



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #262

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

[LFB 2021-23 Budget Summary: Page 148, #2]

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/Copper Lakes and Mendota Juvenile Treatment Center (MJTC) is \$615. 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. This paper assumes that the Lincoln Hill/ Copper Lake schools remain open for the 2021-23 biennium.

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 \$17,792,800 GPR.

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 and contract beds.

Juvenile Population and Inflationary Costs

1. The estimated population projections for juveniles in the 2021-23 biennium would include 86 juveniles annually in the juvenile facilities. This paper uses the 86 population for estimating purposes. The population projections include juveniles in the SJO program and 17-year olds with adult sentences.

Statutory Daily Rates

2. In prior biennia, county representatives have indicated that higher 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. It should be noted that Lincoln Hills has a capacity for over 540 juveniles and it is anticipated that around 86 ADP will be there in the upcoming biennium. There are certain base resources that are required to keep a facility of that size operational, no matter the population of juveniles present at the facility. It should be further noted that the operations at LHS/CLS are monitored under order of the federal courts. In August, 2018, the state settled a federal lawsuit with the ACLU for \$885,000 regarding the use of solitary confinement, pepper spray, training of staff, and conditions of confinement. As a component of the agreement, quarterly reports prepared by a court appointed monitor are required. Generally, each report assesses the Department's degree of compliance with specific requirements of the agreement, and provides an overview of quality of life, conditions, and institutional atmosphere and operations.

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 \$36,226,800 in 2021-22 and \$36,960,300 in 2022-23 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 2021-23

	<u>2021-22</u>	<u>2022-23</u>
Base	\$35,957,200	\$35,957,200
Standard Budget Adjustments	1,333,300	1,333,300
Operating Reserves	817,200	1,419,790
Rent	-14,100	-13,500
PR Reestimate	-85,100	-78,900
Risk Management Premium	217,600	217,600
MJTC Re-Estimate	-1,445,000	-1,360,400
Food, Variable, and Health	<u>-525,800</u>	<u>-481,900</u>
Total Expenses	\$36,226,800	\$36,960,300
Daily Rate	\$1,154	\$1,178

5. Based on the reestimated populations and population-related cost adjustments, the statutory daily rates would be \$1,154 in 2021-23 and \$1,178 in 2022-23. This represents an approximate 88% increase in the daily rate. Note that the population upon which the 2020-21 daily rate was based was 169 individuals.

6. The daily rates cited above represent a significant increase over the current \$615 rate. This increase will require substantial additional funding from the state for the SJO population, and contact beds, and from the counties for the juveniles that are placed at Lincoln Hills/Copper Lake. It should be noted that AB 68/SB 111 recommends an increase of \$18.9 million in youth aids over the 2021-23 biennium. Youth aids funds are provided to counties to offset the costs of juvenile placements, including those at Lincoln Hills/Copper Lake.

7. If rates increase from \$615 in 2020-21 to \$1,154 in 2021-22 and \$1,178 in 2022-23, it is very likely that counties may be even more reluctant to send juveniles to the state facilities which would likely increase the deficit in the juvenile correction appropriation.

8. To this end, the Committee might consider a GPR supplement to reduce the daily rate. Since the daily rate is charged not only to counties placing juveniles at Lincoln Hills/Copper Lakes, but also the state for SJO and contract bed placements, a GPR supplement would also reduce the daily rate the state pays through the SJO program and contract beds. These alternatives are discussed in a subsequent section of this paper.

9. Current statutory language provides that if monies generated by the daily rate exceed actual costs by more than 2% (\$727,400 in 2021-22 and \$742,600 in 2022-23), 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.

10. It should be noted that daily rates for Lincoln Hills/Copper Lakes have been comparable to the daily rates of Residential Care Centers (RCC) that provide 24/7 care for juveniles both with and without dispositional orders. 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 \$299 and \$603 per day.

Serious Juvenile Offender Program

11. 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 \$17,792,800 GPR. The average SJO program ADP through April, 2021, 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>2021-22</u>	<u>2022-23</u>
Juvenile Corrections Facilities	28	29
Community Supervision Program	<u>51</u>	<u>45</u>
Total ADP	79	74
Alternate Care ¹	18	16

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

12. As a result of modifying the daily rates and reestimating populations, funding for the SJO program would be increased by \$720,600 GPR in 2021-22 and \$1,412,500 GPR in 2022-23.

