



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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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Department of Health Services Request for Additional Position Authority for the Expansion of the Mendota Juvenile Treatment Center

On January 23, 2024, the Department of Administration submitted a request to the Committee under s. 16.505(2) for approval of 123.1 new PR positions in the Department of Health Services (DHS) to increase staffing at the Mendota Juvenile Treatment Center (MJTC). The request will be approved on February 13, unless there is an objection. To help address several questions that we have received from Committee members, this memorandum provides background information on MJTC, as well as identifies other issues relating to juvenile justice that may be considered as members review the request.

BACKGROUND

The Mendota Juvenile Treatment Center is a Type 1 juvenile correctional facility that provides psychiatric evaluation and treatment for male juveniles 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 (MMHI) 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 PR positions dedicated for these units, but is also supported by Mendota Mental Health Institute staff for evening and overnight shifts. The 2019-21 budget provided an additional 42.5 PR positions for an anticipated opening of an additional 15-bed unit in previously unused space in the building. However, due to a decline in transfers from Lincoln Hills, the additional unit was not opened as anticipated and the positions were not filled. Disruptions in the juvenile justice process caused by the COVID-19 pandemic and a decrease in dispositional placements at Lincoln Hills for juvenile offenders likely contributed to the decline in transfers to MJTC.

The salary and fringe benefit costs for MJTC 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. In 2022-23, DOC transferred a total of \$5,899,200 (\$1,365,500 GPR and \$4,533,700 PR) to DHS for MJTC personnel costs, based on a daily rate of \$623 and an average daily population of 25.9. The food and non-food supplies and services (medical services, medical supplies, prescription drugs, and clothing) for MJTC is funded from the GPR budget for the Mendota Mental Health Institute.

In addition to transfers from Lincoln Hills, MJTC may also accept referrals directly from a county-run secure residential care center for children and youth (SRCC). However, since no county has yet established a SRCC, the only juveniles currently placed at MJTC are transfers from DOC. Milwaukee and Racine counties are in the process of establishing SRCCs, but these SRCCs are not expected to be completed until sometime in 2025.

In May, 2021, the Committee 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. 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 March, 2024. The second phase of the project involves renovation of existing units, which is expected to be complete in February, 2025.

The expansion of MJTC was initially proposed as one component of a series of changes to the juvenile justice system, enacted with the passage of 2017 Act 185. In addition to the expansion of MJTC, Act 185 does the following: (a) provides for a more decentralized juvenile correctional system, principally centered on the establishment of county SRCCs; (b) mandates the closure of the Lincoln Hills School and Copper Lake School, which is to be converted to an adult correctional facility; and (c) mandates the construction of another state-operated juvenile correctional facility to replace Lincoln Hills and Copper Lake.

THE DEPARTMENT'S POSITION REQUEST

The Department is requesting 123.1 new PR positions, which in addition to the 42.5 positions previously provided by the 2019-21 budget, would make a total of 165.6 positions available for the anticipated MJTC expansion. If the Department's request were to be approved, DHS would have a total of 216.1 positions for MJTC, including the 50.5 positions the Department has traditionally filled to staff the existing 29-bed facility. The Department estimates that cost of the additional positions, plus food, variable non-food, and other supplies and services associated with the expansion, at \$243,600 in 2023-24 and \$15,549,500 in 2024-25. Since MJTC positions are funded in DHS from a program revenue appropriation that has all-funds-received expenditure authority, no adjustment to the appropriation is needed as part of the request.

The Department's position request is based on assumptions regarding the number of beds that would need to be staffed following the completion of the first phase of construction, as well as the Department's proposed staffing plan for the new beds. With regard to bed capacity, DHS assumes that MJTC would fully staff 65 beds in the new building addition and in the newly-renovated 15-bed

unit. The current MJTC units, totaling 29 beds, would remain unstaffed under the Department's proposal, as these units will be undergoing renovation during the second phase of the project.

