Hills School	\$22,207,000	249.25	138
Copper Lake School	4,786,900	56.75	19
Grow Academy	<u>943,600</u>	<u>12.00</u>	<u>5</u>
Subtotal	\$27,937,500	318.00	162
Mendota Juvenile Treatment Center	\$4,298,100		28
Total	\$32,235,600		190

## **Funding the Juvenile Justice System**

Under current law, counties are financially responsible for the costs of juvenile delinquency-related services, except for: (a) the care of a juvenile who has been adjudicated as a serious juvenile offender; and (b) juveniles under the original jurisdiction of or waived into adult court and sentenced to state prison, but placed by the Department at a juvenile facility. The Department of Corrections retains oversight over direct juvenile justice services, such as juvenile correctional facilities, the serious juvenile offender program, and community supervision. The state charges each county for the cost of its juveniles placed in the state's juvenile correctional facilities (except for wards of the state and serious juvenile offenders, as noted above) and for subsequent community placements and programming for juveniles returning to the community following placement in a juvenile correctional facility.

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June, 2019

Joint Committee on Finance

Paper #251

### 2017 Act 185 (Corrections -- Juvenile Corrections)

[LFB 2019-21 Budget Summary: Page 107, #1]

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#### CURRENT LAW

Under 2017 Act 185, the Department of Corrections is required to establish new Type 1 juvenile correctional facilities by January 1, 2021, subject to the approval of the Joint Finance Committee (JFC). The act also authorized \$25 million in bonding for the new facilities. The Department of Health Services (DHS) is required to expand the Mendota Juvenile Treatment Center (MJTC), subject to the approval of JFC, and \$15 million in bonding for the expansion is authorized. Further, Act 185 requires the state to close the Lincoln Hills School and Copper Lake School by January 1, 2021, and authorizes Corrections to convert those facilities into an adult correctional facility.

In addition, under Act 185 counties are authorized to establish secured residential care centers (SRCCs) and authorized \$40 million in bonding. Corrections created emergency rules governing the building and operations of SRCCs with the advice of a 25-member Juvenile Study Committee. Further, Act 185 creates a grant program under which counties may apply to the 10-member Juvenile Grant Committee by March 31, 2019, for state funding towards the cost of establishing or constructing SRCCs. After grant applications are finalized, the Grant Committee must submit a statewide plan for which grant applications to approve by July 1, 2019, to the Joint Committee on Finance for approval.

Once the SRCCs are established, the default placement of a juvenile under a secure correctional disposition will change from placement with the state to placement with the county in which the juvenile was adjudicated delinquent. In addition, juveniles currently placed with the state would transfer to placement with the county department of human services or social services (county department) of the county in which the juvenile was adjudicated delinquent. Further, Act 185 expands the authorized uses of youth aids for program costs in juvenile detention facilities and

SRCCs. Under Act 185, counties operating SRCCs could be eligible for a bonus payment from a new GPR appropriation to offset a portion of operating costs, and counties operating SRCCs for females could qualify for additional funding to offset operating losses.

This paper provides an overview of Act 185 provisions. Subsequent papers will provide more detail about SRCCs, MJTC, juvenile correctional populations, the Division of Juvenile Corrections (DJC) program revenue deficit, and the DJC daily rate.

## **GOVERNOR**

Modify the provisions of Act 185 in the following ways:

*Juvenile Corrections Grant Committee.* Act 185 formed a juvenile corrections grant committee to evaluate applications from counties to construct SRCC's, which included 10 members of which three are to be appointed from each house of the Legislature by the Senate Majority Leader and Assembly Speaker. Under the bill, one member appointed from each house would be required to be a member of the minority party. In addition, the grant committee termination date of January 1, 2021, would be removed and instead the committee would terminate when all grants are completed.

*Grant Application Deadlines.* Under the bill, the grant program deadlines would be extended by three months, so that county applications would be due by June 30, 2019, and grant committee plan recommendations would be due to the Joint Committee on Finance by October 1, 2019. Under Act 185, grant applications are due by March 31, 2019, and plan recommendations must be submitted to the Joint Committee on Finance by July 1, 2019.

*Approval of Individual Grants.* Under the bill, before the submission of the statewide plan on October 1, 2019, to JFC, the Juvenile Corrections Grant Committee may submit individual grant recommendations to JFC which would be reviewed a 14-day passive review process.

*Grandfathered Juvenile Detention Facilities.* Under the bill, the provision describing limitations on the population and alteration of county juvenile detention facilities is repealed and then recreated on the date that Corrections sends notice to the Legislature that Lincoln Hills is closed rather than January 1, 2021.

*Juvenile Corrections Study Committee.* Under the bill, the 25-member juvenile study committee termination date of January 1, 2021, would be removed. Instead, the Committee would terminate when all juvenile corrections grants are completed.

*New County and State Facility and Closure of Lincoln Hills Deadlines.* Under the bill, the January 1, 2021, deadline for closing Lincoln Hills and Copper Lake schools and for constructing the new SRCCs and new state-run juvenile correctional facility created under Act 185 would be removed. Instead, Corrections would transfer juveniles as soon as a substitute placement that meets the needs of the juvenile are ready. Once all juveniles are transferred to SRCC's or the new state facility, Lincoln Hills would be closed.

Act 185 requires the current juvenile correctional facility owned and operated by the Department of Corrections (Lincoln Hills and Copper Lake schools) to be closed no later than January 1, 2021, or when all of the juveniles that are held there are transferred to the new county-run SRCCs or a new state-run juvenile correctional facility.

## **DISCUSSION POINTS**

### **Type 1 Correctional Facilities**

1. Under Act 185, Corrections must establish one or more Type 1 juvenile correctional facilities (state run juvenile correctional institutions) subject to the approval of JFC. An existing sum sufficient appropriation was modified from the capital improvement fund for Corrections to acquire, construct, develop, enlarge, or improve adult and juvenile correctional facilities. Further, the state's 2017-19 building program is modified to enumerate the expansion of the Type 1 facilities at \$25,000,000 general fund supported borrowing.

2. In the agency's 2019-21 budget request, it was estimated that Corrections would need \$1,186,000 in 2019-20, and \$10,544,800 in 2020-21 associated with the cost for staffing, operating, and maintaining each new Type 1 Juvenile Correctional Facility with approximately 32 beds constructed or established under 2017 Act 185 and opened January 1, 2021.

3. *Staffing Per Type 1 Facility.* In Corrections budget request, the Department recommended 70.0 on-site positions for education and treatment, facilities and management, health services, and security at each Type 1 Juvenile facility opening January 1, 2021. Staff would have staggered start dates as indicated below.

## Proposed Staffing for a 32-bed Type 1 JCF

<u>Position</u>	<u>FTE</u>	<u>Position Authorization Date</u>
Facility Manager	1.0	January-2020
Corrections Unit Supervisor	1.0	January-2020
Psychologist Supervisor	1.0	January-2020
Teacher Supervisor	1.0	January-2020
Support Staff - All Departments	3.0	January-2020
Nursing Supervisor	1.0	January-2020
Recreation Leader	1.0	July-2020
Facilities Repair/Maintenance	1.0	July-2020
Food Service Leader	3.5	July-2020
Psychologist	4.0	July-2020
Social Workers	3.0	July-2020
Nurse Clinician 2	3.5	July-2020
Teacher	5.0	July-2020
Youth Counselors	36.0	July-2020
Supervising Youth Counselor	<u>5.0</u>	July-2020
 Total	 70.0	

4. *Staffing DJC Central Office.* In Corrections budget request, the Department recommended 17.0 positions to support the needs of multiple Type 1 facilities under an institution management structure similar to the Wisconsin Correctional Center System (WCCS) for adults. Under the new Type 1 facility management structure, many of the 17.0 positions' responsibilities would not change with changes in the Type 1 facility population. Some positions under the new management structure are currently institution based positions that would transfer to the central office with the implementation of Act 185. These positions would work with existing central office staff that support the entire division. Staff would have staggered start dates as indicated below.

### Staffing Moved to Central Office

<u>Position</u>	<u>FTE</u>	<u>Position Authorization Date</u>
System Superintendent	1.0	October-2019
Education Director	1.0	October-2019
Corrections Security Director	1.0	October-2019
Corrections Management Services Director	1.0	October-2019
Program and Policy Analyst – Advanced	1.0	October-2019
Secretary Confidential	1.0	October-2019
Buildings & Grounds Superintendent	1.0	October-2019
Dental Assistant	1.0	July-2020
Dental Hygienist	1.0	July-2020
School Psychologist	1.0	July-2020
Financial Program Supervisor	1.0	July-2020
Financial Specialist	2.0	July-2020
Financial Specialist – Senior	1.0	July-2020
Food Service Administrator	1.0	July-2020
Institution Complaint Examiner	1.0	July-2020
Office Operations Associate	<u>1.0</u>	July-2020
 Total	 17.0	

5. *DJC Appropriation Structure.* Historically, juvenile justice has been funded through program revenue (PR) collected by Corrections from counties that use state juvenile services. However, for a number of years, juvenile justice has been approximately half funded through PR and half funded through GPR paid to the juvenile PR appropriations through the Serious Juvenile Offender (SJO) program and community supervision. Once Act 185 is implemented, it is expected that most funding for juvenile corrections will be GPR used to pay the daily rate. Further, the juvenile PR appropriation is currently in deficit. The appropriation deficit is discussed in more detail in a subsequent paper.

6. In Corrections budget request, the Department recommended modifying authorized appropriation usage to account for a shift in primary funding source from PR to GPR. Under Act 185, DJC may primarily serve juveniles sentenced under an SJO disposition and youth with adult sentences and placed at a juvenile correctional facility prior to transferring to an adult prison on or around their 18th birthday. The state is responsible for the cost of care and supervision of SJOs and youth with adult sentences through GPR appropriations. There may still be some juveniles transferred from an SRCC under change of placement provisions under Act 185 and the county would be responsible for the cost of care and supervision.

7. On October 16, 2018, an overview of a Type 1 Prototype was given to the Juvenile Study Committee. Each Type 1 facility would have 32 beds (single occupancy). Each facility was estimated to cost approximately \$30 million to construct. On March 12, 2019, the Governor announced that one Type 1 facility would be located in Milwaukee and another in Horton in Outagamie County. On April 22, 2019, a DOA presentation indicated that two new Type 1 facilities may be ready for

residency by the end of 2021. The administration has indicated that the approval of these sites may be brought to the Building Commission and JFC as early as August, 2019.

8. Under the bill, the administration recommends changing the closure date of Lincoln Hills/Copper Lake from January 1, 2021 to the day that all juvenile can be transferred to either a new Type I facility or an SRCC. The administration indicates that "this standard, which puts kids and their needs first will replace the previous January 1, 2021, closure date for Lincoln Hills and Copper Lake schools." The administration has indicated through the budget in brief that "the Governor has instructed the Department of Corrections, Department of Children and Families, Department of Health Services, and the Department of Administration to collaborate to find efficiencies in the process of closing Lincoln Hills and Copper Lake schools and the creation of new facilities as soon as possible. In partnership with the legislative authors of 2017 Act 185, the Governor is committed to finding the fastest and safest path to closing the facilities and relocating the children."

9. Working with an open ended closure date adds challenges to the budgetary decisions the Committee is being asked to make as discussed in the previous paper (Paper #250) regarding secure juvenile out-of-home placements. Trailer legislation (Assembly Bill 188/Senate Bill 168), introduced April 25, 2019, would delay the closure of Lincoln Hills/Copper Lake by six months from January 1, 2021 to July 1, 2021. However, neither the budget bill or the trailer legislation makes provision for the transitional or operational costs that would be required in the 2019-21 biennium.

10. The trailer legislation would allow Corrections to contract with counties to house juveniles placed with Corrections in juvenile detention facilities with 180/365 day programs. The 180/365 day programs are juvenile detention facilities authorized by the corresponding county board to hold juveniles for up to 180 or 365 days post-disposition. Of 13 county-run juvenile detention facilities in Wisconsin, two (La Crosse and Rock) have 365 day programs and four (Racine, Northwest, Milwaukee, and Marathon) have 180 day programs.

11. There are several issues with this provision in the trailer legislation. First, the trailer bill does not appropriate funds for contracting by the state with counties for these services. Second, while the capacity of juvenile detention facilities is known, the capacity of individual or all juvenile detention facility 180/365 day programs is not known. Third, available beds in 180/365 day programs, especially once Lincoln Hills/Copper Lake are closed is unknown. Finally, the number of juveniles placed in state facilities that would need beds is not known.

12. The administration indicated in the budget in brief that "based on the projected number of serious juvenile offenders and adult commitments, the Governor recommends the construction of three new type 1 facilities to replace Lincoln Hills. One facility would be located in Milwaukee and another facility in the Fox Valley. The Department of Corrections and the Department of Administration would continue to work to identify a suitable location for the third facility. Act 185 originally set aside \$25 million in bonding authority for the construction of the new type 1 facilities. With a cost of over \$30 million per type 1 facility, the Governor recommends providing an additional \$90 million in bonding authority to construct the facilities."

13. Three Type 1 facilities would provide a total of 96 beds. Corrections estimates that Type 1 facilities will be required to house an average daily population (ADP) of 70.5 juveniles. Corrections

calculates the operational capacity for juvenile facilities should be 82.9 beds (85% of 82.9 is 70.5). Based on the 32 bed Type 1 prototype previously discussed, the programming needs of the juveniles and the goal of keeping juveniles as close to potential support systems as possible, it could be argued that three Type 1 facilities is an appropriate number. At the March 20, 2019 meeting, the Building Commission did not recommend authorizing the recommended increase in bonding authority.

### **Expansion of MJTC**

14. Under Act 185, an existing sum sufficient appropriation is modified for DHS to acquire, construct, develop, enlarge, or extend mental health and secure treatment facilities subject to the approval of JFC. Further, the state's 2017-19 building program enumerated the expansion of the treatment center at \$15,000,000 general fund supported borrowing. The expansion of MJTC is discussed in greater detail in a subsequent paper.

### **Lincoln County Correctional Institution**

15. Under Act 185, Lincoln Hills and Copper Lake School is renamed as Lincoln County Correctional Institution. Staffing and operational costs associated with operating the facility as an adult institution would occur after the closing of Lincoln Hills. In Correction's 2019-21 budget request, \$18,399,800 and 261.0 positions in 2020-21 were requested for the conversion of Lincoln Hills and Copper Lake Schools to a minimum-security adult male facility. Requested staffing for the Lincoln County Correctional Institution would include: 30.0 social services positions, 21.0 health care positions, 170.0 security positions (including correctional officers), 7.0 business office positions, and 33.0 administrative/prison operations positions. Under Act 185, the adult correctional institution is expected to open on January 1, 2021. In addition, contract bed funding in 2020-21 by would have been reduced by \$4,175,600. On an annualized basis, the Lincoln County Correction Institution, as requested, is estimated to cost \$24,180,400. This cost would be off-set, in-part, by an annual reduction in contract beds of \$10,800,200.

16. Funding identified in Correction's budget request was not provided in the budget bill and is not included in trailer legislation. In 2017-18, Correction's annual appropriation for adult correctional services general program operations was budgeted \$776,316,300 GPR. At the close of the fiscal year, expenditure authority of \$7,900 GPR remained for the appropriation (approximately 0.001%). Thus, it seems unlikely that Corrections may fund these transitional costs using existing expenditure authority.

17. In trailer legislation, the closure of the juvenile facility and opening of the adult facility would be delayed by six months from January 1, 2021 to July 1, 2021. With this closing date, using information from Corrections budget request, Corrections transitional costs for the operation as an adult facility would be \$8,709,600 in 2020-21 with 261.0 positions. Even if the facility is unoccupied for a time, funding would be needed to maintain and prepare the facility to transition it into an adult facility. In reviewing this estimated cost, note that: (a) the 261.0 positions provide full coverage for the entire institution, including the operation of a 24 hour per day, seven days per week health services unit; and (b) no pre-service salary or pre-service fringe benefits are included because the Department anticipates using current Division of Juvenile Corrections' employees for these positions. Further, since no adult inmates would be transferred to the facility in the 2019-21 biennium, the funding does

not include costs associated with inmate variable costs or savings associated with a potential reduction in contract beds.

### **County Secured Residential Care Center (SRCCs)**

18. Under Act 185, the Building Commission may authorize up to a total of \$40,000,000 in general fund supported borrowing to allow Corrections to provide grants to assist counties in designing and constructing SRCCs, and attached juvenile detention facilities. Subject to the rules promulgated by Corrections, a SRCC may be located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility. Any such state funding commitment must be in the form of a grant to a county. County boards may establish, or contract with a child welfare agency to establish a SRCC on its own or jointly with one or more counties or may contract with another county to place juveniles in that county's SRCC.

