



## Legislative Fiscal Bureau

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

---

June, 2023

Joint Committee on Finance

Paper #459

### **Contracted Community Services (Health Services -- Care and Treatment Facilities)**

[LFB 2023-25 Budget Summary: Page 294, #8]

---

#### **CURRENT LAW**

Persons who are referred by a court to the Department for treatment for a mental health disorder during the course of a criminal proceeding are referred to as forensic patients. Forensic patients fall into three categories: (a) persons charged with an offense and whose competency to proceed to trial is questioned; (b) persons deemed not competent to stand trial as the result of mental illness present at the time of the trial; and (c) those who are found not guilty by reason of mental disease or mental defect that was present at the time that the offense was committed.

The Division of Care and Treatment Services contracts for the mental health treatment services, examinations, case management, and supervision for forensic patients, when the examination or treatment occurs in a community-based setting or, in certain cases, in a jail. The Division also contracts for the ongoing treatment and supervision of individuals who are placed in supervised release following a period of civil commitment at the Sand Ridge Secure Treatment Center for sexually violent persons. The base budget for all of these contracted services is \$20,560,800. The following is a description of the types of contracted services.

*Supervised Release Services.* The supervised release program provides community-based treatment to individuals who are found to be sexually violent persons (SVPs) under Chapter 980 of the statutes. SVPs are committed to DHS and provided institutional treatment at the Sand Ridge Secure Treatment Center in Mauston, but may petition the court for supervised release if at least 12 months have elapsed since the initial commitment order was entered, since the most recent release petition was denied, or since the most recent order for supervised release was revoked. The supervised release program provides intensive monitoring, continued treatment, and supportive services for transition back into the community.

*Conditional Release Services.* The conditional release program provides monitoring and treatment to individuals who have been found not guilty by reason of mental disease or defect and are either immediately placed on conditional release following the court's finding or following release from one of the state's mental health institutes.

*Competency Restoration Services.* DHS contracts with vendors to provide outpatient treatment services to individuals who are determined to be incompetent to proceed to a criminal trial if a court determines that the individual is likely to be competent within 12 months, or within the time of the maximum sentence specified for the most serious offense with which the defendant is charged. These services are delivered on an outpatient basis for individuals who, based on an assessment of their risk level, are able to live in the community, or in county jails, if the person is unable to be admitted to one of the mental health institutes for treatment due to space constraints.

*Outpatient Competency Examination.* Chapter 971 of the statutes prohibits courts from trying, convicting, or sentencing an individual if the individual lacks substantial mental capacity to understand the proceedings or assist in his or her own defense. Courts may order DHS to conduct competency examinations, which may be performed either on an inpatient basis by DHS staff at the state mental institutes, or on an outpatient basis in jails and locked units of other facilities by contracted staff.

*Department of Corrections Community Supervision.* DHS contracts with the Department of Corrections for the supervision of clients in the supervised release and conditional release programs. The contract includes supervision, transportation escort, and global positioning system (GPS) monitoring.

*Court Liaison Services.* The Department contracts for the cost of court liaison services, used to provide consultation to courts regarding mental health issues for individuals in the judicial system.

## **DISCUSSION POINTS**

1. The Department's community forensic and civil contracts are intended to compliment or substitute for institutional services provided at the mental health institutes and at the Sand Ridge Secure Treatment Center. The services provided under contract also fulfill some of the Department's statutory duties with respect to mental health evaluations and treatment to competency for individuals who are defendants in criminal court cases.

2. The contractual services are supported from a single appropriation, with a base budget of \$20,560,800 GPR. The biennial budget typically adjusts the appropriation to reflect a reestimate of the contracts, based on projections of the number of individuals served and the average per person cost. AB 43/SB 70, would provide funding increases of \$3,910,700 in 2023-24 and \$7,089,100 in 2024-25 for the reestimate.

3. The principal factors contributing to the estimate are projected caseload increases for supervised release, outpatient competency evaluations, and individuals ordered for treatment to

competency (both jail-based treatment and outpatient treatment).

4. The following table shows the caseload and average costs used for the contract estimates, including the projections for 2022-23.

**Caseload and Cost Estimates Used for AB 43/SB 70 Contracts Reestimate**

<u>Contracted Service</u>	<u>Caseload Estimates</u>			<u>Annualized Per Person Cost</u>		
	<u>2022-23</u>	<u>2023-24</u>	<u>2024-25</u>	<u>2022-23</u>	<u>2023-24</u>	<u>2024-25</u>
Supervised Release	84	92	101	\$76,684	\$81,209	\$86,000
Conditional Release	321	332	337	17,671	18,714	19,818
Competency Restoration						
Community-based	163	201	238	\$13,406	\$14,197	\$15,034
Jail-based	464	489	513	2,576	2,728	2,889
Outpatient Competency Exams	2,144	2,571	2,679	\$1,494	\$1,583	\$1,676
DOC Community Supervision	405	424	438	4,377	4,635	4,909

5. In addition to the program contracts shown in the previous table, two program components were estimated separately since the costs are not directly related to caseloads. First, DHS contracts for court liaison services to advise courts regarding individuals involved in criminal cases who are, or who potentially are, subject to forensic orders. This contract estimate was adjusted for inflation. Second, the Department has two limited term employee positions assigned to the supervised release program to coordinate services. These LTE salary and other position costs were adjusted by inflation.

