



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #457

### **Mendota Juvenile Treatment Center -- Staffing and Funding for Expansion Staffing (Health Services -- Care and Treatment Facilities)**

[LFB 2023-25 Budget Summary: Page 292, #5 and Page 147, #5]

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#### **CURRENT LAW**

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 currently has 29 staffed beds for boys in two units of single-occupancy, secure rooms. DHS has 50.5 dedicated positions for these units, 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, based on a daily rate set by DHS. 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.

MJTC may also accept referrals from a county-run secure residential care center for children and youth (SRCCCY). However, since no county has yet established a SRCCCY, the only juveniles currently placed at MJTC are transfers from DOC.

## DISCUSSION POINTS

### Current MJTC Staffing and Operations

1. MJTC was originally built with a physical capacity for 43 beds in three units. One 14-bed unit, which is in a separate wing of the building from the other two units, was closed in 2001, reducing the capacity to 29. Between 2016 and 2022, that 14-bed unit was used for adult forensic patients committed to the Mendota Mental Health Institute. The primary purpose for this unit, which was designated as "forensic maximum unit" or FMU, was assessment for competency to stand trial and for treatment of patients who require a high level of security. The FMU was closed at the end of 2022 for construction on the MJTC building expansion and renovation project.

2. The 2019-21 budget act provided \$2,645,000 PR and 42.5 PR positions in 2020-21, in anticipation that the 14-bed FMU would be converted back to MJTC use in the fall of 2020. At that time, it was anticipated that the number of referrals to MJTC would begin to increase, in conjunction with changes in the state's juvenile corrections system prompted by 2017 Act 185. Among those changes was the closure of Lincoln Hills, the Department of Corrections Type 1 juvenile corrections facility, and the establishment of county-based juvenile correctional system. However, with the onset of the COVID-19 pandemic, implementation of these changes has been delayed or put off indefinitely. Instead of increasing, the population of MJTC declined, prompting DHS to delay converting the FMU to MJTC use. The Department has not filled the positions designated for the unit.

3. MJTC's population declined to a monthly average of 19 in 2020-21, but increased in 2021-22 to an average of 26, and has remained at about that level in 2022-23. Although DHS has not filled the 42.5 positions designated for the conversion of the FMU to MJTC use, the other two units are currently fully staffed, with relatively few position vacancies.

4. The personnel costs of MJTC (salary and fringe benefits of staff) are supported with a program revenue appropriation in DHS. The revenue source for this appropriation is an annual transfer from the Department of Corrections, based on a daily rate set by DHS that reflects MJTC's actual personnel costs.

5. DOC makes this transfer with a combination of a GPR appropriation, designated specifically for that purpose, and funding in DOC's general PR appropriation for juvenile corrections. The DOC juvenile corrections appropriation receives revenue from counties that have juveniles under Correction's supervision, including those transferred to MJTC. In 2021-22, DOC transferred \$4,495,500 (\$1,365,500 GPR and \$3,130,000 PR) to support MJTC's personnel costs.

6. Since the 42.5 positions provided by the 2019-21 budget have not been filled, they have no impact on the MJTC daily rate. Likewise, since the PR appropriation used for MJTC operations authorizes the expenditure of amounts received (rather than limited to the amounts in the Chapter 20 appropriation schedule), the amount in that appropriation has no affect the amount of funding that DHS is authorized to spend for MJTC operations.

7. While personnel costs are funded with a transfer from DOC, other MJTC expenses, such as food, medical services, drugs, and other nonfood supplies and services, are supported from the GPR budget for the Mendota Mental Health Institute.

## **MJTC Expansion Project and Staffing Proposal**

8. In May of 2021, the Joint Committee on Finance approved an expansion and renovation project at MJTC. Later that month, the State Building Commission approved the Department's request to proceed with the project, with an estimated total project cost of \$66.0 million. Construction for the project began in March of 2022.

9. The first phase of the project involves the construction of an addition to the existing building, with four new units and common space for education and treatment programming. Completion of the new building is anticipated to occur in late summer of 2023, and be ready for occupancy in the fall. The second phase of the project involves renovation of existing units, which is expected to be complete by the end of 2024.

10. Upon completion of the first phase, MJTC will have physical capacity for 20 girls in the new building and 44 boys, which includes space for 30 in the new building and 14 in the converted FMU. With completion of the second phase, MJTC will have capacity for an additional 29 boys, bringing the total capacity to 73 boys and 20 girls.