In addition to an expansion in the number of staffed beds, the Department's request reflects a staffing model that differs from current staffing practice. In part this is due to an assumption that an expanded MJTC will operate with a greater degree of independence from the Mendota Mental Health Institute, and thus will require some positions that it does not currently have. For instance, the Department proposes adding 10.0 correctional officers to perform building security, a function that is currently performed by MMHI staff. Likewise, the Department plans to hire an MJTC treatment director, and other administrative, building maintenance, and technical staff that would be independent of MMHI.

In addition to the creation of positions for dedicated staff for facility-wide functions, the Department has indicated, throughout the discussion of the MJTC expansion proposal, that MJTC would utilize a more intensive staffing model in the expanded facility with the intent of achieving a higher degree of fidelity to the MJTC treatment model. A key component of the MJTC treatment is that participants move through a series of treatment levels that are dependent upon their progress in behavior and attitudes. Ideally, participants at different levels maintain a degree of separation in order to reinforce positive progress and, conversely, avoid negative influences at the higher levels. This physical separation has not always been possible in the existing facility, but the Department has indicated that the expanded facility will allow more flexibility to maintain distance between treatment levels. However, this separation will also require higher staffing levels on a per-bed basis since there will necessarily be less staffing crossover between units.

If the Department's position request is approved as submitted, MJTC would have 216 positions for 65 beds, for a position-to-bed ratio of 3.3-to-1. MJTC has traditionally operated 29 beds with 50.5 positions (not including MMHI positions that perform some MJTC duties), for a position-to-bed ratio of 1.7-to-1. For comparison, the Winnebago Mental Health Institute has a position-to-bed ratio of 3.8-to-1, while the Mendota Mental Health Institute (excluding MJTC) has a ratio of 2.5-to-1.

ISSUES FOR CONSIDERATION RELATING TO THE MJTC POSITION REQUEST

The increase to MJTC staffing, as requested by DHS, could be viewed as an initial, necessary step to allow the other changes included in Act 185 to proceed. However, there continue to be unresolved issues associated with the policy transitions initiated with that Act. The following points identify and describe some of these issues.

- *Will the number of juveniles admitted to MJTC for treatment be sufficient, during the 2023-25 biennium, to necessitate opening all new MJTC units and filling the requested positions?*

The number of juveniles under state supervision (DOC or MJTC) has been declining over the past decade. At the beginning of 2018, during deliberations on Act 185, there were 175 juvenile males at either Lincoln Hills or MJTC (148 and 27, respectively), whereas there are currently 72 (48 and 24, respectively). DHS indicates that it is possible that this reduction reflects a reluctance by

many juvenile courts to order placement at Lincoln Hills given that the facility is to be closed in the coming years, and that once alternatives are available (a new state facility or an expanded MJTC) that those placements will again increase. It is also possible that counties will continue to develop SRCC capacity and that some juveniles placed in these facilities will eventually, in turn, be referred to MJTC. However, neither of these outcomes is certain and, furthermore, it may take several years for either to occur.

Another possibility is that the MJTC population will increase if a higher proportion of Lincoln Hills juveniles are transferred for treatment. Currently about one-third of juvenile males under state supervision are placed at MJTC. This is a substantial increase from 2018, when about 15% of juvenile males under state supervision were placed at MJTC. For the MJTC male population to increase due to additional transfers from Lincoln Hills, DHS and Corrections would need to determine that the MJTC treatment program is appropriate for an even higher proportion of the total juvenile male population. This is a possibility, although it also not assured to occur. Some juvenile males at Lincoln Hills would not be good candidates for a transfer to MJTC, for various reasons. As an example, some would have already gone through treatment at MJTC, and so would be unlikely to be transferred back; others may not have enough time remaining in their placement order to progress through the MJTC treatment program. Finally, since the MJTC treatment model was developed to target juvenile males with the most significant behavioral, social, and mental health challenges, this level of intensive treatment may not be necessary or beneficial for all juveniles with a state placement.