19. As indicated previously, Act 185 created a juvenile corrections grant program, administered by the Juvenile Corrections Grant Committee and the Department. Under the juvenile corrections grant program, a county may apply for any of the following grants to pay: (a) 95% of the costs of designing and constructing a SRCC; (b) 95% of the costs of designing and constructing a facility that houses both a SRCC and a juvenile detention facility; and (c) 100% of the costs of designing and constructing a SRCC only for female juveniles or any portion that is only for female juveniles. While the parameters of the grant program are identified in Act 185, it is not known: (a) how many counties or which county or counties may eventually apply for a grant; and (b) what renovation or building costs may be for these facilities.

20. In the Corrections budget request, the Department recommended \$155,200 GPR in 2019-20 and \$145,400 GPR in 2020-21 for 2.0 GPR additional positions in the Office of Detention Facilities' (ODF) to accommodate the increased workload of monitoring county-run SRCCs. The ODF has statutory authority, in accordance with s. 301.37 of the statutes, to regulate and oversee local detention facilities, including county jails, houses of correction, secure juvenile detention centers, unlocked Huber facilities and municipal lockups. Through the ODF, the Department establishes reasonable standards for the design, construction, repair, maintenance, operation and management of these facilities. The office is currently budgeted \$642,500 GPR with 6.5 GPR positions in 2018-19 statewide. Under Act 185, this authority was extended to SRCCs.

21. In order to measure an expanded number of statistics (such as number of credits completed toward a high school diploma) and performance measures (such as recidivism) associated with determining the effectiveness of SRCCs, ODF requested the additional positions and funding. The information to be collected by ODF on SRCCs will be particularly important for evaluation of the performance of SRCCs and the evaluation of particular programming or resources that may be available at one SRCC and not another. Without the ability to evaluate programming, counties will not have necessary information to direct county operational expenditures on SRCC's effectively and efficiently. Neither the budget bill or the trailer legislation provides funding for ODF.

### **County Juvenile Detention Facilities**

22. Act 185 prohibits a court from placing a juvenile in a juvenile detention facility for more

than 30 consecutive days, unless it is an “eligible juvenile detention facility.” An “eligible juvenile detention facility” is a facility in which juvenile placements of more than 30 days were authorized as of January 1, 2018 (generally, county facilities with a “180/365 Program” at the start of 2018). An “eligible juvenile detention facility” may continue to receive juvenile placements of more than 30 consecutive days by receiving a construction grant under the competitive process and becoming an SRCC as of January 1, 2021.

23. Additionally, certain juvenile detention facilities are grandfathered and may continue receiving juvenile placements of more than 30 consecutive days without becoming an SRCC. Specifically, an “eligible juvenile detention facility” may continue to receive these longer-term juvenile placements without becoming an SRCC by meeting all of the following criteria: (a) the juvenile detention facility is not awarded a grant; (b) the facility does not house a larger number of juveniles after January 1, 2021 than it did on that date; and (c) the facility is not altered, added to, or repaired in excess of 50% of its assessed value. If the “eligible juvenile detention facility” violates these conditions, it is no longer authorized to accept juvenile placements for more than 30 consecutive days and is subject to the same prohibition on receiving long-term placements as other juvenile detention facilities.

24. The administration recommends repealing the limitations on the population and alteration of county juvenile detention facilities, and recreating the limitations on the date that Corrections sends notice to the Legislature that all juveniles have been transferred from Lincoln Hills/Copper Lake. Since the grandfathering limitation is tied to the closure of Lincoln Hills/Copper Lake, alternatives relating to changing this date are combined with alternatives regarding the Lincoln Hills/Copper Lake closure date.

25. As discussed previously in relation to SRCCs, statistics around juveniles placed in a county juvenile detention centers is not readily available to the state. In order to evaluate programming and resources available to juveniles especially in juvenile detention facilities that decide to continue operating under grandfathering provisions, having state access to this information would be important for evaluating any further changes proposed to the juvenile justice system.

26. After implementation of Act 185, juvenile detention facilities will still house juveniles pre-disposition. The following table identifies the 13 juvenile detention facilities across the state and the capacities of each facility.

## County-Run Juvenile Detention Facility Capacity, 2018-19

<u>County</u>	<u>Capacity</u>
Brown <sup>1</sup>	15
Dane	24
Fond du Lac <sup>2</sup>	27
LaCrosse <sup>4</sup>	15
Marathon <sup>3</sup>	20
Milwaukee <sup>3</sup>	120
Northwest (Eau Claire) <sup>3</sup>	23
Portage	14
Racine <sup>3</sup>	119
Rock <sup>4</sup>	35
Sheboygan	27
Washington	26
Waukesha	<u>18</u>
Total	483

<sup>1</sup> 90-day program

<sup>2</sup> 120-day program

<sup>3</sup> 180-day program

<sup>4</sup> 365-day program

### Study Committee

27. The juvenile study committee was created in the Department of Corrections to research and develop recommendations on the following: (a) optimal locations for the new Type 1 juvenile correctional facilities based on space and security needs, cost, proximity to the populations of juveniles the facilities would serve, and best practices for holding juveniles in secure custody no later than November 1, 2018; and (b) rules governing the services and programming provided to juveniles in secured residential care centers for children and youth (SRCCs) no later than September 1, 2018. Corrections is then required to submit rules in final draft form to the Governor establishing standards for services in secured residential care centers for children and youth based on those recommendations no later than December 17, 2018.

28. The 25-member study committee consisted of the following members: (a) the Corrections Secretary, or his or her designee; (b) the Department of Children and Families (DCF) Secretary, or his or her designee; (c) the Department of Health Services Secretary, or his or her designee; (d) the Superintendent of Public Instruction, or his or her designee; (e) the State Public Defender, or his or her designee; (f) three state representatives, appointed by the Assembly Speaker or the appointed Representative's designee; (g) three state senators, appointed by the Senate Majority Leader or the appointed Senator's designee; (h) two circuit court judges, appointed by the Governor; (i) two district attorneys, appointed by the Governor; (j) two representatives of law enforcement agencies in Wisconsin, appointed by the Governor; (k) one sheriff, or his or her designee, appointed

by the Governor; (L) one representative of a national organization that focuses on eliminating race-based discrimination, appointed by the Governor; (m) one representative of a nonprofit that focuses on issues relating to juvenile justice, appointed by the Governor; (n) one representative of a nonprofit that focuses on best practices for holding juveniles in secured custody, appointed by the Governor; (o) one representative of the county department of social services or human services (“county human services department”) in the county with the highest percentage of juveniles under the supervision of DOC or a county department under ch. 938, Stats., appointed by the Governor; (p) one representative of a county human services department of a county that operates a regional juvenile detention facility that is also an “eligible juvenile detention facility,” appointed by the Governor; (q) one representative of a county human services department of a county other than those previously described, appointed by the Governor; and (r) a resident of the state who has been under Corrections supervision under ch. 938, Stats., or has had a close family member under such supervision, appointed by the Governor. The Corrections and DCF Secretaries served as co-chairpersons of the Study Committee and agencies with membership on the Study Committee must provide staff to support the committee functions.

29. The committee submitted recommendations for rules governing the services and programming provided to juveniles in SRCC's on August 28, 2018. The committee submitted recommendations on the location of the new Type 1 facilities on October 16, 2018 after reviewing a list of state owned properties.

30. On December 17, 2018, Corrections submitted emergency rules governing the services and programming provided to juveniles in SRCC's. On December 17, 2018, the Governor approved the rule text (DOC 347). There was a hearing on the emergency rules on February 11, 2019. The emergency rule will remain in effect until January 6, 2021.

31. The administration's recommendation would terminate the Study Committee when all juvenile corrections grants are completed instead of January 1, 2021. Given that the study committee may be given further directives in subsequent legislation, the Committee align the termination date with the completion of SRCC grants. [Alternative A1]

32. It is unclear, however, what the Study Committee duties will be during the period between January 1, 2021, and the time that all grant are completed. While a meeting of the Study Committee could be called anytime before January 1, 2021, the last meeting of the study committee was on October 16, 2018. Given the inactivity of the study committee, the Committee could maintain the Act 185 termination date. [Alternative A2]

### **Juvenile Corrections Grant Committee**

33. Act 185 created a Juvenile Corrections Grant Committee (“Grant Committee”) in the Department of Corrections to administer a grant program. The 10-member Grant Committee consists of the following members: (a) the Governor, or his or her designee; (b) the Corrections Secretary, or his or her designee; (c) the DCF Secretary, or his or her designee; (d) three state senators, appointed by the Senate Majority Leader or the appointed Senator’s designee; (e) three state representatives, appointed by the Assembly Speaker or the appointed Representative’s designee; and (f) a representative of a nonprofit that focuses on best practices for holding juveniles in secure custody, appointed by the Governor. The Grant Committee terminates on either the date all grant funded

projects are completed, or January 1, 2021, whichever is earlier.

34. Under the recommendation of the administration, of the three members of each house of the Legislature appointed to the Grant Committee, one would have to be a member of the minority party. [Alternative B1]

35. The Grant Committee must establish requirements, guidelines, and criteria for grant proposals and for awarding grants. Act 185 requires a county to do all of the following in developing its grant application: (a) consider best practices in designing and operating facilities that hold juveniles in secure custody; (b) consider the feasibility of developing an existing facility into an SRCC; and (c) solicit input from juvenile court judges. Act 185 also requires the Grant Committee to give preference to proposals that utilize existing facilities that consider proximity to the populations of juveniles the facility would serve, and to multi-county applications.

36. The deadline for counties to submit grant applications to the Grant Committee was March 31, 2019. The Grant Committee may then work with applicants to modify their applications. The Grant Committee must submit a statewide plan of recommended grant approvals to the Joint Committee on Finance (JFC) by July 1, 2019. The statewide plan recommends which grant applications to approve, and is created by the Grant Committee after consultation with Corrections and DCF, and after Corrections approval of any proposed SRCC site, design, and construction specifications. The plan must be approved by JFC before it can be implemented by the Grant Committee and Corrections. After approval by JFC, Corrections must award grants under the statewide plan and the Grant Committee must monitor the progress of the grant-funded projects to ensure compliance with the program and timely completion.

37. The first meeting of the Grant Committee was on March 21, 2019. The Committee determined that a letter of interest from counties interested in building an SRCC would be sufficient to meet the March 31, 2019 deadline. The Committee has yet to send out the formal grant application. Finalized grant applications from the counties under Act 185 are due by June 30, 2019.

38. Six counties (Brown, Dane, Fond du Lac, La Crosse, Milwaukee, and Racine counties) as well as the Greater Lakes Inter-Tribal Council, submitted letters of interest to Corrections for SRCC grants by March 31, 2019. Attachment 1 provides a summary compiled by Corrections of the letters of interest. Not all counties specified how much funding was going to be requested, but the counties that did provide specific numbers totaled \$103.9 million. Total capacity of the facilities was estimated to be around 200 juveniles.

39. As of May 28, 2019, Fond du Lac and La Crosse have both formally withdrawn their letters of interest. Even with the withdrawn applications, requested funding (\$83.9 million) exceeds bonding authority provided. Total bed capacity is now estimated to be about 165 juveniles.

40. Under the recommendation of the administration, the committee would terminate when all grants are completed, instead of January 1, 2021. Further, grant applications would be due to the Grant Committee by June 30, 2019, instead of March 31, 2019, and plan recommendations would be due to JFC by October 1, 2019, instead of July 1, 2019. The trailer legislation makes the same adjustments to this timeline. Counties indicated to the Grant Committee that these extensions of grant

deadlines are necessary to county participation in the grant process through a memorandum dated April 17, 2019 (Attachment 2).

41. Given the importance of the upcoming deadlines of the Grant Committee to the counties, the Committee could extend deadlines and delay the termination of the Grant Committee. [Alternative C2] This alternative would result in a three month extension of several Grant Committee deadlines.

42. In addition, the administration recommends that the Grant Committee be able to submit individual grant recommendations to JFC for approval before the recommended October 1, 2019 deadline for approval of individual grants under a 14-day passive review. Given the different timelines on which the counties may be acting, the Committee could adopt this provision to provide the Grant Committee more flexibility when awarding grants. [Alternative C3]

43. In the memorandum dated April 17, 2019, Counties outlined a number of questions and concerns. In addition, the memorandum identified a number of items as "deal breakers." The memorandum indicated that the amount in the building program for SRCCs is inadequate to build SRCC's as prescribed by statute and emergency rule to build facilities with enough beds to house juveniles who would be placed in SRCCs. If counties are unable or unwilling to build sufficient beds for juveniles, it means that the state must build more state beds to accommodate these juveniles who would be placed in SRCCs. Juvenile populations predicted to be placed in particular facilities are discussed in more detail in a subsequent paper.

44. The administration, through the budget in brief indicated that "under Act 185, most juvenile offenders would be placed in county-operated facilities. Unfortunately, the act provided only \$40 million in funding for counties to build new facilities. This level of funding does not come close to funding the projected construction costs. The Governor recommends providing an additional \$60 million in bonding authority so that counties can construct new facilities." At the March 20, 2019 meeting, the Building Commission did not recommend authorizing the recommended increase in bonding authority.

45. Given the complexity and uncertainty surrounding funding for county grants for SRCCs, the issues could be addressed in separate legislation and no action taken during the budget process. [Alternative C4] As a result, provisions in Act 185 regarding the Grant Committee would remain until modified by subsequent legislation.

### **Change of Placement to Transfer Between Facilities**

46. Generally, under Act 185 juveniles given a correctional placement under county supervision must be placed in an SRCC, and not in a Type 1 juvenile correctional facility, but transfers between facilities are allowed.

47. *Moving a County Juvenile From an SRCC to a Type 1 Juvenile Correctional Facility.* A juvenile may be transferred to a Type 1 juvenile correctional facility, and have supervision of the juvenile transferred from the county to Corrections, under certain circumstances. A juvenile with a correctional placement may be placed in a Type 1 juvenile correctional facility if either of the following criteria are met: (a) the juvenile is placed at an SRCC that is unable to meet the juvenile's

treatment needs, the programming at the Type 1 juvenile correctional facility is able to meet his or her treatment needs, and no other SRCC is willing and able to meet the juvenile's treatment needs; or (b) the county's SRCC does not have space for the juvenile and no other SRCC is willing and able to meet the juvenile's treatment needs. A juvenile with a correctional placement may only be transferred to the Mendota Juvenile Treatment Center upon a recommendation by DHS. A hearing is required before a court changes a juvenile's placement from an SRCC to a Type 1 juvenile correctional facility, and Corrections has an opportunity to object to the transfer. If a court orders a change of placement to a Type 1 juvenile correctional facility, the county must pay Corrections for the cost of the juvenile's care at the statutory daily rate.

48. *Moving a County Juvenile From One SRCC to Another SRCC.* A juvenile with a correctional placement may be transferred from one SRCC to another, if the sending SRCC cannot meet the treatment needs of the juvenile, and if the receiving SRCC is able to meet the juvenile's treatment needs and offers more appropriate care and services. This transfer may be done without a court hearing if the receiving SRCC agrees. The county must contract with the receiving SRCC for care and services for the juvenile, who remains under the supervision of the sending county.

49. *Moving a Corrections Juvenile to an SRCC.* Corrections may place a juvenile under its supervision in an SRCC, if the receiving SRCC agrees. Corrections may also transfer a juvenile from one SRCC to another, if the first SRCC is unable to meet the juvenile's treatment needs and the second SRCC is consulted and is able to meet the juvenile's treatment needs. These placements and transfers may be done by Corrections without a court hearing. Corrections must contract with the receiving SRCC for the care and services provided to the juvenile, and the juvenile remains under Corrections supervision.

### **Operational Programming for SRCCs under DCF, the Departments of Public Instruction and Corrections**

50. *Authorized Uses For Youth Aids.* As mentioned above, Act 185 expands the authorized uses of youth aids for program costs in juvenile detention facilities and SRCCs. In addition, under current law, a subsection of a county's youth aids allocation is based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period. Under Act 185, in addition to the juveniles placed in juvenile correctional facilities, the number of juveniles placed in SRCCs is included in each county's proportion. The effect of this provision would not occur until SRCCs become operational in 2021.