11. AB 43/SB 70 would provide new PR expenditure and position authority in two phases, corresponding to the completion of the two phases of the construction and renovation project. For the first phase, the bill would provide 114.5 positions in 2023-24, which, when combined with existing authorized positions (50.5 for currently operating units and 42.5 unfilled positions designated for the existing 14-bed unit), would provide a total of 207.5 positions. For the second phase, the bill would provide an additional 59.5 positions in 2024-25, timed for the reopening of the existing units following renovation.

12. With completion of both staffing phases, MJTC would have 174.5 new positions, bringing the total to 267.0 positions to staff 93 beds, for a staff-to-bed ratio of 2.9. By comparison, the existing 29 bed facility has approximately 1.7 staff per bed, although this ratio excludes staffing assistance provided from Mendota Mental Health Institute staff. The Department has determined that a higher staffing level would be beneficial, as well as needed, for the expanded facility. In part this is due to the need to operate seven different units, separated by gender and treatment progress, unlike the way MJTC currently operates with its two units. The position increase would provide a staffing ratio higher than the staffing ratio for the Mendota Mental Health Institute (exclusive of MJTC), but would be slightly lower than the staffing ratio for the Winnebago Mental Health Institute.

13. In addition to providing positions, AB 43/SB 70 would increase budget authority for MJTC by \$9,075,800 PR in 2023-24 and by \$15,616,000 PR in 2024-25. Most of this amount--\$7,020,300 in 2023-24 and \$12,222,800 in 2023-25--reflects the salary and fringe benefit costs of the additional positions. The remainder--\$2,055,500 in 2023-24 and \$3,393,200 in 2024-25--would be for the food and nonfood supplies and services associated with the expanded juvenile population.

14. As noted earlier, the food and variable nonfood supplies and services costs for MJTC are currently supported from the GPR budget for Mendota Mental Health Institute. The Department's intention is to include any future food and nonfood costs for the expanded juvenile population into the calculation of daily rate. For the purposes of the food and nonfood supplies and services estimate,

DHS based the funding adjustment on the average per person cost for food and nonfood supplies and services for the whole Mendota Mental Health Institute population, rather than the MJTC population. Since DHS is required by statute to set the daily rate based on MJTC costs, in practice the Department would need to base the daily rate calculation on the MJTC-specific food and nonfood supplies and services costs.

15. While the construction and renovation project will significantly expand the physical capacity of MJTC, the number of juveniles who will be in the facility during the 2023-25 biennium remains uncertain. There are currently about 45 to 50 boys and about five girls under DOC supervision at Lincoln Hills School and Copper Lake School, respectively. The boys at Lincoln Hills are currently eligible for transfer to MJTC, and with an expanded facility, DHS and DOC may determine that a higher proportion of these boys would be appropriate for MJTC services. Since there is currently no unit for girls at MJTC, any of the girls under DOC supervision at Copper Lake could be a candidate for transfer. In addition to potential transfers from DOC, juveniles under supervision of counties who are housed in a secure residential care center for children and youth (SRCCCY) are eligible for transfer to MJTC. Currently there are no SRCCCYs operating in the state, but Racine County and Milwaukee County are each in the process of establishing a SRCCCY. However, these facilities will need to be completed and operational before any transfers can occur. The likelihood and number of transfers from these or any other counties that establish their own facility remains uncertain.

16. Upon the completion of the first phase of the MJTC project, any increase to the MJTC population would likely occur gradually. For this reason, DHS indicates that it is unlikely that the positions that would be provided under AB 43/SB 70, if approved, would be filled immediately. Instead, the Department's intention would be to recruit for, and hire staff only as needed if and when the population expands. Since DHS charges DOC (or counties) on a daily rate basis, it would not be able to support the cost of positions to staff units that are significantly below capacity.

17. Since the MJTC PR appropriation authorizes expenditure of all moneys received, rather than the amount in the Chapter 20 appropriation schedule, the funding adjustment provided by the bill has no real effect on the Department's expenditure authority. The amount provided in that appropriation, or any PR appropriation of the same type, reflects an estimate of expenditures, rather than a limit on expenditures.