Contract Beds

13. 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 increased contract bed funding of \$3,325,900 GPR in 2021-22 and \$3,501,100 GPR in 2022-23 (from \$5,098,300 GPR annually to \$8,424,200 GPR in 2021-22, and \$8,599,400 GPR in 2022-23) would be necessary to reflect the modified daily rate.

GPR Supplement to Lower Daily Rate

14. In order to maintain the daily rate at a level that makes LHS and CLS a placement option for counties, the Committee may determine that providing GPR through an existing appropriation to offset PR expenses is a viable strategy for mitigating daily rate costs to counties. In addition, as noted earlier, a GPR offset to expenses would also lower the daily rate the state pays for SJO youth and for youth with adult sentences through contract beds.

15. Without converting PR positions to GPR, there are \$9,179,800 of budgeted PR expenses in 2021-22 and \$9,344,400 of expenses in 2022-23 that could be supplemented with GPR. Providing a GPR supplement would decrease the daily rates, and thus the funding need for the SJO appropriation and the contract bed appropriation. The effects of a GPR supplement on the daily rate, SJO, and contract beds amounts is described in the table below.

Effects of a GPR Supplement

	<u>2021-22</u>	<u>2022-23</u>
Daily Rate	\$862	\$880
GPR Supplement Amount	\$9,179,800	\$9,344,400
SJO	-2,263,600	-1,741,800
Contract Beds	<u>1,194,300</u>	<u>1,325,700</u>
Total Additional GPR	\$8,110,500	\$8,928,300

16. In order to mitigate the effects of declining populations on the daily rate, the Committee may decide to provide \$9,179,800 GPR in 2021-22 and \$9,344,400 GPR in 2022-23. [Alternative 1] As a result the daily rate will be \$862 in 2021-22 and \$880 in 2022-23.

17. Given the amount that juvenile populations have declined over recent years, any GPR supplement amount would partially mitigate the increase of the daily rate. The Committee could, for example, provide a \$5,000,000 supplement annually. The effects of a \$5,000,000 annual supplement on the daily rate, SJO, and contract beds amounts are described below. [Alternative 2] As a result the daily rate will be \$995 in 2021-22 and \$1,018 in 2022-23.

Effects of a \$5 million GPR Supplement

	<u>2021-22</u>	<u>2022-23</u>
Daily Rate	\$995	\$1,018
GPR Supplement Amount	\$5,000,000	\$5,000,000
SJO	-904,400	-281,100
Contract Beds	<u>2,165,200</u>	<u>2,333,100</u>
Total Additional GPR	\$6,260,800	\$7,052,000

Passive Review of the Daily Rate

18. There are significant decisions to be made surrounding juvenile justice. 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 2022-23 through the biennial budget process more difficult because of unknown factors.

19. The Department of Corrections operates the community supervision program for juveniles. Under the program, Corrections purchases or provides various juvenile community correctional supervision services for which a daily rate is charged. Prior to 2017-18, the daily rates for the program's component parts (the corrective sanctions and aftercare programs) were established under each biennial budget. Under 2015 Act 55, however, the program's daily rates for the program were made subject to a 14-day passive review by the Joint Committee on Finance beginning July 1, 2018. Like the daily rate for LHS/CLS, the community supervision rates have both fixed and variable costs. Despite the rate being set by passive review, the program's PR appropriation is set during the budget process, and expenditures are supported by the revenue generated by the daily rate.

20. In order to more accurately reflect estimated future costs and populations given the uncertainties surrounding juvenile justice, the Committee could consider creating a 14-day passive review process that would allow Corrections to adjust the daily rate to reflect the change in populations on an annual basis in a similar manner to how community supervision rates are established. This change could be particularly advantageous if juvenile populations begin to return toward a pre-COVID level. Given this, the Committee may consider setting the 2021-22 daily rate in statute and allowing Corrections to return to the Committee with a passive review request by December 1, 2021, to set the daily rate for 2022-23. In addition, if daily rates decrease and population projections for SJO and contact beds do not increase, the passive review could be authorized to reduce the GPR SJO and contract bed appropriations accordingly. [Alternative 3] This alternative may be selected with Alternative 1, 2, or 6. The alternative would allow for a more up to date estimate of populations and costs for the 2022-23 fiscal year when more information is available, while still providing for legislative oversight.