6. The funding provided for contracts under AB 43/SB 70 was based on estimates that the Department developed in the summer of 2022 for its biennial budget request. This paper presents a reestimate of the contract costs based primarily on more recent caseload data. Relative to the Department's projections, enrollment in conditional release and supervised release is now projected to be lower, while the number of individuals subject to competency evaluation and treatment to competency is projected to be higher.

7. In addition to revising caseload projections, the reestimate presented in this paper makes several other adjustments to the Department's methodology. First, while the Department's estimate inflated the 2021-22 per person costs by 5.9% annually (based on the most recent prior 12-month period ending at the time the estimate was developed), the reestimate presented in this paper uses projections for future inflation using economic forecasts for core inflation corresponding to the two fiscal years of the biennium. These indexes are lower (3.6% in 2023-24 and 2.5% in 2024-25) since future inflation is forecast to be lower than the level of inflation experienced in 2021 and 2022. Second, the reestimate excludes funding for program activities for which the Department included the full cost in the reestimate, but which are already supported from the Department's base resources. (This is applicable to court liaison services, which are currently funded from the contracts appropriation, and to the two LTE positions for the supervised release program, which are funded

from the general administration budget for the Division of Care and Treatment Services.) Finally, the reestimate generally excludes expenses for expansions in the scope of services that the Department had included in its estimate, on the grounds that this budget item is intended to be a reestimate for the continuation of current services, rather than a funding adjustment to support service modifications.

8. The following table shows revised caseload and average per person costs used for the reestimate, including revised estimates for 2022-23.

<u>Contracted Service</u>	<u>Caseload Estimates</u>			<u>Annualized Per Person Cost</u>		
	<u>2022-23</u>	<u>2023-24</u>	<u>2024-25</u>	<u>2022-23</u>	<u>2023-24</u>	<u>2024-25</u>
Supervised Release	71	76	81	\$87,341	\$102,767	\$105,336
Conditional Release	304	308	313	17,555	18,187	18,641
Competency Restoration						
Community-based	184	221	259	\$13,317	\$13,797	\$14,142
Jail-based	539	564	589	2,559	2,651	2,717
Outpatient Competency Exams	2,180	2,607	2,715	\$1,484	\$1,538	\$1,576
DOC Community Supervision	375	384	394	4,348	4,505	4,617

9. One notable change under this reestimate is in the average cost for the supervised release program. The Department reports that a recent bid for providing case management services for supervised release participants was significantly higher than the previous contract. The Department attributes the increase to the vendor's higher costs to provide an adequate number of staff to meet contract obligations. However, although the average cost for supervised release is anticipated to increase in the biennium due to this contract bid, the number of individuals placed in supervised release is anticipated to be significantly lower than previously assumed, so the overall impact on the cost of the supervised release program, compared to the Department's budget estimate, is relatively small (\$317,400 increase in 2023-24 and \$176,700 decrease in 2024-25).

10. The following table shows the funding reestimate by program component, the change to the base funding level, and the difference from the amounts provided under AB 43/SB 70.

	<u>2023-24</u>	<u>2024-25</u>
<b>Forensic and Civil Contracts</b>		
Contracts Appropriation Base	\$20,560,800	\$20,560,800
Estimated Contract Costs		
Supervised Release	7,810,300	8,532,200
Conditional Release	5,609,100	5,832,800
Competency Restoration	4,548,000	5,256,900
Outpatient Competency Exams	4,009,400	4,279,800
DOC Community Supervision	1,731,600	1,818,700
Court Liaison Services	<u>262,500</u>	<u>269,100</u>
Total Estimated Contract Cost	\$23,970,900	\$25,989,500
Total Estimate Minus Base	\$3,410,100	\$5,428,700
<b>Supervised Release LTE Coordinators</b>		
LTE Salary Base	\$107,000	\$107,000
LTE Salary Reestimate	\$108,800	\$110,600
LTE Estimate Minus Base	\$1,800	\$3,600
<b>Total Funding for Reestimate</b>	<b>\$3,411,900</b>	<b>\$5,432,300</b>
Change to SB 43/SB 70	-\$498,800	-\$1,656,800

## ALTERNATIVES

1. Provide \$3,411,900 GPR in 2023-24 and \$5,432,300 GPR in 2024-25 to reflect a reestimate of forensic and civil mental health contract costs, as shown in the table under point #10.

ALT 1	Change to Base
GPR	\$8,844,200

2. Take no action.

Prepared by: Jon Dyck