51. *Community Youth and Family Aids - Bonus for County Facilities.* Under Act 185, the Department of Children and Families (DCF) must allocate an amount equal to 15% of a county's youth aids allocation in the preceding fiscal year or \$750,000, whichever is less, in additional funds for a county that operates a joint SRCC funded by a grant under Act 185. It is not known: (a) how many counties or which county or counties may operate a program for juveniles; and (b) how much each county's youth aids allocation will be at the time bonus payment may be made. Costs associated this program would not occur until a year after SRCCs are operational.

52. *Tuition Payments by the State.* Under current law, the Department of Public Instruction pays tuition for pupils attending public schools in the following circumstances: (a) pupils in children's

homes; (b) pupils whose parents or guardians are employed at and reside on the grounds of a state or federal military camp, federal veteran hospital or state charitable or penal institution; and (c) pupils in certain foster homes or group homes, if the foster home or group home is located outside the school district in which the pupil's parent or guardian resides. Act 185 expands tuition payments to pupils in SRCCs. It is not known: (a) how many counties or which county or counties may operate a program for juveniles; (b) how many youth will be eligible for tuition payments; or (c) what tuition payments may be charged. Tuition payments would not occur until after SRCCs are operational.

53. *Operating Loss Reimbursement Program.* Under Act 185, Corrections is required to reimburse a county that operates a SRCC that holds only female juveniles in secure custody and that was established using funding from the grant program for any annual net operating loss. A county seeking reimbursement is required to submit its request and supporting financial statements for the prior fiscal year to Corrections and the Legislative Audit Bureau (LAB). Corrections would then request an audit of a county's net operating costs for a SRCC that holds only female juveniles for the purpose of determining the amount, if any, of a net operating loss to be reimbursed by Corrections to a county. As determined by LAB, Corrections is required to reimburse the county for the amount of the net operating loss.

54. Act 185 created a GPR sum sufficient to reimburse counties for the costs identified in the LAB audit. In addition to reimbursing counties for operating losses, the appropriation may also be used by Corrections to reimburse LAB for the cost of the county audit. Currently unknown factors that will impact future costs include: (a) how many counties or which county or counties may operate a program for juvenile females; (b) operating costs for female SRCCs; (c) the female juvenile populations; and (d) the LAB determined definitions of operating costs and operating loss. Costs for the operating losses would not occur until a year after female SRCCs are operational. No county submitted a letter of interest for building a female only SRCC.

55. *Note on Medical Costs.* It should be noted that juveniles in secure state or county facilities are not eligible for Medicaid. Since Corrections has a large number of persons in its custody in this circumstance, Corrections is able to negotiate with providers to provide medical care for incarcerated populations. County run SRCCs, due to the smaller number of those in custody, may not have the same ability to negotiate with providers. Even with a variance, juveniles held in SRCC's may not qualify for Medicaid.

### **Limitations on Subsequent Papers**

56. As identified in this paper, there are currently a number of unknowns regarding the operations of the juvenile correctional system and decisions that need to be made on both the local and state level for juvenile and adult populations. Proper operational budgeting on the state level is dependent on how many juveniles will be placed with the state or with counties, and when and how many buildings are constructed by the state or counties. Therefore, either construction of facilities needs to be delayed or funding and positions provided for buildings being opened and closed in late 2021 or early 2021-22. Issues identified in this paper need to be resolved before proper budgeting for future fiscal years can occur. Therefore, subsequent papers can only address existing situations and cannot be used for budgeting during transitional time periods, or after Act 185 or modifying legislation is implemented.

## **New County and State Facility and Closure of Lincoln Hills Deadlines**

57. Act 185 requires the current juvenile correctional facility owned and operated by the Department of Corrections (Lincoln Hills and Copper Lake schools) to be closed no later than January 1, 2021, or when all of the juveniles that are held there are transferred to the new county-run SRCCs or a new state-run juvenile correctional facility. Counties have indicated through communications with the Grant Committee that counties may not be ready to receive juveniles from the state facilities as of January 1, 2021. In addition, DOA and Corrections have expressed concerns with the timeline prescribed under Act 185.

58. However, no matter the timeline, the state and counties need to be prepared to provide for a total juvenile (male and female) average daily population of approximately 227 juveniles as indicated in Attachment 3. Attachment 3 is a table showing an estimate of the distribution and total initial populations anticipated by Corrections after implementation of Act 185 prepared by Corrections in May, 2019, as a part of a secure juvenile facility population capacity analysis. Corrections indicates that in order to provide sufficient programming and prepare for unpredictable variability in juvenile populations the ADP of 227 should be about 85% of the total capacity available for juveniles, which means a total capacity of about 267 between state and county facilities. The ultimate balance of juveniles between the county and state facilities or capacity will be dependent on bonding made available through the Building Commission.

59. Under the 2019-21 capitol budget, the administration recommended an additional \$90 million for state Type 1 facilities, \$60 million for county SRCC's, and \$10.3 million for a secure housing unit at the adult Lincoln hills Correctional Institution. The Building Commission did not recommended these items for inclusion in the capitol budget. Thus, the availability of bonding and the capitol building process will determine on what timeline provisions of Act 185 may be implemented.

60. Under the bill, the January 1, 2021, deadline for closing Lincoln Hills and Copper Lake schools and for constructing the new SRCCs and new state-run juvenile correctional facility created under Act 185 would be removed. Instead, Corrections would transfer juveniles as soon as a substitute placement that meets the needs of the juvenile are ready. Once all juveniles are transferred to SRCC's or the new state facility, Lincoln Hills would be closed. This alternative offers considerable flexibility to counties building SRCCs and the state in building new Type 1 facilities, in that once the new buildings are completed, arrangements can be made to transfer juveniles to occupy available beds.

61. Given the flexibility the administration's recommendation provides to counties and agencies, the Committee could remove the January 1, 2021 deadline and replace it with the recommended timeline that adjusts itself to county needs. [Alternative C1] This alternative would result in timelines working around the completion of construction of SRCCs and Type 1 facilities, and tie the grandfathering provisions to that date.

62. It could also be argued, however, that the flexibility the administration's recommendation provides has disadvantages. For example, if an SRCC opens and is able to move juveniles from Lincoln Hills/Copper Lake, Corrections would be required to charge counties and its own GPR appropriations a daily rate that may be insufficient to cover costs, since the daily rate is dependent on population. The closing of one facility, the opening of the same facility for a different correctional population, the design,

siting, construction and staffing of new state and county facilities, the transfer of juveniles and adults between the new and/or newly remodeled facilities, and the coordination of all of these actions requires significant lead time for budgeting, construction, program design and staffing. In order to provide for all of these activities, a definitive date that would allow time for subsequent legislation, could be established. As such, the Committee could set the closure date of Lincoln Hills/Copper Lake and opening of SRCCs to be July 1, 2022. [Alternative C2] This alternative would result in costs associated with the transition being addressed in the 2021-23 biennium and give agencies and counties a deadline for which to prepare and budget.

63. The Committee could maintain current law and require closure of Lincoln Hills/Copper Lake by January 1, 2021, and provide funding identified in Correction's budget request for transitioning of Lincoln Hills to an adult facility, support for SRCCs, and staffing for each new Type 1 facility. Under this alternative, Corrections would be provided: (a) \$155,200 GPR in 2019-20 and \$145,400 GPR in 2020-21 for 2.0 GPR additional positions in the Office of Detention Facilities' (ODF) to address regular inspection of the new SRCCs; (b) \$18,399,800 GPR and 261.0 GPR positions in 2020-21 for staffing of the Lincoln Hills Correctional Institution; and (c) \$1,186,000 GPR in 2019-20, and \$10,544,800 GPR in 2020-21 and 70.0 positions in 2020-21 associated with the cost for staffing, operating, and maintaining each of the new Type 1 Juvenile Correctional Facility with approximately 32 beds. [Alternative C3] This alternative would result in the opening of three 32-bed Type 1 juvenile facilities, and the Lincoln Hills Correctional Institution with total funding of \$3,588,000 GPR and 2.0 GPR positions in 2019-20 and \$50,179,600 GPR and 473.0 GPR positions in 2020-21.

64. Given the complexity and uncertainty surrounding funding for county grants for SRCCs, the Committee could address the identified issues in separate legislation and take no action during the budget process. [Alternative C4] As a result, provisions in Act 185 regarding timelines for the state and counties would remain unchanged at this time.

## **ALTERNATIVES**

### **A. Study Committee**

1. Approve the Governor's recommendation to modify the termination date of the Study Committee to time at which the last grant application is completed.
2. Take no action.

### **B. Grant Committee**

1. Approve the Governor's recommendation that of the three members of each house of the Legislature appointed to the Grant Committee, one of the three would have to be a member of the minority party.
2. Approve the Governor's recommendation to modify the termination date of the Grant Committee to the time at which the last grant application is completed.
3. Approve the Governor's recommendation to allow approval of individual county grant

applications by the Committee under a 14-day passive review process.

4. Take no action.

**C. Lincoln Hills/Copper Lake Closing Date**

1. Approve the Governor's recommendation to allow Corrections to transfer juveniles as soon as a substitute placement that meets the needs of the juvenile are ready. Further, close Lincoln Hills once all juveniles are transferred to SRCC's or a new state facility.

2. Modify the closure date of Lincoln Hills/Copper Lake to July 1, 2022.

3. Maintain the Act 185 closure date of January 1, 2021, and provide Corrections with \$3,588,000 GPR and 2.0 GPR positions in 2019-20 and \$50,179,600 GPR and 473.0 GPR positions in 2020-21.

ALT D3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$53,892,800	473.00	\$53,892,800	473.00

4. Take no action.

Prepared by: Sarah Wynn  
Attachments

# ATTACHMENT 1

## Summary of County Letters of Interest (Juvenile Corrections Grant Committee Materials - May 6, 2019)

**Act 185 Grants Committee**

**DRAFT - County Letters of Interest Summary Table**

The table below provides a summary outline of counties' letters of interest. More specific details, including how their proposed SRCCCY fits in with the county's broader youth justice services, can be found within their individual letters of interest.

County	Projected Capacity	Stand alone or Attached	Single or Multi County	Est. Cost
<b>Brown</b>	24-32, males and females	Build a new stand-alone facility	Single county proposal, but would serve youth across counties. Estimates serving 13 youth from other counties.	N/A
<b>Dane</b>	Males: 18-23 beds Females: 5-6 beds	Attach to current juvenile detention facility	Single county proposal, but would serve youth across counties. Estimates they would have 12-14 males and 3-4 females from Dane, leaving the rest for other counties	\$3.5 - \$4.5M
<b>Fond du Lac</b>	16 males	Attach to a proposed new detention facility	Single county proposal but would serve youth from multiple counties	N/A
<b>GLITC / Tribes</b>	<i>N/A: GLITC submitted on behalf of the tribes if a tribe chose to submit an application</i>			
<b>La Crosse</b>	20 male only SRCCY, co-located with 15 co-ed for short-term detention	Build a new facility to co-locate with short-term detention	Single county proposal but would serve youth from multiple counties	\$18 - \$20M
<b>Milwaukee</b>	62 total: remodeling and repurposing of 22 existing beds for the Milwaukee County Accountability Program (MCAP) and 40 beds at new SRCCCY; 5 beds for females	Remodel existing and build a new facility	Single county	\$41.4M
<b>Racine</b>	48 beds (detention and SRCCCY); male and female	Build a new facility to co-locate with detention	Single county proposal but would serve youth from multiple counties	\$38M

\* Fond du Lac and LaCrosse Counties have officially withdrawn letters of intent for a grant to build a SRCC.



## ATTACHMENT 2

WISCONSIN  
COUNTIES  
ASSOCIATION

22 EAST MIFFLIN STREET, SUITE 900  
MADISON, WI 53703  
TOLL FREE: 1 866 404 2700  
PHONE: 608 663 7188  
FAX: 608 663 7189  
WWW.WICOUNTIES.ORG

### MEMORANDUM

**TO:** Honorable Members of the Juvenile Corrections Grant Committee

**FROM:** Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

**DATE:** April 17, 2019

**SUBJECT:** County Concerns Related to Secured Residential Care Centers for Children and Youth (SRCCCY)

At the April 8, 2019 meeting of the Juvenile Corrections Grant Committee, the state shared concerns raised by counties with regard to the construction and operation of SRCCCYs. The committee indicated it was interested in learning more about county concerns.

The following pages provide additional detail on the concerns shared by counties with Department of Corrections and Department of Children and Families staff. The attached list should not be considered a comprehensive list of concerns. As the process of implementing the new structure created in 2017 Wisconsin Act 185 becomes more "real" for counties, we anticipate additional concerns/questions arising.

Counties look forward to working with you as we begin to change the face of youth justice in Wisconsin.

## SRCCCY QUESTIONS/CONCERNS FROM COUNTIES

Items in red denote deal-breakers for counties

### Grant Funding:

Counties have no information with regard to how the grants process actually works.

- The state funding source for SRCCCY design and construction costs is bonding. Will bond proceeds be available to provide counties with funding upfront or will counties be required to bond for the design and construction costs and then receive reimbursement from the state? It does not seem logical for two entities to bond for the same project. Counties should not be required to bond for the construction of SRCCCYs. If counties are required to bond what is the impact on county bond ratings?
- Counties will be required to pay their contractors in phases. Will counties submit their costs to the state in phases? Will the state pay the contractors directly or will the state pass the dollars through to the counties for payment?
- The cost of designing/constructing facilities for females is reimbursed at 100%. These will be shared facilities. What method will the state use to determine male vs. female facility costs?
- **How is the state defining design and construction costs? What about land costs? Please see attached for a listing of project costs. Counties need the "project costs" to be covered.**
- If a project has cost overruns not included in the grant application will those costs be covered?
- **If the state does not appropriate sufficient bonding authority, what happens? Will counties be asked to scale back their projects? If counties are asked to scale back their projects, counties may opt out – counties will only operate SRCCCYs if they have the tools to do so in the appropriate manner.**
- Is the state willing to assist with site location?
- What level of architectural detail will the grant committee want to see? Counties will not be able to present more than concept plans prior to June 30, 2019.

### Operating Costs:

Counties are taking a huge risk operating SRCCCYs. Under Act 185, the financial liability/risk for holding youth in a secure setting transfers from the state to the counties.

- The 2019-21 state biennial budget allocates \$3.5 million in initial operating costs. How are those costs defined? What if the \$3.5 million is insufficient to cover all start-up costs?
- What method will the state use to determine operating cost deficits for female beds?
- **Will the state be willing to support operating deficits for all SRCCCYs for a time-certain? It will be difficult for counties to project ADPs in SRCCCYs for a number of reasons (current 365/180 programs, judicial discretion, etc.). The daily rates counties will charge are based on projected ADPs. If, based on the best information available, a county constructs 20 beds but only serve six youth, should an individual county be responsible for the loss given the shift in financial risk from the state to counties? For a county that is serving its own youth, the cost of providing services in a SRCCCY will be more than the cost of a placement at Lincoln Hills due to many factors, including compliance with**

federal staffing requirements that does not currently exist at Lincoln Hills. How does a county make up that difference? Will the state consider a shared-risk model?

- Counties have raised significant concerns about medical costs. Is the state willing to work with counties on the creation of a high-risk pool or other option to limit county liability for medical costs?
- Is the state open to discussion on shared risk?

#### **Projecting ADPs:**

This is related to the operating costs/operating deficit discussion as well.

- What happens if 17-year-olds rejoin the youth justice system? Do we build now in anticipation of the return of 17-year-olds? If we build now will that lead to operating deficits? If we don't build in anticipation of a return of 17-year-olds to the youth justice system who is responsible for funding the costs to add increased capacity? Will the state provide grants in the future if the policy change takes effect?
- How do we account for the current 365/180 populations?
- If judges like the programming in SRCCCYs will more juveniles be ordered by judges to SRCCCYs?

#### **Grant Requirements:**

Counties are anxious to begin the grant writing process, but many are awaiting clear direction from the state on what will be required in the grant application.

- As counties will be required to adhere to DOC 347, the grant application should be tied to DOC 347. Counties should not be required to provide information outside of statutory or administrative requirements.
- Counties should be asked to respond to general requirements contained in statute and administrative rule e.g., how will trauma-informed principles be incorporated in the physical environment of the facility, how many youth will the SRCCCY hold, how will the facility incorporate evidence-based practices and trauma-informed principles in its programs and services, how will the SRCCCY pursue partnerships with outside entities to enhance available services and resources in the facility.
- Specific operational requirements need not be included as part of the grant application; operational plans must be approved by DOC before the facility may accept youth (DOC 347.08 (1)).
- Can the grants be submitted to the committee in phases (graduated process)? For example, can counties respond to questions about programming prior to submitting information on facility design?

