



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>

February 12, 2020

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Juvenile Grant Committee: Juvenile Statewide Plan for Secure Residential Care Centers for Children and Youth -- Agenda Item I

On October 1, 2019, the Juvenile Grant Committee submitted a statewide plan for county secure residential care centers (SRCCs) for children and youth to the Joint Committee on Finance as required by 2017 Act 185 and modified by 2019 Act 8. In order for the plan to be implemented, review and approval of the plan by the Finance Committee at a meeting held under s. 13.10 is required.

The plan submitted by the Grant Committee includes SRCC facilities at Brown, Dane, Milwaukee, and Racine Counties. Funding for the four sites totals \$111 million in general fund supported borrowing.

This paper provides background information on the provisions of 2017 Act 185 and 2019 Act 8 related to juvenile correctional facilities, the responsibilities of the Juvenile Justice Grant Committee, and a description of the plan submitted by that Committee to the Joint Committee on Finance.

ACT 185 BACKGROUND

On March 30, 2018, 2017 Act 185, related to modifications to the state's juvenile correctional system was enacted. Pursuant to Act 185 as modified by 2019 Act 8, the state must close the Lincoln Hills and Copper Lake School by July 1, 2021, which Corrections will convert into an adult correctional facility.

Under Act 185 and Act 8, the Department of Corrections is required to establish new Type 1 juvenile correctional facilities by July 1, 2021, subject to the approval of the Joint Finance Committee (JFC). The act authorized \$25 million in bonding for the new facilities. However, this bonding authority was transferred under 2019 Act 9 for use as grants to counties. 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 was authorized. However, this bonding authority was also transferred to grants for county SRCCs under 2019 Act 9.

In addition, Act 185 created a new type of secured juvenile facility, administered by counties, called SRCCs. 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 these new SRCCs, and attached juvenile detention facilities. Under 2019 Act 9, an additional \$40 million general fund supported borrowing was enumerated to allow Corrections to provide grants to assist counties in designing and constructing secured SRCCs. In total, \$80,000,000 is enumerated and available to for grants to counties.

Secure Residential Care Centers

The Department of Corrections created emergency rules governing the building and operations of SRCCs with the advice of a 25-member Juvenile Study Committee. Under Act 185, 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. 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. 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. Counties building SRCCs may request access to treatment for SRCC juveniles at MJTC subject to the approval of the Department of Health Services.

Beginning on July 1, 2021, 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. In addition, counties building SRCCs may have access to K-12 school tuition reimbursement by the state.

Juvenile Justice Grant Committee

Act 185 created a juvenile corrections grant program, administered by the Juvenile Corrections Grant Committee and Corrections. 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.

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 members include: (a) the Governor, or designee; (b) the Corrections Secretary, or designee; (c) the Department of Children and Families (DCF) Secretary, or 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 members of the Grant Committee are as follows:

DOC Secretary Kevin Carr (Chair)
DCF Secretary-designee Emilie Amundson (Vice-Chair)
Senators Darling, Wanggaard, and Taylor
Representatives Born, Sanfelippo, and Schraa
Representative Crowley (Governor's Designee)
Sharlen Moore (appointee of the Governor)

The Grant Committee was required to establish requirements, guidelines, and criteria for grant proposals and for awarding grants. Act 185 specifically required 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 required the Grant Committee to give preference to proposals that utilized existing facilities that consider proximity to the populations of juveniles the facility would serve, and to multi-county applications.

Under Act 185, the deadline for counties to submit grant applications to the Grant Committee was March 31, 2019. Under 2019 Act 8, the deadline for counties to submit grant applications to the Grant Committee was modified to June 31, 2019. The Grant Committee received grant applications from Brown, Dane, Milwaukee, and Racine counties. The Grant Committee then worked with applicants to clarify their applications. The Grant Committee met 14 times between March and September, 2019.

The Grant Committee submitted a statewide plan of recommended grant approvals to the Joint Committee on Finance (JFC) on October 1, 2019. The statewide plan recommends all four grant applications be approved. The plan must be approved by JFC before it can be implemented. 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. The Grant Committee terminates on either the date all grant funded projects are completed, or July 1, 2021, whichever is earlier. (Act 8 modified the original date of January 1, 2021.)

County Juvenile Detention Facilities After Act 185 Implementation

The Act prohibits a court from placing a juvenile in a juvenile detention facility for more than

30 consecutive days, unless the facility 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 July 1, 2018, also known as a “180/365 Day Program.” An “eligible juvenile detention facility” may continue to receive juvenile placements of more than 30 consecutive days by receiving a grant under the competitive process and becoming an SRCC as of July 1, 2021. 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 July 1, 2021 than the average daily population of juveniles between July 1, 2018 and June 30, 2021; 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.

Corrections Juvenile Capacity Analysis

In order to assess the capacity needs for SRCCs and Type 1 facilities for the state, Corrections developed a capacity analysis for the Grant Committee and presented it at the Committee's May 17, 2019, meeting. Subsequently, Corrections provided updated final information as shown in Tables 1 and 2, which were presented to the Grant Committee on September 16, 2019.