On a final note, an increase in MJTC placements is likely to occur once the units for females are open. There are generally fewer than 10 female juveniles at Copper Lake, so the 20 beds designated for females at MJTC would still be at less than half of this capacity even if all were transferred. For the MJTC units designated for females to be more fully utilized in the short term, the number of females with a juvenile correctional order would need to increase and DHS would need to determine that these females are appropriate subject for MJTC treatment.

- *Once the state juvenile correctional facility in Milwaukee, and the SRCCs in Milwaukee and Racine counties are completed and opened, what impact will these facilities have on the need for MJTC treatment services?*

Once the state juvenile correctional facility in Milwaukee and the county SRCCs are completed in 2025, how the juvenile courts decide to utilize these facilities could affect the population of MJTC. Since juveniles who are placed at a SRCC will be eligible for transfer to MJTC, the completion of the country SRCCs could increase demand for MJTC treatment. However, juveniles with characteristics that are considered appropriate for MJTC treatment may already be receiving placements at Lincoln Hills and thus already have access to MJTC treatment. In this case, the fact that such a juvenile would be placed in a SRCC first would not necessarily result in an overall increase in the MJTC population. It is also possible that once Milwaukee and Racine counties open their SRCCs, juvenile courts may determine that the benefit of having a juvenile placed closer to their home in southeast Wisconsin would outweigh the benefit of transferring the juvenile to MJTC for treatment.

- *What impact will the increase in MJTC staff have on the daily rate charged to the Department of Corrections for juvenile placements and will DOC have sufficient expenditure authority and revenue to pay higher rates?*

If all of the requested positions and all existing MJTC positions (including those provided by the 2019-21 budget) were filled as planned, total MJTC costs in 2024-25 would increase to approximately \$25.0 million, which would be over four times the total MJTC expenditures for 2022-23. If all 65 MJTC beds that are part of the first phase of construction were filled for the full year, the Department would need to establish a daily rate of approximately \$1,040 to cover its costs.

Under this scenario, the MJTC daily rate would need to increase by 67% from the 2022-23 level, although it would still be below the daily rate of \$1,246 charged by the DOC for juveniles placed at Lincoln Hills/Copper Lake or MJTC. Note, however, that current MJTC daily rates (\$623) are already included as a component cost in DOC's daily rate calculation. As a result, any increase above the current MJTC rate would most likely result in an increase in the juvenile correctional daily rate, unless: (a) another funding source was used to support the costs; (b) placements at state facilities increase, resulting in a lower cost per placement; or (c) operating costs at juvenile correctional facilities are reduced.

In the event that not all beds are occupied for the full year, DHS may elect to leave some positions unfilled. The daily rate could vary widely depending upon various factors, but if the number of beds filled is proportionately less than the number of positions filled, the daily rate could be higher. If, for instance, DHS were to fill 80% of the positions and the average daily population would increase to 40, the daily rate would need to be set at \$1,300 to fully cover the costs. Under this or other possible scenarios, DOC would not have sufficient expenditure authority or a sufficient program revenue balance to fully cover MJTC costs. Furthermore, since the daily rate that DOC can charge to counties is established by statute, the full Legislature would need to enact legislation if a change to that rate becomes necessary to maintain a positive balance in the DOC PR appropriation for juvenile correctional services. Even with no additional increase associated with MJTC daily rates, the DOC PR appropriation is expected to be in deficit at the end of the current fiscal year.

OTHER ISSUES FOR CONSIDERATION

In addition to the issues that have been discussed in this memorandum relating to the Department's position request, there are other, broader issues relating to the state's juvenile justice system that remain unresolved. Perhaps the most important of these relate to the closure of Lincoln Hills and Copper Lake as juvenile correctional facilities and the transition of those facilities to use for adult corrections. While the Committee could make a decision on the Department's position request independently of the Lincoln Hills and Copper Lake issues, the Committee and the full Legislature will need to consider the process and timeline for the closure and reopening of those facilities, and how these actions may impact the status of the juveniles and incumbent employees at the two facilities, as well as the fiscal implications for the juvenile and adult corrections budget.

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