#### **Youth Justice System**

- The costs of operating SRCCCYs will be higher than the costs of operating Lincoln Hills/Copper Lake and current county 365/180 programs. That means funding currently utilized for the youth justice system will transfer from community-based and prevention/early intervention programs to the deep end of the system. Counties do not think that is a direction we want to be headed in. Can the state assure counties increased investment in the community-based side of the youth justice system will be made in the next biennium to offset the shift in revenue to SRCCCYs?

- What is the Wisconsin model of juvenile justice? Will the model be broad enough to provide counties with flexibility in the operation of SRCCCYs?

**Administrative Rule Changes:**

- Is the state open to county requests for administrative rule changes?
- If counties are co-locating secure detention and SRCCCYs, why are the training requirements for each facility different?
- Will there be flexibility provided to counties if it is necessary to incorporate various programming models?
- May impact a county's decision to renovate vs. build new.

NOTE: Counties will be meeting on May 1 to discuss rule changes.

**General Questions:**

- At what point does a grant application become binding - once a grant application is approved or will a separate agreement between the state and a county need to be executed?
- If a county is awarded a grant and opts out of operating a SRCCCY what happens? Does the state assume the building? What if the SRCCCY is co-located with a secure detention facility? What if the building is on county-owned land? Is there a set time frame after which the state no longer has claim to the facility? Depreciation?
  - Wis. Stats §13.48 (27m) (c) *if for any reason, the facility that is constructed with funds from the grant is not used for the purposes identified in the grant under 2017 Wisconsin Act 185, section 110 (4), the state shall retain an ownership interest in the facility equal to the amount of the state's grant.*
- Why types of technical assistance will be made available to counties throughout this process?
- How can counties ensure local school districts will actively engage with SRCCCYs in meeting educational goals?

## **SAMPLE SRCCY PROJECT COSTS**

**Construction Costs** – this is the “bricks and mortar” cost that includes everything that is “fixed” in the project. It is what typically the contractor is responsible for providing.

**Non-Construction Costs** – these are the additional costs that are part of the total project. They typically run from 18 to 25% of the construction cost, depending on whether the cost of land is included. Here is a list of the items that would fall in this category:

- Printing
- Plan review fees
- Site survey
- Soil investigation
- Soil and material testing during construction
- Moveable furniture and furnishings (FF&E)
- Moving costs
- Project start-up costs
- Communications
- Telephone system
- Interior signage
- HVAC testing and balancing
- Building commissioning (may not be required)
- Construction contingency
- Owner contingency
- Owner’s representative fees
- Cost of bond issuance (not required)

**Project Costs** – this is the sum of the construction and non-construction costs.

## ATTACHMENT 3

### Page 12 "Estimated Capacity Need by Initial Placement"

#### Estimated Capacity Need by Commitment Type

As noted earlier, post-Act 185 implementation, DJC's *primary* population will include youth with SJO commitments and youth with adult convictions; county/tribal-run SRCCCY's *primary* populations will include youth on juvenile commitments. This categorization reflects initial placement and does not include change of placement across facilities, including change of placement to MJTC.

### Estimated Capacity Need by Initial Placement<sup>1,2</sup>

Potential Population	Estimated SRCCCY ADP	Estimated Type 1 ADP
CY 2018 JCF ADP <sup>3</sup>	98.2	70.5
Long-Term Post-Dispositional Detention Converting to SRCCCY <sup>4</sup>	42.6	N/A
Additional Need from WCA Survey Data	15.0	N/A
Potential increase from increased availability of secure placement options	Unknown	Unknown
Potential decrease from systems improvement in community-based youth justice	Unknown	Unknown
<b>Total</b>	<b>155.8</b>	<b>70.5</b>
<b>Capacity Need Operating at 85%</b>	<b>183.3</b>	<b>82.9</b>

1. Based on current law; does not include impact of returning 17-year-olds to juvenile court jurisdiction
2. Does not include the impact of changes in placement between facilities or to MJTC.
3. Assumes SJO and adult commitments are placed at DOC Type 1; juvenile commitments placed at SRCCCYs.
4. Based on assumptions of which long-term post-dispositional detention programs remain post Act 185 implementation. If no long-term post-dispositional detention programs remain, this number could increase to an estimated total of 61.2 ADP.



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June, 2019

Joint Committee on Finance

Paper #252

### **Juvenile Population Estimates (Corrections -- Juvenile Corrections)**

[LFB 2019-21 Budget Summary: Page 104, #1, and Page 105, #5]

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#### **CURRENT LAW**

The juvenile population estimate is used for the calculation of the statutory daily rates at juvenile correctional facilities. Daily rates for juvenile care in a given biennium are specified in statute by fiscal year. Once the daily rate is calculated, it is used to determine: (a) what Corrections charges counties to house delinquent juveniles; (b) GPR funding required for the serious juvenile offenders; and (c) GPR funding required for the contract beds appropriation for qualified youth with adult sentences.

Under current law, the Department of Corrections may place persons who have not attained the age of 18 years but who are sentenced to the Wisconsin State Prisons at a juvenile correctional facility.

#### **GOVERNOR**

##### **Juvenile Population Estimates**

Under the bill, the juvenile correctional facility average daily population (ADP) is estimated to be 181 annually as shown in the table below. The juvenile facilities include Lincoln Hills School (LHS) (males), Copper Lake School (CLS) (females), the Mendota Juvenile Treatment Center (MJTC), and the Grow Academy, an agriculture science-based experiential education program held at a facility in Oregon, Wisconsin.

<u>Facilities</u>	May 5, 2019	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2019-20</u>	<u>2020-21</u>
Lincoln Hills School	129	131	131
Copper Lake School	12	15	15
Mendota Juvenile Treatment Center	21	29	29
Grow Academy	<u>5</u>	<u>6</u>	<u>6</u>
Total Juvenile Correctional Facility	167	181	181

### **Population and Inflationary Costs**

Modify population-related funding for juvenile corrections by \$54,300 PR in 2019-20 and \$196,300 PR in 2020-21, as follows: (a) -\$113,400 PR in 2019-20 and -\$107,000 PR in 2020-21 for food costs at juvenile correctional facilities; (b) -\$52,000 PR annually for variable non-food costs (such as clothing, laundry, and personal items); and (c) \$219,700 PR in 2019-20 and \$355,300 PR in 2020-21 for juvenile health costs.

### **DISCUSSION POINTS**

1. As indicated above, the estimated population projections for juveniles under the bill in the 2019-21 biennium would include 181 juveniles annually in the juvenile facilities. The population projections include juveniles in the SJO program. Estimated populations factor into population and inflationary costs for the juvenile correctional facilities, as well as statutory daily rate calculations.

2. The above estimates are based on population data through June, 2018. While the overall average daily population for the juvenile correctional facilities during the summer of 2018 has been approximately 181 juveniles, populations during the past six months have generally been lower, as indicated by the actual populations also identified in the above table. Taking into account recent population trends, as well as historic population patterns, for the juvenile correctional schools, corrective sanctions, and aftercare, the estimated average daily population for juvenile placements may be adjusted as follows:

	<u>Updated ADPs</u>	
	<u>2019-20</u>	<u>2020-21*</u>
Lincoln Hills School	122	122
Copper Lake School	17	17
Grow Academy	5	5
Mendota Juvenile Treatment Center	<u>25</u>	<u>25</u>
Total	169	169

\*The population projections for 2020-21 do not reflect any of the modifications made by 2017 Act 185 or proposed in subsequent legislation.

The reestimated populations assume a decrease in the number of juveniles placed in the schools. As a result of a lower estimated population in the juvenile correctional facilities, population-related funding in the bill would be decreased to the base by a net \$900 PR in 2019-20 and an increase by a net \$133,400 PR in 2020-21, associated with: (a) food costs (-\$130,800 PR in 2019-20 and -\$124,900 PR in 2020-21); (b) variable non-food costs (-\$58,700 PR annually); and (c) juvenile health costs (\$188,600 PR in 2019-20 and \$317,000 PR in 2020-21). Compared to the Governor's budget recommendation, the reestimated population would reduce funding by \$55,200 in 2019-20 and \$62,900 in 2020-21.

3. In order to illustrate why the population in 2020-21 can currently only be estimated not reflecting the modifications of Act 185 or proposed subsequent legislation, the attached population information is provided. Attachment 1 provides information regarding the type of commitment orders of youth in a Type 1 facility from 2014 to 2018 on a calendar year (CY) basis. Using the information in Attachment 1 for CY 2018, the Department of Corrections provided the information in Attachment 2, which estimates that after implementation of Act 185 the average ADP of all new state run Type 1 facilities would be approximately 70.5. The decrease in 2020-21 in population from 169 to around 70.5 would significantly change population and inflationary calculations and costs. This and other components of the daily rate may be affected, which would result in a daily rate that is too low for the population.

## MODIFICATION

### Juvenile Population Estimates

Reestimate the juvenile correctional facility average daily population (ADP) to be 169.

	<u>Updated ADPs</u>	
	<u>2019-20</u>	<u>2020-21*</u>
Lincoln Hills School	122	122
Copper Lake School	17	17
Grow Academy	5	5
Mendota Juvenile Treatment Center	<u>25</u>	<u>25</u>
Subtotal	169	169

\* The population projections for 2020-21 do not reflect any of the modifications made by 2017 Act 185 or proposed in subsequent legislation will not be implemented until the 2021-23 biennium.

### Population and Inflationary Costs

Decrease funding in the bill by \$55,200 PR in 2019-20 and \$62,900 PR in 2020-21, associated with: (a) food costs (-\$17,400 PR in 2019-20 and -\$17,900 PR in 2020-21); (b) variable non-food costs (-\$6,700 PR annually); and (c) juvenile health costs (-\$31,100 PR in 2019-20 and -\$38,300 PR in 2020-21).

As a result, total population-related funding provided for the juvenile correctional facilities

would be \$991,100 in 2019-20 and \$1,125,400 in 2020-21, as follows: (a) \$320,100 in 2019-20 and \$326,000 in 2020-21 for food costs at juvenile correctional facilities; (b) \$110,300 annually for variable non-food costs (such as clothing, laundry, and personal items); and (c) juvenile health costs (\$560,700 in 2019-20 and \$689,100 in 2020-21).

	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
PR	\$132,500	- \$118,100

Prepared by: Sarah Wynn  
Attachments

## ATTACHMENT 1

### Youth ADP by Commitment and Facility (CY 2014 - 2018)

<u>Commitment Type/Facility</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Average (2014-18)</u>	<u>Dec-18</u>
<b>Juvenile</b>							
Lincoln Hills School	166.81	146.92	93.69	69.90	70.46	109.55	72.10
Copper Lake School	31.77	23.84	15.53	16.55	13.47	20.23	12.65
Mendota Juvenile Treatment Center	23.47	24.61	22.20	16.85	14.24	20.27	10.77
<b>Serious Juvenile Offender (SJO)</b>							
Lincoln Hills School	66.95	71.45	54.76	53.09	35.78	56.41	30.10
Copper Lake School	1.60	3.00	3.57	3.37	2.49	2.81	2.00
Mendota Juvenile Treatment Center	5.23	3.46	5.73	9.58	9.47	6.69	11.16
<b>Adult</b>							
Lincoln Hills School	6.10	10.13	17.81	23.33	19.44	15.36	17.42
Copper Lake School	0.48	1.59	1.86	1.93	0.55	1.28	1.00
Mendota Juvenile Treatment Center	<u>0.00</u>	<u>0.12</u>	<u>0.55</u>	<u>1.97</u>	<u>2.81</u>	<u>1.09</u>	<u>3.00</u>
<b>Total</b>	302.41	285.12	215.69	196.58	168.71	233.69	160.19



## ATTACHMENT 2

### Page 12 "Estimated Capacity Need by Initial Placement"

#### Estimated Capacity Need by Commitment Type

As noted earlier, post-Act 185 implementation, DJC's *primary* population will include youth with SJO commitments and youth with adult convictions; county/tribal-run SRCCCY's *primary* populations will include youth on juvenile commitments. This categorization reflects initial placement and does not include change of placement across facilities, including change of placement to MJTC.

### Estimated Capacity Need by Initial Placement<sup>1,2</sup>

Potential Population	Estimated SRCCCY ADP	Estimated Type 1 ADP
CY 2018 JCF ADP <sup>3</sup>	98.2	70.5
Long-Term Post-Dispositional Detention Converting to SRCCCY <sup>4</sup>	42.6	N/A
Additional Need from WCA Survey Data	15.0	N/A
Potential increase from increased availability of secure placement options	Unknown	Unknown
Potential decrease from systems improvement in community-based youth justice	Unknown	Unknown
<b>Total</b>	<b>155.8</b>	<b>70.5</b>
<b>Capacity Need Operating at 85%</b>	<b>183.3</b>	<b>82.9</b>

1. Based on current law; does not include impact of returning 17-year-olds to juvenile court jurisdiction
2. Does not include the impact of changes in placement between facilities or to MJTC.
3. Assumes SJO and adult commitments are placed at DOC Type 1; juvenile commitments placed at SRCCCYs.
4. Based on assumptions of which long-term post-dispositional detention programs remain post Act 185 implementation. If no long-term post-dispositional detention programs remain, this number could increase to an estimated total of 61.2 ADP.





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June, 2019

Joint Committee on Finance

Paper #253

### Juvenile Appropriation Deficit (Corrections -- Juvenile Corrections)

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#### CURRENT LAW

Under current law, the daily rate for juvenile correctional facilities is specified in statute based on projected annual costs and the estimated average daily population. In addition, the daily rates statutorily include a \$6 add-on to address the juvenile operations appropriation deficit until the deficit is eliminated. If moneys generated by the daily rate exceed actual institutional costs in a fiscal year by 2% or more, the amounts in excess of 2% must be remitted to the counties 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.

#### GOVERNOR

No provision.

#### DISCUSSION POINTS

1. A \$17 add-on was created under the 2011-13 biennial budget, Act 32, in order to reduce the deficit in the Department's juvenile operations appropriation. Since the amount of the deficit declined, the 2013-15 biennial budget reduced the add-on to \$6. There was no deficit in 2015-16. However, the \$460,300 balance was not sufficient to exceed the 2% threshold and can be attributed to the \$6 add-on. The Division of Juvenile Corrections indicates it is projecting a deficit for 2018-19, although the actual amount will be unknown until the close of the fiscal year. The table below shows the status of the deficit from 2008-09 to 2017-18.

	<u>Ending Cash Balance</u>	<u>Lapse</u>
2008-09	-\$2,203,700	
2009-10	-8,819,400	
2010-11	-19,506,300	
2011-12	-13,386,300	
2012-13	-8,888,600	
2013-14	-4,644,400	
2014-15	436,400	\$582,500*
2015-16	-2,142,800	
2016-17	-5,226,500	
2017-18	-7,036,900	
2018-19 YTD	-8,143,100	

\*Lapse required by 2013 Act 20

2. There are a number of variables which could affect the Department's ability to not only eliminate the current deficit, but also remain out of deficit in the future. These factors include population and cost variations (to the extent that populations and/or costs vary from the estimates, actual revenue generated or the existence of a deficit may vary), legislation, and juvenile care decisions by the county judges.

3. Juvenile populations declined rapidly from 2016 to 2018, while at the same time the incurred expenditures, such as paying for contracted healthcare staff to handle medication administration increased. Further, a delay in Corrections authority to charge a higher daily rate in 2017-18 led to decreased revenue of \$1,643,000. These factors resulted in an unsupported cash overdraft of -\$4,441,400 PR at the end of 2017-18. [The unsupported cash overdraft is equivalent to the deficit less offsetting assets.]

4. Corrections estimated in a letter to DOA on November 29, 2018, that the deficit could be retired in 2028-29 if populations remain at the 2018-19 budgeted level. However, as discussed in a prior paper, the populations have continued to decrease. In addition, the movement of juveniles to county secure residential care centers will further decrease the population from which the add-on can be collected, which will extend the timeline for discharge of the debt. In addition, at that point in time, most of the juveniles at the Type 1 facilities have the daily rate funded through GPR through either the serious juvenile offender program or through the adult contract bed appropriation as youth under 18 with adult sentences.