21. Utilizing the passive review alternative, but also providing GPR support to reduce the daily rate, the Committee could consider setting a rate for 2021-22 only, allowing the 2022-23 daily rate to be set by passive review process, and placing supplemental GPR funding for 2022-23 in the Committee's supplemental appropriation. Under these alternatives, daily rates could be set and certain GPR appropriations adjusted by passive review. Further, depending on the daily rate approved by the Committee, if necessary supplemental funding could be released under s. 13.10 to moderate the daily rate under the Department's proposed 2022-23 daily rate passive review. As a result, the SJO and contract bed appropriations would be set for the second year using estimates provided in this paper, but could be reduced under the passive review if daily rates decreased and population projections for SJO and contact beds do not increase. [Alternative 4 and 5]

22. Since counties may use youth aids to fund the costs of juvenile correctional services, including to support LHS/CLS daily rates, the Committee may decide to only reestimate appropriations to reflect changes associated with the daily rate and population. [Alternative 6] As a result the daily rate would be \$1,154 in 2021-22 and \$1,178 in 2022-23.

ALTERNATIVES

1. Provide \$9,179,800 GPR in 2021-22 and \$9,344,400 GPR in 2022-23 to supplement juvenile PR expenditures. Reestimate the daily rate to be \$862 in 2021-22 and \$880 in 2022-23. Due to the daily rate modification, decrease SJO funding by \$2,263,600 GPR in 2021-22 and \$1,741,800

GPR in 2022-23 and increase contract bed funding by \$1,194,300 GPR in 2021-22 and \$1,325,700 GPR in 2022-23.

ALT 1	Change to Base
GPR	\$17,038,800

2. Provide \$5,000,000 GPR annually to supplement juvenile PR expenditures. Reestimate daily rate to be \$995 in 2021-22 and \$1,018 in 2022-23. Due to the daily rate modification, decrease SJO funding by \$904,400 GPR in 2021-22 and \$281,100 GPR in 2022-23 and increase contract bed funding by \$2,165,200 GPR in 2021-22 and \$2,333,100 GPR in 2022-23.

ALT 2	Change to Base
GPR	\$13,312,800

3. Remove the 2022-23 daily rate from statute and instead have the 2022-23 daily rate set through a 14-day passive review process submitted to the Joint Committee on Finance by December 1, 2021. In addition, allow the passive review to also reduce the GPR SJO and contract bed appropriations as necessary. [This alternative may be selected with Alternative 1, 2, or 6.]

4. Provide \$9,179,800 GPR in 2021-22 and place \$9,344,400 GPR in 2022-23 in Joint Finance's appropriation to supplement juvenile PR expenditures. Reestimate the daily rate to be \$862 in 2021-22 and, as under Alternative 3, allow the daily rate to be set by passive review starting in 2022-23. Due to the daily rate modification decrease SJO funding by \$2,263,600 GPR in 2021-22 and \$1,741,800 GPR in 2022-23 and increase contract bed funding by \$1,194,300 GPR in 2021-22 and \$1,325,700 GPR in 2022-23.

ALT 4	Change to Base
GPR	\$17,038,800

5. Provide \$5,000,000 GPR in 2021-22 and place \$5,000,000 GPR in 2022-23 in Joint Finance's appropriation to supplement juvenile PR expenditures. Reestimate daily rate to be \$995 in 2021-22 and, as under Alternative 3, allow the daily rate to be set by passive review starting in 2022-23. Due to the daily rate modification, decrease SJO funding by \$904,400 GPR in 2021-22 and \$281,100 GPR in 2022-23 and increase contract bed funding by \$2,165,200 GPR in 2021-22 and \$2,333,100 GPR in 2022-23.

ALT 5	Change to Base
GPR	\$13,312,800

6. Reestimate the daily rate to be \$1,154 in 2021-22 and \$1,178 in 2022-23. Due to the daily rate modification, increase SJO funding by \$720,600 GPR in 2021-22 and \$1,412,500 GPR in

2022-23 and contract bed funding by \$3,325,900 GPR in 2021-22 and \$3,501,100 GPR in 2022-23.

ALT 6	Change to Base
GPR	\$8,960,100

Prepared by: Sarah Wynn