18. Given the nature of the funding mechanism for MJTC, as outlined in the previous two points, one way of viewing a decision to approve the additional position authority and the appropriation adjustment, as proposed, is that while it would give the Department the ability to proceed with the process of expanding MJTC services, any actual expansion in the number of filled positions would be driven by the size of the juvenile population. In addition, this decision to authorize staff for the facility can be seen as consistent with the earlier decisions made by the Joint Committee on Finance and the full Legislature to approve and provide funding for the expansion of the facility. Consistent with this perspective, the Committee could approve the funding and positions as proposed in AB 43/SB 70. [Alternative A1]

19. The Committee could also determine that since several factors affecting the MJTC population remain unknown, the decision to authorize new positions could be delayed until more information is known. MJTC already has 42.5 unfilled positions to accommodate some growth in the

population, and if more are required, DHS could, working with the Department of Administration, submit a request for additional PR positions under s. 16.505 of the statutes, which would allow the Committee to review the need for those positions at a later time under a passive review process. [Alternative A2]

20. In contrast to the DHS appropriation for MJTC, DOC's PR appropriation for juvenile justice limits expenditures to the amounts provided in the Chapter 20 schedule (a "sum certain" appropriation). While AB 43/SB 70 would make an adjustment to the DHS appropriation reflecting an anticipated growth in MJTC costs for the current 29 beds, the bill would not provide corresponding increase in DOC's sum certain appropriation for making a transfer to DHS. Consequently, if the MJTC population expands and DHS fills positions to accommodate that growth, DOC may not have sufficient budget authority to make the larger transfer.

21. The daily rate DOC charges counties and the state is based in part on the estimated cost of juveniles transferred to MJTC. An increase in the number of juveniles served by MJTC results in an increase in the transfer from DOC to MJTC. If the Committee adjusts the DOC appropriation to provide increased budget authority to make payments to DHS for 64 beds in 2023-24 and 93 beds in 2024-25, while the juvenile population remains the same, the DOC daily rates for juveniles would increase. Given that juvenile populations are not estimated to increase over the next biennium, it is unlikely that these additional beds would need to be staffed. Further, since the daily rates are set in statute, the rate would need to be modified through separate legislation after the budget.

22. The Committee could, however, adjust the DOC appropriation to provide sufficient budget authority to make payments to DHS for expanded MJTC population and specify that this adjustment does not impact DOC's daily rate for juveniles as set in statute. An adjustment equal to the amount of the adjustment to the DHS appropriation (\$9,075,800 PR in 2023-24 and \$15,616,000 PR in 2024-25) would be sufficient to accommodate the fully-staffed and utilized facility. [Alternative B1] DOC's actual expenditures would be based on the actual costs incurred by DHS for any expansion in MJTC services occurring in the 2023-25 biennium.

23. Given that juvenile and MJTC populations are expected to remain steady over the next biennium, the Committee could decide to continue to provide support for the current 29 beds through DOC's PR appropriation. [Alternative B2] As provided in AB 43/SB 70, this alternative would provide \$447,300 PR in 2023-24 and \$637,100 PR in 2024-25 related to payments to the DHS for juveniles placed at MJTC.

24. The Committee could also make no adjustment to DOC's appropriation for juvenile justice to accommodate an increased transfer to DHS for MJTC services. In this case, DOC would be required to make the transfer from within the existing appropriation. [Alternative B3]

## ALTERNATIVES

### A. Position and Funding for MJTC Expansion in the Department of Health Services

1. Approve the proposal in AB 43/SB 70 to provide \$9,075,800 PR and 114.5 PR positions in 2023-24 and \$15,616,000 PR and 174.0 PR positions in 2024-25 to expand the capacity of the Mendota Juvenile Treatment Center.

ALT A1	Change to Base	
	Funding	Positions
PR	\$24,691,800	174.0

2. Take no action.

### B. Program Revenue Appropriation Adjustment in the Department of Corrections

1. Provide \$9,075,800 PR in 2023-24 and \$15,616,000 PR in 2024-25 to increase budget authority in the Department of Corrections for a transfer to DHS for an expansion of MJTC services. Specify that this increase would not affect the daily rate.

ALT B1	Change to Base
PR	\$24,691,800

2. Provide \$447,300 PR in 2023-24 and \$637,100 PR in 2024-25 related to payments to DHS for juveniles placed at MJTC.

ALT B2	Change to Base
PR	\$1,084,400

3. Take no action.

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