5. To the extent that the add-on is retained and the deficit is eliminated, current statutory language provides that if monies generated by the daily rate exceed actual costs by more than 2%, all monies in excess of 2% must be remitted to the counties or the Department (for daily rates paid for serious juvenile offenders) in the subsequent calendar year. As a result, the statutory daily rates for juvenile correctional facilities would be modified to include the \$6 daily rate add-on. The add-on increases the annual cost per juvenile at a juvenile correctional facility by \$2,190 and impacts the cost of the serious juvenile offender program and contract beds for youth under 18 years of age with adult sentences.

6. Due to continuing deficits in the appropriation, some add-on is necessary. In order to eliminate the deficit within the next five years, the add-on would need to be increased to \$35 per day. However, such an add-on could make the daily rate more difficult for counties and the state to afford. Further, the uncertainty of costs and operations under Act 185, make it unknown whether the add-on will continue to be necessary or will need to increase in future years. The administration did not propose any change in the daily rate add-on. For all of these reasons, it is assumed that the \$6 add-on will continue to be included in the calculation of the overall daily rate.

Prepared by: Sarah Wynn





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June, 2019

Joint Committee on Finance

Paper #254

### **Juvenile Statutory Daily Rates, Serious Juvenile Offenders, and Contract Beds (Corrections -- Juvenile Corrections)**

[LFB 2019-21 Budget Summary: Page 104, #2; and Page 105, #3]

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#### **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. These daily rates are calculated based on the projected annual cost and the estimated average daily population. The current daily rate for Lincoln Hills and Mendota Juvenile Treatment Center (MJTC) is \$397. The daily rate for juvenile correctional facilities currently includes a \$6 add-on to address the juvenile operations appropriation deficit.

There are four ways to moderate the costs that counties experience for juvenile care provided through the Division of Juvenile Corrections (DJC): (a) increase the populations under DJC's supervision; (b) reduce expenses; (c) more fully utilize state funded programming; and (d) partially fund costs through GPR thus reducing the PR costs to counties.

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

Corrections 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 \$19,077,000 GPR.

## GOVERNOR

### Statutory Daily Rates

Specify the following statutory daily rates be established for juvenile correctional services provided or purchased by the Department that would be charged to counties and paid through counties' youth aids allocations, or paid by the state through the serious juvenile offender appropriation. The table below shows the expenses included in the calculation of the daily rate and resulting daily rate.

#### Juvenile Rates 2019-2021 -- Governor

	<u>2019-20</u>	<u>7/1/20- 12/31/20</u>	<u>1/1/21- 6/30/21</u>
Base	\$31,170,300	\$15,713,200	\$15,457,100
Standard Budget Adjustments	632,300	318,700	313,600
Operating Reserves	869,700	734,600	722,700
Rent	3,200	2,200	2,100
PR Reestimate	-290,600	-142,600	-140,300
Risk Management Premium	463,600	233,700	229,900
MJTC Re-Estimate	291,500	166,700	2,598,600
Food, Variable, and Health	<u>54,300</u>	<u>67,700</u>	<u>66,500</u>
Total Expenses	\$33,194,300	\$17,094,200	\$19,250,200
Daily Rate	\$501	\$513	\$588

	Statutory Rates		Governor	
	<u>7-1-18 thru 6-30-19</u>	<u>7-1-19 thru 6-30-20</u>	<u>7-1-20 thru 12-31-20</u>	<u>1-1-21 thru 6-30-21</u>
Juvenile Correctional Facilities*	\$397	\$501	\$513	\$588

\*Includes: (a) transfers from a juvenile detention facility to the Mendota Juvenile Treatment Center; and (b) youth under 18 with adult sentences.

## Serious Juvenile Offender Program

Reduce funding by \$2,914,200 GPR in 2019-20 and \$605,100 GPR in 2020-21 related to provide juvenile institution care, alternate care, and community supervision for serious juvenile offenders (SJO). Decreased costs are associated with a decrease in the estimated average daily population (ADP). The estimated ADP for the SJO population would be 116 in 2019-20 and 104 in 2020-21. Base funding for the program is \$19,077,000 GPR annually. In January, 2019, SJO had an average ADP of 113 juveniles. The following ADPs for the SJO appropriation, are projected for the 2019-21 biennium:

### Governor SJO Average Daily Population

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2019-20</u>	<u>2020-21</u>
Juvenile Corrections Facilities	45	58
Community Supervision Program	<u>71</u>	<u>46</u>
Total ADP	116	104
Alternate Care*	31	20

\* A subset of the community supervision program (corrective sanctions and aftercare supervision) program that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

### Contract Beds

Decrease contract bed funding for youth under 18 with adult sentences from \$5,071,700 GPR annually (for 35 youth) to \$4,409,600 GPR in 2019-20 and \$4,511,400 GPR in 2020-21 (for 24 youth). Contract bed funding is provided under the Division of Adult Institutions and calculated using the daily rate.

## DISCUSSION POINTS

The average daily populations for juvenile placements and adjustments for funding population-related costs were reestimated in a separate paper. As a result of the reestimated populations, this paper adjusts costs, modifies the statutory daily rate, and funding for the Serious Juvenile Offender program.

### Juvenile Population and Inflationary Costs

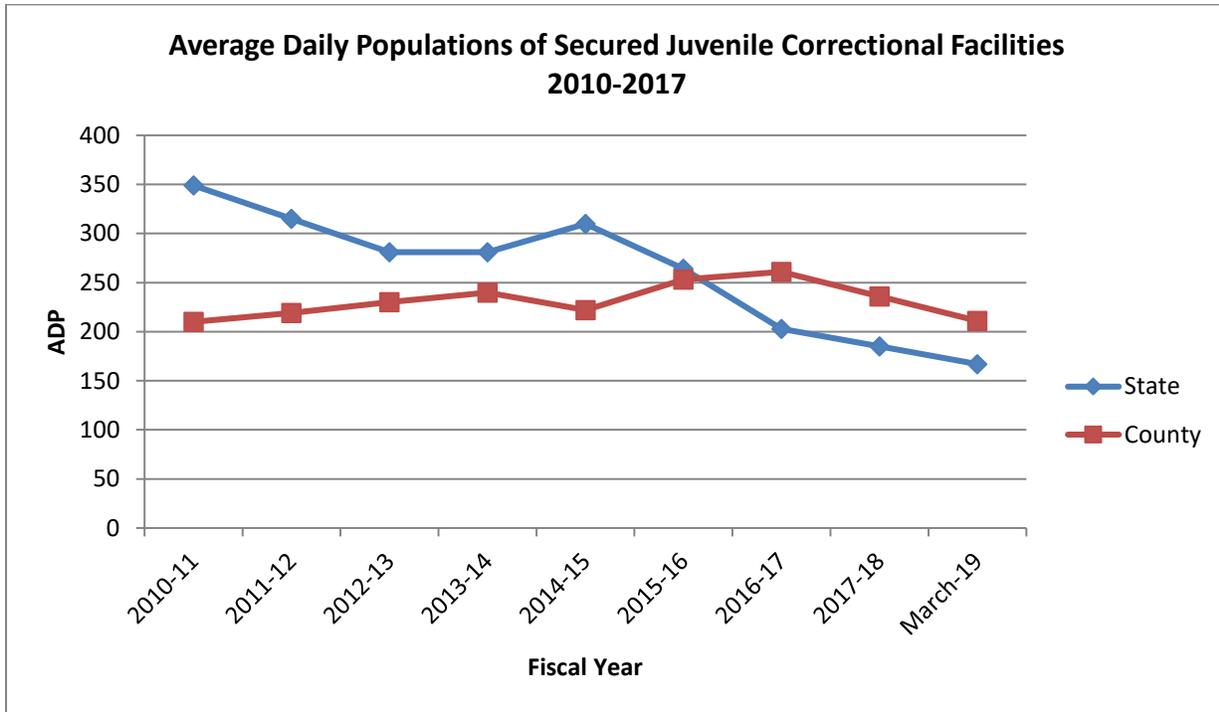
1. The estimated population projections for juveniles in the 2019-21 biennium would include 169 juveniles annually in the juvenile facilities. This paper uses the 169 population for estimating purposes. The population projections include juveniles in the SJO program.

### Statutory Daily Rates

2. During the public hearings on the budget, a number of county representatives indicated

that the daily rates at Lincoln Hills and Copper Lake made the schools less accessible. If daily rates are too high, counties may be reluctant to send juveniles and the rates will increase even more due to the decrease in population.

3. Legislation passed in 2013-15 and 2015-17 biennia has allowed counties to keep juveniles at county facilities for longer periods of time. Statutes currently allow counties to hold adjudicated juveniles up to 365 days. Prior to 2013, placements of more than 30 days were required to be at a state facility. The average ADP of county and state facilities from 2010-11 through 2018-March of 2019 is shown in the chart below.



4. The daily rates are calculated utilizing the population projections and estimated costs of each program. Total costs, as modified for population and cost adjustments are \$33,139,100 in 2019-20 and \$36,343,500 in 2020-21 for juvenile correctional facilities. The table below shows the expenses and the manner in which expenses are divided by the reestimated population and number of days in a year to determine the daily rate.

**Population Modified Juvenile Rates 2019-2021**

	<u>2019-20</u>	<u>7/20 - 12/20</u>	<u>1/21 - 6/21</u>
Base	\$31,170,300	\$15,713,200	\$15,457,100
Standard Budget Adjustments	632,300	318,700	313,600
Operating Reserves	869,700	734,600	722,700
Rent	3,200	2,200	2,100
PR Reestimate	-290,600	-142,600	-140,300
Risk Management Premium	463,600	233,700	229,900
MJTC Re-Estimate	291,500	166,700	2,598,600
Food, Variable, and Health	<u>-900</u>	<u>67,200</u>	<u>66,200</u>
Total Expenses	\$33,139,100	\$17,093,700	\$19,249,800
Daily Rate	\$532	\$550	\$629

5. Based on the reestimated populations and population-related cost adjustments, the statutory daily rates would be modified as follows:

	<u>Governor*</u>			<u>Modification*</u>			<u>Difference</u>		
	<u>7-1-20 thru</u>	<u>1-1-21 thru</u>		<u>7-1-20 thru</u>	<u>1-1-21 thru</u>		<u>7-1-20 thru</u>	<u>1-1-21 thru</u>	
	<u>2019-20</u>	<u>12-31-20</u>	<u>6-30-21</u>	<u>2019-20</u>	<u>12-31-20</u>	<u>6-30-21</u>	<u>2019-20</u>	<u>12-31-20</u>	<u>6-30-21</u>
Juvenile Correctional Facilities	\$501	\$513	\$588	\$532	\$550	\$629	\$21	\$19	\$41

\*Amounts include the \$6 statutory add-on to the daily rate.

6. The reestimated daily rates represent a change to the administration's recommended rates for juvenile correctional facilities, \$21 in 2019-20, \$19 for July 1, 2020, thru December 31, 2120, and \$41 for January 1, 2021, thru June 30, 2021. Subsequent papers address various issues which may additionally adjust the daily rate.

7. Current statutory language provides that if monies generated by the daily rate exceed actual costs by more than 2% (\$635,118 in 2019-20 and \$651,306 in 2020-21), all monies in excess of 2% must be remitted to the counties or the Department (for daily rates paid for serious juvenile offenders) in the subsequent calendar year.

8. In considering the new Type 1 facilities, expanded MJTC, and SRCC's described by 2017 Act 185, it is unlikely that rates for these facilities will be significantly different from the estimated daily rates for 2019-21 biennium. To this point, in La Crosse's presentation to the Grant Committee on May 6, 2019, it was estimated that La Crosse's SRCC would have to charge other counties a daily rate of \$400 to \$500 dollars a day.

9. It should be noted that daily rates for Lincoln Hills/Copper Lakes has been comparable to the daily rates of group homes and Residential Care Centers (RCC) that provide 24/7 care for juveniles both with and without dispositional orders.

10. Group homes provide care and maintenance for five to eight children, excluding children of minors. Group homes may be: (a) family-operated group homes, where the licensee is one or more individuals who operate only one group home; (b) agency-operated group homes, where the licensee is a public agency other than DCF; or (c) corporation-operated group homes, where the licensee is a nonprofit or proprietary corporation that operates one or more group homes. Group homes charge a daily rate between \$180 and \$240.

11. Residential care centers provide treatment and custodial services for children, youths, and young adults. These centers are typically licensed private child welfare agencies. Placement into an RCC must be made before the child reaches age 18, unless the placement is made under a juvenile court's jurisdiction. An RCC may not have five or more young adults age 18 or older at its facilities at one time unless it is also licensed as a community-based residential facility. These facilities charge between \$269 and \$557 per day.

### **Serious Juvenile Offender Program**

12. The SJO appropriation supports costs associated with juvenile correctional facilities, corrective sanctions providers, aftercare providers, and alternate care providers for services for juveniles who receive a SJO disposition. All components of the SJO disposition are state-funded, based on the projected ADP and daily rate for each type of care. Base funding for the SJO appropriation is \$19,077,000 GPR. The average SJO program ADP through March, 2019, was 81. Based on more recent SJO data, the population may be reestimated as indicated below.

#### **Reestimated SJO Average Daily Population**

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2019-20</u>	<u>2020-21</u>
Juvenile Corrections Facilities	38	52
Community Supervision Program	<u>72</u>	<u>46</u>
Total ADP	110	98
Alternate Care <sup>1</sup>	31	20

<sup>1</sup> A subset of the community supervision program (corrective sanctions and aftercare supervision) program that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

13. As a result of modifying the daily rates and reestimating populations, funding for the SJO program would be decreased by \$3,800,400 GPR in 2019-20 and \$1,152,400 GPR in 2020-21.

### **Contract Beds**

14. The Department's Division of Adult Institutions pays DJC for the placement of young offenders, sentenced as adults in the juvenile school. As a result of the modification in the daily rate decreased contract bed funding of \$565,500 GPR in 2019-20 and increased \$87,900 GPR in 2020-21 (from \$5,071,700 GPR annually to \$4,506,200 GPR in 2019-20, and \$5,159,600 GPR in 2020-21) would be necessary to reflect the modified daily rate.

15. The Committee, in taking action on LFB Budget Paper #255 regarding the Mendota Juvenile Treatment Center, may make modifications to the juvenile operating budget that would affect daily rate estimates. Following Committee action on the juvenile justice papers, this office will provide a modification to the Committee which will indicate the statutory daily rate for the juvenile facilities for 2019-20 and 2020-21. In addition, the modification will address reestimates of the serious juvenile offender appropriation, which must also reimburse the Division of Juvenile Corrections for the costs of care provided to certain state-funded juvenile offenders. Therefore, the paper will not include alternatives that modify the daily rate, SJO and a reestimate of the contract beds appropriation and contract beds.

### **Passive Review of the Daily Rate**

16. There are significant decisions to be made surrounding juvenile justice as discussed in previous papers. These decisions will affect both the cost of providing juvenile correctional services and the population of juveniles served. The uncertainty around both pivotal elements in the daily rate calculation, makes calculating a daily rate for 2020-21 through the biennial budget process impossible.

17. Given the uncertainty around the Act 185 implementation or modifications and the location of resulting juvenile populations, the Committee may consider setting the 2019-20 daily rate in statute and allowing Corrections to return to the Committee with a passive review request by March 1, 2020, to set the daily rate for 2020-21. [Alternative 1] This alternative would allow for a more accurate estimate of costs and populations for the 2020-21 fiscal year when more information is available, while still providing for legislative oversight.

18. If no action is taken regarding the passive review of the daily rate, the rates would continue to be established in statute. [Alternative 2]

19. Under either alternative, as indicated in point #15 above, this office will prepare a subsequent modification paper establishing the 2019-20 and 2020-21 rate based on Committee action.

### **ALTERNATIVES -- PASSIVE REVIEW OF THE DAILY RATE**

1. Remove the 2020-21 daily rate from statute and instead have the 2020-21 daily rate set through a 14-day passive review process submitted to the Joint Committee on Finance by March 1, 2020.

2. Take no action.

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June, 2019

Joint Committee on Finance

Paper #255

### **Mendota Juvenile Treatment Center -- Expansion and Funding Transfer from DOC (Corrections -- Juvenile Corrections)**

[LFB 2019-21 Budget Summary: Page 105, #4; Page 210, #3; and Page 218, #14 ]

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#### **CURRENT LAW**

*Mendota Juvenile Treatment Center.* The Mendota Juvenile Treatment Center (MJTC) is a Type 1 juvenile correctional facility that provides psychiatric evaluation and treatment for male juveniles transferred from the juvenile correctional system whose behavior is highly disruptive and who have not responded to standard services and treatment at the Department of Corrections' (DOC) secure correctional facility at Lincoln Hills. MJTC treatment and programming includes therapy for anger management, treatment to address substance abuse, sexual offense, or mental illness, and academic support. Treatment is designed to improve behavior and manage any mental health conditions to permit a transfer back to Lincoln Hills. MJTC, which is on the campus of the Mendota Mental Health Institute in Madison, has been in operation since 1995.