TABLE 1

Estimated Capacity Need by Initial Placement

<u>Potential Population</u>	<u>Estimated SRCC ADP</u>
Jan-June 2019 Juvenile Correctional Facility Juvenile Commitment ADP	97
County-run Long-Term Post-Dispositional Detention Converting to SRCC ¹	38
Additional Need from Survey Data	15
Potential increase from increased availability of secure placement options	Unknown
Potential decrease from systems improvement in community-based youth justice	<u>Unknown</u>
Total	150
Capacity Need Operating at 85%	177

¹: 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 average daily population (ADP) based on 2018 data.

TABLE 2

Proposed Facility Capacity ¹

	Proposed SRCC <u>Capacity</u>
Milwaukee ²	32
Dane ³	29
Racine	32
Brown	<u>24</u>
Total	117
Difference between estimated need and proposed SRCC capacity	60

¹. As part of Act 185, Mendota Juvenile Treatment Center is expanding bed capacity; however, the process of placements and the number of available beds for SRCC placements is unknown and based on treatment needs.

². Assumes 32 SRCC beds under Milwaukee County's Plan B proposal. Under Plan A proposal Milwaukee capacity would increase to 40 SRCC beds.

³. Assumes 29 SRCC beds. Dane County's plan includes a range of 23-29 beds.

As shown in Tables 1 and 2, using the average daily population (ADP) from January through June, 2019, and all other factors remaining unchanged, approximately 97 juveniles would be transferred from state to county facilities as the initial placement on July 1, 2019. Of the 97 juveniles transferred to county SRCCs, a small number may be transferred back to MJTC. The remainder of these juveniles will be placed in SRCCs along with approximately 38 post-dispositional juveniles already in juvenile detention centers that will become SRCCs. The 38 juvenile ADP for SRCCs is based on county reported data to Corrections from calendar year (CY) 2018.

In addition, the Wisconsin Counties Association (WCA) sent out a survey to counties to try and determine additional county juveniles who would be eligible for placement in SRCCs. Based on data from counties from CY 2013 to 2017, WCA estimates that facilities for an additional 15 ADP of juveniles will be needed. This additional number of juveniles is difficult to identify, since these juveniles were not sent to a 180/365 day program or to a state facility.

Updated data from the state on the number of juveniles eligible to be transferred to SRCCs is available monthly. While counties are required to report the ADP of juveniles in their short-term detention facilities on a monthly basis, counties are not required to provide information on the capacity or ADP of their 180/365 day programs to the state. Therefore, it is difficult to update estimates on how many juveniles in 180/365 day programs will be eligible for transfer to SRCCs and how many grandfathered in 180/365 day program beds may be available to juveniles from other counties. Further, given the role of the district attorneys and the courts in juvenile dispositions, the balance of state and county secure juvenile beds after July 1, 2021, is uncertain.

The number of post-dispositional juveniles does not include the number of juveniles who would likely be staying in grandfathered in 180/365 day programs which would approximately be an ADP of 24 juveniles. In order convert ADP to a number of beds, Corrections recommends dividing by 0.85 to plan for an 85% occupancy rate. Dividing ADP by 0.85 allows facilities to accommodate fluctuations in the secure juvenile population. It should be noted that the Corrections will still be responsible for an estimated ADP of 63 serious juvenile offenders (SJO) juveniles and youth with adult sentences (January through June 2019) which converts to approximately 73 state beds. [Based on data from calendar year 2019, capacity needs are 172 for SRCC's and 83 for Type 1 facilities.]

STATE JUVENILE JUSTICE PLAN SUMMARY

On October 1, 2019, the Juvenile Grant Committee submitted a statewide plan for approval. The plan recommends the approval of the four applications received from Brown, Dane, Milwaukee, and Racine Counties. The recommended plan would provide a total of \$110.96 million in bonding authority to the four counties and provide a capacity of 111 to 125 SRCC beds. If the Finance Committee does not approve the plan, grants cannot be made.

Generally, Corrections indicates that SRCC designated beds may also qualify as short-term detention beds. For plans that include short-term detention facility space, it is unclear if the beds would also qualify as SRCC beds. In addition, while some beds may be designated as SRCC beds by the project, it is unclear under what circumstances the bed would be used as a short-term detention bed and for which juveniles. Table 3 below provides a summary of the grant applications recommended by the Grant Committee. Table 4 provides additional cost information.