MJTC has 29 staffed beds in single-occupancy secure rooms. MJTC has 50.5 dedicated positions, but is also supported by Mendota Mental Health Institute staff for evening and overnight shifts. The salary and fringe benefit costs for the dedicated positions are funded by the Department of Corrections, through an annual transfer from DOC's juvenile justice budget. A portion of this transfer is from DOC's GPR appropriation for MJTC and a portion is made from DOC's PR appropriation for juvenile correctional services. DOC collects revenue for this appropriation from counties for juveniles placed under DOC supervision. In 2018-19, DOC is required to transfer a total of \$4,298,100 for MJTC, composed of \$1,365,500 GPR and \$2,932,600 PR. The food and non-food supplies and services (medical services, medical supplies, prescription drugs, and clothing) for MJTC is funded from the budget for the Mendota Mental Health Institute.

*Juvenile Justice Provisions under 2017 Act 185.* Under provisions of 2017 Act 185, DHS is required to expand MJTC to accommodate no fewer than 29 additional juveniles, subject to

approval of the Joint Committee on Finance. The act authorized \$15.0 million in general fund-supported general obligation bonds for capital costs related to the expansion. Act 185 includes various other changes to juvenile justice system, including a requirement that DOC close the state's existing juvenile correctional facilities at Lincoln Hills--the Lincoln Hills School for males and Copper Lake School for females--by January 1, 2021. The act provides \$25 million for the construction of one or more new DOC juvenile correctional facilities for serious juvenile offenders and \$40 million in general obligation bonds for the construction of county-based residential care centers for other juvenile offenders (a "secure residential care center for children and youth," or SRCCCY). Upon closure, the juveniles housed at Lincoln Hills and Copper Lake will be transferred to a new Type 1 juvenile correctional facility or to a SRCC.

Act 185 changed various provisions related to the responsibility for supervision of juveniles with correctional placements, and the transfer of juveniles between correctional facilities. DOC maintains supervision of all juveniles adjudicated as "serious juvenile offenders" and youth under the age of 18 with an adult sentence. These juveniles will remain in a Type 1 juvenile correctional facility. Once Lincoln Hills and Copper Lake are closed, Act 185 specifies that counties have supervision of all other juveniles with a correctional placement. These juveniles may be placed in a SRCC or a grandfathered 365-day program in a county juvenile detention facility. Under certain circumstances, such as an SRCC is unable to meet the treatment needs of the juvenile, the county may petition the court for a change of placement order to a state Type 1 juvenile correctional facility, including MJTC. In these cases, a juvenile may be transferred to MJTC only upon recommendation of DHS. Likewise, a juvenile under DOC supervision may only be transferred to MJTC upon recommendation of DHS.

## **GOVERNOR**

*MJTC Expansion Funding and Positions.* Provide \$3,159,500 PR and 50.5 PR positions, beginning in 2020-21, to expand the staffed capacity of the Mendota Juvenile Treatment Center (MJTC) by 14 beds, from 29 beds currently to 43 beds. The funding increase includes \$2,465,500 for salary and fringe benefits, \$539,100 for supplies and services associated with the staff positions, and \$154,900 for food and variable non-food costs (such as medication and medical services, laundry, and linens) associated with the additional youths that would receive services.

*Placement of Juveniles at MJTC.* Modify provisions enacted as part of 2017 Act 185 that authorize courts to place a juvenile at MJTC upon recommendation of DHS, to instead authorize a court to transfer a juvenile to MJTC with the approval of DHS. Specify that only the Director of MJTC or his or her designee is authorized to 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. Prohibit a court from ordering DHS to accept a juvenile placement at MJTC that the Department has not approved. Modify a provision that authorizes the Department of Corrections to object to the transfer of a juvenile from a SRCC to a Type 1 juvenile correctional facility, to specify that this authority does not apply to transfers to MJTC. Specify that these provisions first apply to a juvenile adjudicated delinquent by a court and placed at a county SRCC on the general effective date of the bill.

*Program Revenue Appropriation for Direct County Placements.* Modify the program revenue appropriation for the institutional operations of the mental health institutes to incorporate the operations of MJTC in the expenditure authority and the collection of payments from counties for the care of juveniles at MJTC in the appropriation's revenue sources. Require counties to reimburse DHS at a rate specified by the Department for the cost of care of juveniles placed at MJTC. Specify that any juvenile under supervision of a county in a secured treatment center who is transferred to MJTC remains under the supervision of that county.

*Joint Committee on Finance Approval of Expansion.* Repeal a provision created in Act 185 that requires approval of the Joint Committee on Finance to the Department's MJTC expansion.

*Funding Transfer from DOC.* Modify a statutory provision that identifies the amount of funding that the DOC is required to transfer to DHS to support the costs of the Mendota Juvenile Treatment Center, to require transfers of \$3,224,100 in 2019-20 and \$5,878,100 in 2020-21 from the DOC PR appropriation for juvenile correctional services.

*DOC Appropriation Adjustment for MJTC Transfer.* Provide \$291,500 PR in 2019-20 and \$2,945,500 PR in 2020-21 related to payments to DHS for juveniles placed at the Mendota Juvenile Treatment Center.

## **DISCUSSION POINTS**

1. This paper provides a discussion of several inter-related provisions related to the Mendota Juvenile Treatment Center, arranged in the following sections: (a) background on MJTC and the decision made with the enactment of 2017 Act 185 to expand the facility; (b) a discussion of the Department's expansion proposal in the context of other Act 185 provisions and trends in juvenile corrections more broadly; (c) a description of the bill's position and funding proposal for the 2019-21 biennium; (d) a description of the Department's plan for future expansion of MJTC; (e) a discussion of some potential alternatives related to the expansion for the Committee's consideration; (f) a discussion of the transfer funding mechanism for MJTC costs; and (g) a description of the bill's proposed statutory changes to MJTC referral and admission policies.

### **Background on MJTC**

2. In considering changes to the state's juvenile justice system during the 2017 session, the Legislature sought to use MJTC as a component of the reform strategy. Proponents argued that the MJTC treatment and education model has shown considerable success at reducing violent and antagonistic behavior in troubled juveniles. But while MJTC has an effective treatment model, they argued that it is underutilized and so an expansion was warranted. Act 185 requires DHS to expand MJTC by at least 29 beds, which would double its current capacity.

3. MJTC provides treatment to boys whose psychopathy, coupled with violent and aggressive behavior, makes them difficult to manage in a normal correctional setting. The MJTC model is based on the finding that for some juveniles, a punitive approach to corrections reinforces antisocial behavior, rather than serving as a deterrent. MJTC uses a system of rewards for positive

behavior as an incentive to participate in treatment and programming. Through counseling, academic support, and group therapy, the MJTC model aims to strengthen the youths' connections to others, including authority figures, and to adopt more positive attitudes toward desirable social behaviors. Although not a primary focus of MJTC programming, the boys also receive substance abuse and mental health treatment as needed.

4. The average amount of time that boys are in treatment at MJTC is nine months. Upon completion of treatment, boys may be returned to Lincoln Hills or may be ready for release. In some cases, the MJTC treatment ends because the boy reaches the end of his term of commitment, rather than a determination that the boy has progressed to a point where further treatment would not be necessary or beneficial. In cases where a juvenile is released to the community, MJTC works with county caseworkers on transition planning.

5. To demonstrate the effectiveness of MJTC, DHS points to published studies that have compared recidivism outcomes for youth who had received MJTC treatment and youth who received standard juvenile correctional rehabilitation services. In one such study, MJTC youth were found to be at least 50% less likely to commit a violent crime than similar youth who were not referred for MJTC treatment. Based on this finding, the study authors found that MJTC treatment is highly economical, with estimated savings in future correctional costs of seven times the amount spent for treatment. For this reason, the MJTC model is nationally recognized as a promising approach to juvenile offender rehabilitation.

6. When initially built, MJTC operated 43 beds in three units. One 14-bed unit was closed in 2001, reducing the capacity to the current level of 29 beds. In 2016, the 14-bed unit that had previously been used for MJTC was converted to use for forensic patients committed to the Mendota Mental Health Institute. The forensic patients will be moved out of the MJTC unit upon completion of a renovation project to new forensic beds in an adjacent building. The first phase of the proposed MJTC expansion would begin by utilizing these vacated beds. This transition is expected to occur in the fall of 2020, and is the basis of the administration's funding and position proposal.

### **Discussion of Act 185 Provisions Related to Juvenile Placements and Potential Impact on Admissions to MJTC**

7. The Department's MJTC expansion proposal is based, broadly, on the assumption that there will be more juveniles admitted to MJTC to fill the proposed beds. The Department believes that the Act 185 provisions relating to the placement of juveniles at MJTC directly from SRCCs, as well as opening a treatment unit for girls, could significantly expand the placement of juveniles at MJTC. Likewise, the Department believes that once DOC opens a new juvenile correctional facility to replace Lincoln Hills, DOC could have a higher number of referrals to MJTC.

8. Traditionally, MJTC been fully utilized, with an average daily population approaching the maximum staffed capacity of 29. More recently the daily population has declined and has generally remained below 25 since the beginning of calendar year 2019. DHS indicates that the facility is undergoing painting and minor renovations that have taken some beds out of use, which accounts for some of the decline. In addition, DHS indicates that the transitions occurring at Lincoln Hills and at the county level in the wake of Act 185 has reduced the number of juveniles transferred

to MJTC. The Department believes that the changes are temporary. The table below shows the average daily population (ADP) from calendar year (CY) 2014 through 2018.

**MJTC Youth ADP by Commitment  
(CY 2014 - 2018)**

Commitment Type/Facility	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	Average ( <u>2014-18</u> )	<u>Dec-18</u>
<b>Juvenile (County)</b>	23.47	24.61	22.20	16.85	14.24	20.27	10.77
<b>Serious Juvenile Offender (SJO)</b>	5.23	3.46	5.73	9.58	9.47	6.69	11.16
<b>Adult</b>	<u>0.00</u>	<u>0.12</u>	<u>0.55</u>	<u>1.97</u>	<u>2.81</u>	<u>1.09</u>	<u>3.00</u>
Total	28.70	28.19	28.48	28.40	26.52	28.05	24.93

9. More recently, in March, 2019, MJTC had an ADP of 22.35 juveniles. It should be noted that despite declining average daily populations, there are points in time where more beds at MJTC are in use. Given the populations that are served by MJTC, it is important that when there is a juvenile appropriate to receive treatment at MJTC, there be an open bed for that juvenile.

10. However, given current population trends, it is unclear that on January 1, 2021, an additional 14 beds will be required, in addition to the approximately four or five beds that are currently available. On the other hand, even though the beds will not be filled, given the juvenile populations that MJTC works with, it can be important to the treatment of individual juvenile as well as the safety of staff to have a wing of beds that is separated by a physical barrier from the rest of the MJTC population.

11. The uncertainty around when and if SRCCs will be built and be occupied adds another level of difficulty to estimating MJTC populations. Delay in SRCC building and occupation complicates who will fill beds at MJTC on January 1, 2021, but once the buildings are completed it is estimated that a maximum of an additional 62 extra juveniles from 180-365 day programs may be evaluated for placement at MJTC. A portion of estimated 62 juveniles are likely female and, thus, ineligible for placement at MJTC at this time. However, if counties decide to not build SRCCs and keep juveniles in 180-365 day programs in juvenile detention facilities, the juveniles will not be eligible for transfer to MJTC.

12. An increase in beds and, thus, staffing, without increase in population in Type 1 facilities will result in an increase in DJC's daily rate charged to counties and Corrections GPR appropriations since the calculation for the daily rate includes MJTC costs. Thus, counties and the state will be responsible for the costs, but may not have juveniles to place in the available beds.

**Description of the Administration's 2019-21 Position and Funding Proposal**

13. The bill would create 50.5 positions and provide funding for salary and fringe benefits,

supplies and services associated with the staff positions, and variable non-food (such as medication and medical services, laundry, and linens) and food costs associated with the additional youths who would be housed in the 14-bed expansion. The following table shows the funding by function.

	<u>2020-21 Funding</u>
Salaries	\$1,688,300
Fringe Benefits	777,200
Staff Supplies and Services	539,100
Variable Non-Food Supplies and Services	137,700
Food	<u>17,200</u>
Total	\$3,159,500

14. The funding for MJTC is budgeted in the Department's Division of Care and Treatment Services' "interagency and intra-agency programs" PR appropriation. This appropriation provides the expenditure authority for programs, like MJTC, that are funded with revenues transferred from other agencies or from other appropriations within the Department. Providing the funding in this appropriation does not also provide the revenue. The revenue to support MJTC expenditures is provided through a transfer from the Department of Corrections, an issue that is addressed in more detail in a later section of this paper.

15. Of the additional 50.5 positions, 42.5 would staff the expansion unit, while 8.0 would serve as program staff for the whole facility, including the Department's proposed future expansion (discussed in the following section of this paper). The unit staff include primarily psychiatric care technicians, psychiatric care supervisors, and nursing staff. In addition, the unit would have treatment and program staff, such as psychiatrist and psychologist, a teacher, and social worker. The 8.0 facility program staff includes a facility treatment director, and facility supervisors for education, nursing, and psychiatric care functions.

16. With 42.5 positions, the new unit would have approximately 3.0 staff per bed. By comparison, the existing 29 bed facility has approximately 1.7 staff per bed, although this ratio excludes any staffing assistance provided from Mendota Mental Health Institute staff. The Department determined that a higher staffing level was needed for the new unit, since it would be used primarily or exclusively for the juvenile boys with the greatest propensity for violence and maladaptive behaviors. The Department believes that the additional beds in a separate unit would allow MJTC staff to more effectively isolate these boys to avoid adversely affecting those who are currently conforming to treatment.

17. The salary and fringe benefit calculations are based on the positions being filled for nine months, while the food and variable non-food costs are based on six months of occupancy. The Department anticipates being able to open the new unit for MJTC use around the beginning of 2021, but would fill the positions three months in advance so that staff could be fully trained before opening.

## **Proposed Future MJTC Expansion**

18. As noted above, the initial 14-bed expansion would utilize existing space within the MJTC facility. To meet the Act 185 requirement to expand by at least 29 beds, DHS would need to construct an addition to the existing building. Act 185 provided \$15 million in general obligation bonds to construct new MJTC units. However, working on the assumption that the MJTC treatment model would play a prominent role in future juvenile justice policy, DHS has proposed a larger expansion, with a total increase of 64 beds, instead of 29 beds. The Department's capital budget request included an additional \$34.0 million to build the full addition at a total estimate cost of \$49.0 million.

19. In addition to the MJTC building project, the Department's capital budget request included two other projects that have some relation to the proposed MJTC expansion, although also have broader purposes. First, the Department has proposed a \$20 million project to replace and relocate utilities, including steam and chilled water, electrical, water, storm sewer, and sanitary sewer lines. Although this project is a comprehensive project for utilities serving the whole Mendota campus, a portion of the relocation and replacement is necessary to accommodate the expanded MJTC facility, since the building expansion would sit above the existing utility facilities. Second, the Department proposed a \$28.9 million renovation of the Mendota food service building. In addition to general building renovations to continue to serve all Mendota operations, the Department indicates an expansion of food service capability would be needed to adequately serve an expanded MJTC.

20. The expanded facility would have space for 50 beds, which when added to the 43 beds in the existing building (29 currently-staffed plus 14-bed unit staffed under the bill), would provide a total of 93 beds. In addition to housing units, the building addition would include program rooms, nurses stations, and examination space. Construction would also involve modifications to the existing building to meet current standards for safety and security in psychiatric treatment facilities.

21. The units in the building expansion would consist of two 15-bed units for males and two 10-bed units for females. The female units would be separated from the male units, although the building would be configured so that both females and males could utilize common spaces at staggered times.

22. MJTC does not currently accept females for treatment. Providing equal access to treatment was one reason cited for the need for MJTC expansion during deliberations on Act 185. DHS indicates that the same basic treatment approach would be used for girls, although some adaptations may be required as treatment staff gain experience with the female juvenile population.

23. The Department indicates that if the expanded facility is not fully utilized for juveniles in the MJTC treatment program, the additional space could be used for other purposes. This could include, for instance, adult forensic patients admitted to the Mendota Mental Health Institute or juveniles currently admitted as civil patients at the Winnebago Mental Health Institute.

24. The bill would repeal a provision of Act 185 that requires the Joint Committee on Finance to approve the MJTC expansion. With this change, the full Legislature's decision to approve or modify and approve the staffing proposal in the budget bill, as well as the authorization of any

bonding for construction, would serve as the approval of the expansion. The Building Commission would have final approval of the issuance of bonds for construction.

25. Since no Building Program amendment has been introduced to the bill, the Committee would need to amend the existing enumeration to provide the additional bonding for construction of the MJTC expansion.

### **Alternatives for Consideration Regarding the 14-bed Staffing Proposal and Future Facility Expansion**

26. The Department's proposal to expand MJTC capacity by 14 beds during the 2019-21 biennium, and the proposal to proceed with construction of an expanded facility, is in response to the following factors: (a) the Act 185 directive to expand MJTC by at least 29 beds; (b) the Department's assessment that the Act 185 changes will result in significantly higher demand for MJTC services through transfers from SRCCs; and (c) a determination that female juveniles should be offered the same treatment program currently only offered to males.

27. In considering the proposals for both the short-term (14-bed) and longer-term expansion (new facility), the Committee is faced with several interrelated decisions without having the benefit of full knowledge of how the Act 185 changes will affect demand for MJTC treatment services. In addition, any potential changes in the disposition of juvenile offenders could be further affected by other decisions that the Legislature makes during the 2019 legislative session with respect to juvenile justice policies, as well as how counties respond to new responsibilities.

28. With the passage of Act 185, the Legislature anticipated that MJTC would play a greater role in the treatment of juvenile offenders. In some respects, however, the expanded utilization of MJTC results from, and therefore is secondary to, the decentralization of juvenile corrections policy envisioned with Act 185. Until all of these changes are implemented, the role that MJTC plays in that overall policy will remain somewhat uncertain.

29. The Committee may determine that, despite some level of uncertainty, MJTC will play an expanded role in future juvenile corrections policy and the state should proceed with the expansion as soon as possible by opening an additional 14-bed unit, and by providing more MJTC program staff for the purpose of additional expansion in the future. In this case, the Committee could approve the administration's position and funding proposal. [Alternative A1]

30. The Committee could, alternatively, decide to proceed with the 14-bed expansion by providing 42.5 positions for unit staffing, but defer the decision on future expansion until more information is available regarding the county demand for MJTC services. In this case, funding could be adjusted by removing the 8.0 additional program staff associated with the future expansion, and funding could be reduced by \$514,400 PR in 2020-21 for the salary, fringe benefits, and supplies and services associated with the positions. [Alternative A2]

31. The Committee could also decide to defer all decisions related to MJTC expansion, including whether to add staff to increase the MJTC staffed capacity by 14 beds. In this case, all positions and funding in the bill for MJTC expansion could be deleted. [Alternative A3]

32. If the Committee decides to defer action on future MJTC expansion (either Alternative A2 or A3), the Act 185 requirement that requires DHS to expand MJTC by at least 29 beds could be repealed, on the grounds that the decision to expand MJTC ultimately lies with the Legislature and not the Department. That is, it is not within the Department's power to expand MJTC without the funding and positions to do so. Both of these alternatives include the repeal of the statutory expansion directive.

### DOC Transfer to DHS for MJTC Costs

33. The Department of Corrections is required to make a funding transfer to DHS to support the salary and fringe benefits costs of MJTC positions. The amount of this transfer is specified by statute and is typically adjusted with each biennial budget to reflect anticipated salary and fringe benefit changes.

34. DOC transfers are made from a GPR appropriation and a PR appropriation. The PR transfer is made from DOC's appropriation for juvenile correctional services, which receives revenue from daily rate charges levied on counties. In 2018-19, the total statutory transfer is \$4,298,100, composed of \$1,365,500 GPR and \$2,932,600 PR.

35. In addition to the normal adjustment for the existing facility, the bill would increase the transfer in 2020-21 to account for the proposed MJTC expansion. The following table shows the transfers in the 2019-21 biennium by component.

	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
<b>Base Transfer</b>			
GPR	\$1,365,500	\$1,365,500	\$1,365,500
PR	<u>2,932,600</u>	<u>2,932,600</u>	<u>2,932,600</u>
Base Transfer	\$4,298,100	\$4,298,100	\$4,298,100
<b>Bill Increase</b>			
PR Existing Facility	--	\$291,500	\$355,200
PR Expansion	--	<u>0</u>	<u>2,590,300</u>
Total Increase	--	\$291,500	\$2,945,500
<b>Proposed Transfer</b>			
GPR	\$1,365,500	\$1,365,500	\$1,365,500
PR	<u>2,932,600</u>	<u>3,224,100</u>	<u>5,878,100</u>
Total	\$4,298,100	\$4,589,600	\$7,243,600

36. The use of the same DOC transfer mechanism that has been traditionally been used to fund MJTC costs as a means of financing the costs associated with the MJTC expansion raises several potential problems:

- The transfer calculation has typically been based on the assumption that MJTC would be fully staffed, and with the expectation that all 29 beds would be filled or mostly filled. Following past practice, the calculation for the 2020-21 transfer is based on the assumption that DHS will be

fully staffed for the 14-bed expansion. However, since the juvenile justice system will be undergoing transformations within the next two years, there is more uncertainty regarding the demand for the new MJTC beds. If the 14-bed expansion is fully utilized and staffed beginning in 2021, then the transfer as proposed by the bill may be appropriate. However, if not all 14 beds are not consistently filled, DOC would, in effect, be paying for unfilled beds, a cost potentially exceeding the amount it could support with county collections.

- The increase in the transfer effectively makes DOC financially responsible for the full staffing costs of the 14-bed expansion. However, some of the juveniles placed at MJTC will be transferred directly from SRCCs. Since DOC will not be able to collect fees from counties for these juveniles, the Department would not have the revenues to support the full transfer.

- The bill would modify the DHS PR appropriation for institutional operations to credit revenues collected from counties for juveniles transferred directly from SRCCs to MJTC. Because it is uncertain how many juveniles would be transferred from SRCCs to MJTC, both the amount of the revenue collected and the amount of MJTC costs that could be supported with county collections is unknown. Though, as shown in the MJTC population table above, can be assumed to be approximately 15 juveniles.

- As discussed in LFB Issue Paper #253, the juvenile PR appropriation is currently in deficit.

- The portion of the proposed DOC transfer related to the 14-bed expansion includes a staff training period, during which no beds would be occupied. During this time, DOC would, in effect, be paying for vacant beds, but would also retain financial responsibility for the juveniles who remain in direct DOC custody.

- Under current practice, the DOC transfer is based on MJTC staffing costs, but does not include food, variable non-food, and other supplies and services costs associated with the facility. Instead, these costs are funded as part of the GPR-funded budget for the Mendota Mental Health Institute. Although the bill would include expenditure authority in the Department's interagency and intra-agency programs PR appropriation for the non-personnel costs associated with the 14-bed expansion (totaling \$694,000), no funding would be provided in the Mendota GPR budget to provide the PR revenue to support these costs.

37. The uncertainty associated with the changes to the juvenile justice system occurring over the course of the next two years, combined with the current deficit in the DOC PR appropriation for juvenile justice means that there is considerable risk associated with relying on the DOC transfer mechanism to fully fund MJTC's ongoing and expansion costs. In order to provide a viable financing mechanism for the 14-bed MJTC expansion, it may be necessary to fund a portion of the cost with GPR. Although several approaches would be possible, the following points outline some alternatives:

- Provide GPR in the budget for the Mendota Mental Health Institute for the food, variable non-food, and other supplies and services costs associated with the MJTC expansion. [Alternative B1]

- Provide GPR to finance the portion of the MJTC expansion position costs associated with employee training period. [Alternative C2]
- Provide GPR to finance 50% of the additional position costs, effectively equivalent to half of the new beds. [Alternative C3]
- Provide GPR to finance the full cost of the 14-bed expansion. [Alternative C4]

38. The GPR increases needed for these alternatives depend upon the Committee's decision on the number of positions to provide (50.1 positions under Alternative A1 or 42.5 positions under Alternative A2). The following table shows the GPR increase in 2020-21 corresponding to each of these alternatives. With each alternative, the statutory PR transfer and DOC PR appropriation would be adjusted accordingly.

	Alternative A1 <u>(50.5 FTE)</u>	Alternative A2 <u>(42.5 FTE)</u>
Food, Non-Food, and Other Supplies and Services (B1)	\$694,000	\$608,600
DOC Transfer Alternatives		
Fund Training Period with GPR (C2)	\$863,400	\$713,700
Fund Training Plus 50% of Expansion Beds with GPR (C3)	1,726,800	1,427,400
Fund Full Expansion with GPR (C4)	2,590,300	2,141,200

39. If the Committee does not approve the 14-bed expansion at this time, the statutory transfer from the DOC PR appropriation could be adjusted to account only for projected costs of the current MJTC operations. In this case, the PR appropriation transfer would be increased by \$291,500 in 2019-20 and \$355,200 in 2020-21, compared to the base year transfer. [Alternative C5]

40. The statutory transfer is based on the assumption that all MJTC authorized positions will be filled throughout the year, with certain other adjustments, including overtime pay. However, actual MJTC personnel expenses may vary, and in the future a portion of MJTC costs will presumably be paid through direct county charges, rather than through the transfer from DOC. Instead of specifying the precise amount of the transfer by statute, the Committee could establish a different mechanism for funding DOC's share of MJTC costs. DHS could determine the estimated personnel cost attributable to juveniles under DOC supervision following the third quarter of each fiscal year and, in consultation with DOC, submit a request to the Committee under a 14-day passive review process to transfer only the amount of the estimate. [Alternative D1] This alternative may result in more accurate estimates of expenses, especially for the second year of the biennium. In addition, as Act 185 is implemented, it could allow for more flexibility due to changing populations.

### **Proposed Modifications to Statutory Provisions Related to Admission of Juveniles to MJTC**

41. In addition to the funding and positions for the expansion, the bill includes several statutory changes to Act 185 provisions related to placement of juveniles at MJTC. The Department

believes that these changes are necessary to allow MJTC control over which juveniles are admitted for treatment, for both programmatic and facility capacity reasons.

42. Currently juveniles may only be placed at MJTC directly from Lincoln Hills. Although DHS operates MJTC, juveniles who are admitted for treatment remain formally under the supervision of DOC.

43. Act 185 allows a juvenile to be transferred from an SRCC to a juvenile correctional facility, including MJTC, under certain circumstances relating to the SRCCs ability to meet the juvenile's needs. A transfer to MJTC under these provisions may occur only upon recommendation of DHS. All transfers from a SRCC to a correctional facility must be approved by a court.

44. The Department indicates that the DOC and MJTC staff collaborate to determine which juveniles are appropriate subjects for treatment, relying on over twenty years of experience. The Department believes it is important to continue to use the same admission criteria once juveniles can be placed directly from county supervision.

45. Although transfers from county facilities to MJTC can only occur upon DHS recommendation, the Department is concerned that courts could, nevertheless, direct the Department to accept juvenile transfers without consideration of the appropriateness for treatment, or the available capacity or, alternatively, that MJTC would be required to continue treatment for a juvenile at MJTC after the treatment has been completed or is no longer beneficial. The bill would make a series of changes to ensure that the MJTC treatment director or designee makes the final decisions regarding admission, treatment, and release of juveniles to the appropriate state or county facility. Although this appears to have been the intent of the Act 185 provisions, the Department believes that the proposed changes would ensure that the transfer process operates as intended. [Alternative E1]

## ALTERNATIVES

### A. Funding and Positions for Initial Expansion

1. Approve Governor's recommendation to provide \$3,159,500 PR and 50.5 PR positions, beginning in 2020-21, to provide unit staff for a 14-bed expansion of MJTC (42.5 positions) and program staff (8.0 positions) for a full 64-bed expansion.

ALT A1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$3,159,500	50.50	\$0	0.00

2. Modify the Governor's recommendation by reducing funding by \$514,400 PR and position authority by 8.0 PR positions in 2020-21 to provide a total of \$2,645,000 PR and 42.5 positions in 2020-21 for unit staff for a 14-bed expansion of MJTC, but no positions and funding for additional program staff for future expansion of MJTC. Repeal statutory provisions enacted as part of Act 185 that require DHS to expand MJTC by not less than 29 beds.

ALT A2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$2,645,000	42.50	- \$514,400	- 8.00

3. Take no action. Repeal statutory provisions enacted as part of Act 185 that require DHS to expand MJTC by not less than 29 beds.

ALT A3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	- \$3,159,500	- 50.50

**B. Food, Variable Nonfood, and Other Supplies and Services**

1. Provide GPR funding in 2020-21 in the budget for the Mendota Mental Health Institute for the food, variable nonfood, and other supplies and services costs associated with the 14-bed expansion of MJTC, as follows: (a) \$694,000 GPR corresponding to Alternative A1 (50.5 positions); or (b) \$608,600 GPR corresponding to Alternative A2 (42.5 positions).

ALT B1a	Change to	
	Base	Bill
GPR	\$694,000	\$694,000

ALT B1b	Change to	
	Base	Bill
GPR	\$608,600	\$608,600

2. Take no action.

**C. Department of Corrections Funding for MJTC Costs**

1. Approve the Governor's recommendation to provide \$291,500 PR in 2019-20 and \$2,945,500 PR in 2020-21 in DOC's PR appropriation juvenile correctional services for MJTC costs and increase the statutory transfer from the appropriation to total of \$3,224,100 in 2019-20 and \$5,878,100 in 2020-21, to fund estimated cost of the current 29-bed facility and a 14-bed expansion in 2020-21.

ALT C1	Change to	
	Base	Bill
PR	\$3,237,000	\$3,237,000

2. Modify the Governor's recommendation by providing GPR instead of PR funding in DOC's appropriation for MJTC to fund the portion of the MJTC expansion associated with the employee training period, as follows: (a) an increase of \$863,400 GPR and corresponding PR decrease in 2020-21, for Alternative A1 (50.5 positions); and (b) an increase of \$713,700 GPR and a decrease of \$1,162,800 PR in 2020-21, for Alternative A2 (40.5 positions).

ALT C2a	Change to	
	Base	Bill
GPR	\$863,400	\$863,400
PR	<u>2,373,600</u>	<u>- 863,400</u>
Total	\$3,237,000	\$0

ALT C2b	Change to	
	Base	Bill
GPR	\$713,700	\$713,700
PR	<u>2,074,200</u>	<u>- 1,162,800</u>
Total	\$2,787,900	- \$449,100

3. Modify the Governor's recommendation by providing GPR instead of PR funding in DOC's appropriation for MJTC to fund the portion of the MJTC expansion associated with the employee training period plus 50% of the new beds, as follows: (a) an increase of \$1,726,800 GPR and corresponding PR decrease in 2020-21, for Alternative A1 (50.5 positions); or (b) an increase of \$1,427,400 GPR and a decrease of \$1,876,500 PR in 2020-21, for Alternative A2 (40.5 positions).

ALT C3a	Change to	
	Base	Bill
GPR	\$1,726,800	\$1,726,800
PR	<u>1,510,200</u>	<u>- 1,726,800</u>
Total	\$3,237,000	\$0

ALT C3b	Change to	
	Base	Bill
GPR	\$1,427,400	\$1,427,400
PR	<u>1,360,500</u>	<u>- 1,876,500</u>
Total	\$2,787,900	- \$449,100

4. Modify the Governor's recommendation by providing GPR instead of PR funding in DOC's appropriation for MJTC to fund the full costs associated with the MJTC expansion, as follows: (a) an increase of \$2,590,300 GPR and corresponding PR decrease in 2020-21, for Alternative A1 (50.5 positions); or (b) an increase of \$2,141,200 GPR and a decrease of \$2,590,300 PR in 2020-21,

for Alternative A2 (40.5 positions).

ALT C4a	Change to	
	Base	Bill
GPR	\$2,590,300	\$2,590,300
PR	<u>646,700</u>	<u>- 2,590,300</u>
Total	\$3,237,000	\$0

ALT C4b	Change to	
	Base	Bill
GPR	\$2,141,200	\$2,141,200
PR	<u>646,700</u>	<u>- 2,590,300</u>
Total	\$2,787,900	- \$449,100

5. Modify the Governor's recommendation by reducing DOC's MJTC appropriation by \$2,590,300 PR in 2020-21, to remove the portion of the transfer associated with MJTC expansion.

ALT C5	Change to	
	Base	Bill
PR	\$646,700	- \$2,590,300

**D. Funding Mechanism**

1. Remove the transfer between DHS and DOC from statute and instead have the transfer approved by a 14-day passive review process submitted by DHS by March 1 of each year. Specify that DHS shall submit a request, in consultation with DOC, based on personnel costs attributable to juveniles under DOC supervision who are transferred to MJTC.

2. Take no action. [Under this alternative, the statutory transfer will be adjusted in accordance with the Committee's decision under Part A.]

**E. Statutory Modifications Related to MJTC Admissions Policy**

1. Approve the Governor's recommendation to modify provisions enacted as part of 2017 Act 185 that authorize courts to place a juvenile at MJTC upon recommendation of DHS, to instead authorize a court to transfer a juvenile to MJTC with the approval of DHS.

2. Take no action.

Prepared by: Jon Dyck and Sarah Wynn





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June, 2019

Joint Committee on Finance

Paper #211

### **Cost Reimbursement for Establishing Secured Residential Care Centers (Children and Families -- Juvenile Justice)**

[LFB 2019-21 Budget Summary: Page 88, #2]

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#### **CURRENT LAW**

*Type 1 Juvenile Correction Facilities and Juvenile Detention Facilities.* Type 1 juvenile correctional facilities use physical security mechanisms (such as locked doors and fencing) and surveillance. A juvenile may be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is adjudicated delinquent and the court gives the juvenile a Serious Juvenile Offender (SJO) program disposition or a correctional placement disposition. A juvenile may also be held in secure custody in a Type 1 juvenile correctional facility if the juvenile is convicted in adult court, is under the age of 18, and receives an adult sentence. Currently, there are only two Type 1 facilities in the state: (a) Lincoln Hills and Copper Lake Schools, operated by Corrections; and (b) the Mendota Juvenile Treatment Center, operated by the Department of Health Services (DHS).

Juveniles with a direct correctional placement may also be placed in a juvenile detention facility authorized by the county's board to hold a juvenile post-disposition. There are currently six juvenile detention facilities with 180 or 365 day programs for juveniles with direct correctional placements.

Pursuant to 2017 Act 185, the state must close the Lincoln Hills and Copper Lake School by January 1, 2021, which Corrections will convert into an adult correctional facility. Corrections must establish new Type 1 juvenile correctional facilities by January 1, 2021, subject to the approval of the Joint Committee on Finance (JFC). Act 185 authorizes \$40 million bonding for the new facilities.

*Secured Residential Care Centers.* Under Act 185, Corrections maintains supervision over juveniles with adult court sentences and juveniles in the SJO program, but the supervision of juveniles under direct correctional placements transfers to counties of origin. Juveniles not serving adult sentences and who are not in the SJO program will be placed in secured residential care centers (SRCCs), rather than in a Type 1 juvenile correctional facility as under prior law. Act 185 allows for transfers to Type 1 juvenile correctional facilities only under certain conditions.

County boards may establish, or contract with a child welfare agency to establish, a SRCC. Counties may also jointly establish an SRCC or contract with another county to place juveniles in that county's SRCC. The selection and purchase of the site, and the plans, specifications and erection of buildings, for a SRCC is subject to the review and approval of Corrections. Subject to the rules promulgated by Corrections, an SRCC may be located in a portion of a juvenile detention facility or a Type 1 juvenile correctional facility.

Act 185 empowers the Building Commission to authorize up to a total of \$40 million in general fund supported borrowing to allow Corrections to provide grants to assist counties in designing and constructing SRCCs, and attached juvenile detention facilities. Any such state funding commitment must be in the form of a grant to a county. Act 185 created a grant program under which counties may apply for state funding towards the cost of establishing or constructing SRCCs. Grants cover 95% of the costs of designing and constructing an SRCC, 95% of the costs of designing and constructing a facility housing both an SRCC and a juvenile detention facility, and 100% of the costs of designing and constructing an SRCC or a portion of an SRCC that is only for female juveniles. A 10-member grant committee oversees the grant program and establishes the requirements, guidelines, and criteria for awarding grants.

The deadline for counties to apply for grants was March 31, 2019. After consultation with Corrections and the Department of Children and Families (DCF), and after Corrections approval of any proposed SRCC site, design, and construction specifications, the grant committee must submit a statewide plan of recommend grant approvals to JFC by July 1, 2019. The plan must be approved by JFC before it can be implemented by the grant committee and Corrections. The grant committee then terminates on the earlier of the date all grant funded projects are completed or January 1, 2021.

*Youth Aids.* The community youth and family aids program (Youth Aids) provides each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services, including out-of-home placements, costs of detention and secured residential care centers, and non-residential, community-based services for juveniles. Counties may supplement their expenditures on juvenile delinquency-related services with funding from other sources, including community aids, other state aids to counties, county tax revenues and special grant monies.

In 2018-19, DCF is budgeted a total of \$90,767,200 (\$88,591,400 GPR and \$2,175,800 FED) in youth aids funding for counties. The federal funding is funding the state receives under Title IV-B, subpart 1, and IV-E of the Social Security Act. Additional information regarding youth aids is discussed in LFB budget paper #211.

Act 185 expanded the authorized uses of youth aids for program costs in juvenile detention facilities and SRCCs. A portion of a county's youth aids allocation is based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period. Under Act 185, in addition to the juveniles placed in juvenile correctional facilities, the number of juveniles placed in SRCCs is included in each county's proportion. Further, beginning March 30, 2018, counties operating a joint SRCC in cooperation with another jurisdiction that was funded by a grant under Act 185 may receive bonus allocations under youth aids of up to the lessor of \$750,000 or 15% of the county's allocation.

## **GOVERNOR**

Extend the grant program deadlines by three months, so that county applications would be due by June 30, 2019, and grant committee plan recommendations would be due to the Joint Committee on Finance (JFC) by October 1, 2019. The Juvenile Corrections Grant Committee would be able to submit individual grant recommendations to JFC which would be reviewed under a 14-day passive review process.

Further, the January 1, 2021, deadline for closing Lincoln Hills and Copper Lake schools and for constructing the new SRCCs and new state-run juvenile correctional facilities would be removed. Instead, Corrections would transfer juveniles as soon as substitute placements that meets the needs of the juvenile are ready. Once all juveniles are transferred to SRCCs or the new state facility, Lincoln Hills and Copper Lake schools would close.

The bill would create an annual sum certain GPR appropriation for DCF to reimburse counties, beginning January 1, 2021, for one-time start-up costs incurred by a county, or a group of counties, in establishing secured residential care center for children and youth. The bill would provide \$3,500,000 GPR in 2020-21 for DCF to distribute to counties for this purpose. The Department of Children and Families would be required to consult with county representatives to determine eligible reimbursable expenses.

## **DISCUSSION POINTS**

### **SRCC Start-up Cost Reimbursement**

1. Attachment 1 shows a summary of the estimated costs of establishing SRCCs in multiple locations throughout the state based on letters of interest submitted by counties to the grant committee. Attachment 1 shows the estimated construction costs are approximately \$100 million. However, Fond du Lac and La Crosse counties later withdrew.

2. The Governor's recommended building program would increase financing for the SRCC grant program under Act 185 from \$40 million to \$100 million. However, on March 20, 2019, a series of motions before the Building Commission to recommend the Governor's proposed building program for consideration by JFC resulted in 4 - 4 tie votes. As a result, no recommendation was adopted.

3. The Joint Committee on Finance has not yet determined whether to approve an increase

in the level of financing for the SRCC grant program under Act 185. Therefore, at the time of this writing, it is unknown which facilities will receive grant funding to be constructed.

4. The bill would provide DCF with \$3.5 million GPR in 2020-21 under a new annual appropriation to reimburse counties for the one-time start-up costs to establish SRCCs. Funds to counties under this provision could be used to reimburse program services costs, such as basic care and supervision. The funds could not reimburse county costs for land purchases, building construction, or maintenance of buildings (which would be supported via the SRCC grant program).

5. The administration indicates that this level of funding is based on the anticipated one-month cost of operating four SRCCs having the capacity of 32 beds, (128 beds) which is intended to be roughly equivalent to the non-SJO program population at the Lincoln Hills and Copper Lake Schools.

6. At present it is not known which facilities will be built or how much capacity would be operational during 2020-21. For comparison, as shown in Attachment 1, the letters of interest submitted to the grant committee had a potential total capacity exceeding 200 beds. If all such facilities were actually built, capacity would be 60% more than assumed under the budget bill for the proposed DCF GPR appropriation for SRCC start-up cost reimbursement.

7. The Committee could find that providing funding as part of the 2019-21 budget would assist Corrections, DCF, DHS, and counties in their planning to establish SRCCs and, therefore, approve the Governor's recommendation to provide \$3,500,000 GPR in 2020-21 [Alternative A1].

8. Alternatively, the Committee could accept the Governor's proposal to create a new appropriation for county facility start-up costs but instead of providing funding for that appropriation in 2020-21, provide \$3,500,000 GPR to the Committee's general purpose revenue funds general program supplementation [Alternative A2]. The Committee could then decide how to provide these funds to counties as part of its consideration of the grant committee's statewide grant plan, which would be submitted under the bill on or before October 1, 2019.

9. On the other hand, given that it is currently unknown how many SRCCs will be built or which county or counties will operate them, the Committee could reasonably conclude that it is unnecessary to provide funding at this time [Alternative A3]. The issue could be raised again through separate legislation when the costs of the program becomes clearer after JFC has considered the grant committee's statewide grant plan or after the enactment of further legislation. For example, 2019 Senate Bill 168 and 2019 Assembly Bill 188 have been referred to other standing committees of the Legislature for consideration of modifications to current law for holding juveniles in secured custody under Act 185.

### **Youth Aids SRCC Bonus Payments**

10. The bill would not provide funding for Act 185 youth aids SRCC bonus payments in the 2019-21 biennium.

11. In order to qualify for a bonus, a county must first operate a SRCC that was funded by

a grant under Act 185. The bonus is then equal to the lessor of \$750,000 or 15% of the county's youth aids allocation in the preceding year.

12. However, at present, it is not known: (a) how many counties or which county or counties may operate a program for juveniles; or (b) how much each county's youth aids allocation will be at the time a bonus payment may be made. Given that the Committee would not review the grant committee's statewide plan under the bill until October, 2019, it is unlikely that SRCCs would be constructed and operational until 2020-21 at the earliest.

13. Given that it is unlikely that any joint SRCCs would be established and operational during the 2019-21 biennium, the Committee could reasonably determine that funding for Youth Aids SRCC bonus payments is unnecessary and, therefore, concur with the Governor's recommendation to not provide funding for youth aids bonus payments. [Alternative B1] The need for any funding could be addressed at a later date once it is known what facilities will be established.

14. Alternatively, JFC could provide funding of \$750,000 GPR in 2020-21 could be provided to support any youth aids SRCC bonus payments that may be needed for qualifying counties. [Alternative B2]

## ALTERNATIVES

### A. SRCC Start-up Cost Reimbursement

1. Approve the Governor's proposal to create a new annual sum certain GPR appropriation to reimburse counties for the for one-time start-up costs incurred by counties to establish SRCCs and provide funding of \$3,500,000 GPR in 2020-21.

ALT A1	Change to	
	Base	Bill
GPR	\$3,500,000	\$0

2. Approve the Governor's proposal to create a new annual sum certain GPR appropriation to reimburse counties for the for one-time start-up costs incurred by counties to establish SRCCs, but with the modification that the funding of \$3,500,000 GPR in 2020-21 would instead be provided to the JFC GPR general program supplementation.

ALT A2	Change to	
	Base	Bill
GPR	\$3,500,000	\$0

3. Take no action.

<b>ALT A3</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
GPR	\$0	- \$3,500,000

**B. Youth Aids SRCC Bonus Payments**

1. Take no action and, thereby, maintain base funding (\$0) for youth aids SRCC bonus payments to qualifying counties that operate a SRCC.
2. Modify the bill to provide \$750,000 GPR in 2020-21 in order to fund youth aids bonuses for qualifying counties that operate a SRCC.

<b>ALT B2</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
GPR	\$750,000	\$750,000

Prepared by: John D. Gentry and Sarah Wynn  
Attachment

## ATTACHMENT

### Summary of County Letters of Interest (Juvenile Corrections Grant Committee Materials - May 6, 2019)

**Act 185 Grants Committee**

**DRAFT - County Letters of Interest Summary Table**

The table below provides a summary outline of counties' letters of interest. More specific details, including how their proposed SRCCCY fits in with the county's broader youth justice services, can be found within their individual letters of interest.

County	Projected Capacity	Stand alone or Attached	Single or Multi County	Est. Cost
<b>Brown</b>	24-32, males and females	Build a new stand-alone facility	Single county proposal, but would serve youth across counties. Estimates serving 13 youth from other counties.	N/A
<b>Dane</b>	Males: 18-23 beds Females: 5-6 beds	Attach to current juvenile detention facility	Single county proposal, but would serve youth across counties. Estimates they would have 12-14 males and 3-4 females from Dane, leaving the rest for other counties	\$3.5 - \$4.5M
<b>Fond du Lac</b>	16 males	Attach to a proposed new detention facility	Single county proposal but would serve youth from multiple counties	N/A
<b>GLITC / Tribes</b>	<i>N/A: GLITC submitted on behalf of the tribes if a tribe chose to submit an application</i>			
<b>La Crosse</b>	20 male only SRCCY, co-located with 15 co-ed for short-term detention	Build a new facility to co-locate with short-term detention	Single county proposal but would serve youth from multiple counties	\$18 - \$20M
<b>Milwaukee</b>	62 total: remodeling and repurposing of 22 existing beds for the Milwaukee County Accountability Program (MCAP) and 40 beds at new SRCCCY; 5 beds for females	Remodel existing and build a new facility	Single county	\$41.4M
<b>Racine</b>	48 beds (detention and SRCCCY); male and female	Build a new facility to co-locate with detention	Single county proposal but would serve youth from multiple counties	\$38M

\* Fond du Lac and La Crosse Counties have officially withdrawn its letter of intent for a grant to build a SRCC.





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June, 2019

Joint Committee on Finance

Paper #212

### **Youth Aids Statutory Calendar Year Allocations (Children and Families -- Youth Services -- Juvenile Justice)**

[LFB 2019-21 Budget Summary: Page 89, #4]

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#### **CURRENT LAW**

The community youth and family aids program (youth aids) provides each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services, including out-of-home placements, costs of detention and secured residential care centers, and non-residential, community-based services for juveniles. Counties may supplement their expenditures on juvenile delinquency-related services with funding from other sources, including community aids, other state aids to counties, county tax revenues and special grant monies. The department of children and families (DCF) administers the Youth Aids allocations, contracts with counties for delivery of services, provides counties with consultation and technical assistance, and develops program standards.

Base year (2018-19) youth aids funding of \$90,767,200 (\$88,591,400 GPR and \$2,175,800 FED) is provided for counties. The federal funding comes from Title IV-B, subpart 1, and IV-E of the Social Security Act.

#### **GOVERNOR**

Modify statutory provisions relating to the calendar year allocation of community youth and family aids (youth aids) funding by updating calendar year references from previous years to calendar years 2019, 2020, and 2021. In addition, require DCF to consult with county representatives to determine modifications to the community youth and family aids formula.

The bill provides no change to base funding for the program.

## MODIFICATION

Update the annual amounts allocated for youth aids in the statutes from \$91,150,200 to \$90,767,200, to more accurately reflect the funding provided under the bill.

**Explanation:** Current law allocates up to \$91,150,200 on an annual basis for youth aids within the availability of funding under the GPR appropriation for community youth and family aids and the FED appropriation for federal aid for children, youth, and family aids. However, the actual funding provided under those appropriations has been, and is estimated to continue to be, \$90,767,200. This modification is intended to accurately reflect the amount funding provided for youth aids under the bill.

Prepared by: John D. Gentry

## **JUVENILE CORRECTIONS**

### **LFB Summary Items for Which No Issue Paper Has Been Prepared**

<u>Item #</u>	<u>Title</u>
6	Juvenile Program Revenue Reestimate (Corrections)
3	Youth Aids and Staffing and Training (Children and Families -- Youth Services)

### **LFB Summary Items Removed From Budget Consideration**

<u>Item #</u>	<u>Title</u>
7	Age of Juvenile Jurisdiction (Corrections)
1	Seventeen-Year-Old Juvenile Justice Cost Reimbursement (Children and Families -- Youth Services)

### **LFB Summary Item to be Addressed in a Subsequent Paper**

<u>Item #</u>	<u>Title</u>
-	Final Daily Rate and Appropriation Modifications