TABLE 3**Juvenile Grant Committee Statewide Plan
General Summary of Recommendations**

	Brown County	Dane County	Racine County	Milwaukee County Plan A*	Milwaukee County Plan B*
Project Type	New Construction Co-located SRCC/JDF	Renovation	New Construction Co-located SRCC/JDF	Renovation Expansion Leased Facility	Renovation Expansion
SRCC Beds	24 beds <ul style="list-style-type: none"> • Boys – 16 beds • Girls – 8 beds 	23-29 beds <ul style="list-style-type: none"> • Boys – 18-23 beds • Girls – 5-6 beds 	32 beds (Unspecified boy/girl split)	40 beds <ul style="list-style-type: none"> • Vel Phillips Center (up to 22 beds) • Unknown Leased Facility (up to 24 beds) 	32 beds
Juvenile Detention Facility (JDF) Beds	32 beds	N/A	16 beds	N/A	N/A
Location	Unknown (county property adjacent to jail)	City County Building Madison	Unknown (\$3M budgeted for land acquisition)	Vel Phillips Center Wauwatosa Unknown (leased facility)	Vel Phillips Center Wauwatosa
Serve Out-of-County Youth	Yes	Yes	Yes	Unknown	Unknown
Project Cost	\$43.1M	\$6.7M	\$45.8M	Up to \$24.9M	\$24.9M
Grant Request	\$40.9M	\$6.5M	\$40.0M	Up to \$23.6M	\$23.6M

* Either Plan A or Plan B would apply to Milwaukee.

TABLE 4

**Juvenile Grant Committee Statewide Plan
Detailed Cost Information**

	Brown County	Dane County	Racine County	Milwaukee County Plan A*	Milwaukee County Plan B*
Total Project Cost	\$43,032,000	\$6,724,800	\$45,840,000	\$24,858,203	\$24,858,203
Construction	\$32,600,000	\$5,159,000	\$35,700,000	\$7,349,750	\$14,212,400
Leased Facility Renovation				\$8,847,500	
Non-Construction	\$6,520,000	\$688,600	\$10,140,000	\$4,565,681	\$6,668,490
Contingency	\$3,912,000	\$877,200	*Not separately identified	\$4,095,272	\$3,977,312
Grant Amount Requested	\$40,880,400	\$6,461,306	\$40,000,000	\$23,615,293	\$23,615,293
County Match	\$2,151,600	\$263,494	\$2,105,263	\$1,242,910	\$1,242,910
Additional County Funds			\$3,734,737		
Square Footage	70,900 sq. feet	13,010 sq. feet	72,000 sq. feet	21,879 sq. feet Unknown footage (leased facility)	36,816 sq. feet

* Either Plan A or Plan B would apply to Milwaukee.

Following is a summary of the recommended grants for Brown, Dane, Milwaukee, and Racine Counties.

Brown

Brown County intends to construct a new, co-located SRCC and detention facility that would serve up to 24 juveniles in a SRCC and 32 juveniles in short-term detention. Brown County indicates it will serve juveniles from across the northeast region of the state. Both co-located facilities would serve boys and girls. With construction of 32 short-term beds, Brown County would increase short-term detention capacity from 15 juveniles.

Brown County estimates the total cost associated with design and construction of the facility to be \$43,093,591. The estimated cost of the facility subject to 95% funding is estimated to be \$37,551,130. The estimated cost of the facility subject to 100% funding (facilities for females) is \$3,556,086. The required Brown County match is estimated to be \$1,976,375.

Brown County has projected their daily rate to be \$688 per day for out-of-county juveniles. In addition to local level and Youth Aids funds, Brown County indicates that it will seek other applicable federal grants for program services.

Dane

Dane County intends to co-locate the SRCC with the current Juvenile Detention facility. The SRCC that would contain 18 to 23 beds for males and a five or six beds for females for a total of 23 to 29 beds. The majority of the juveniles would be from Dane County, but the County indicates that there would be capacity to serve juveniles from other counties in the region or other counties in the state.

Dane County currently operates its juvenile detention facility in a portion of the County Building. There is unoccupied space currently associated with the detention facility. Under the grant, this existing but unused detention space and adjacent office space that would be renovated to become the SRCC. Dane County has received approval from the Dane County Board for the project and the 5% match requirement. The estimated full project cost is \$6.7 million for a 10,560 square foot expansion and 2,420 square feet of outdoor recreation space. The county does not currently have an estimated daily rate.

Milwaukee

Milwaukee County's grant is intended to complete one of two potential plans for male juveniles. "Plan A" is an expansion of the existing detention facility in the Vel R. Phillips Youth and Family Justice Center (Vel Phillips) and obtain community-based leased facility space. "Plan A" would result in 40 total beds for juveniles; up to 22 beds at Vel Phillips and up to 24 beds at unspecified leased facilities. "Plan B" is solely an expansion of the Vel Phillips detention center and would result in 32 total beds. The County has worked closely with the state's Department of Administration to ensure compliance of community-based leased space with Act 185. The majority

of the juveniles held in the facility(-ies) would be from Milwaukee County. While it is unknown which plan would be used, the grant amount for Plan A or Plan B is the same. The estimated full project cost is \$24.86 million for either plan. The Milwaukee County Department of Health and Human Services has committed to funding the required 5% match. The county does not currently have an estimated daily rate.

Racine

Racine County is requesting funds to contract a new, co-located facility that would serve up to 32 juveniles in a SRCC and 16 juveniles in short-term detention. Racine County intends the entire co-located facility to be compliant with DOC 347 (administrative rule for SRCCs) to accommodate fluctuations in both male and female populations. Racine County may serve juveniles from other counties including Kenosha, Waukesha, Manitowoc, and Washington. With the construction of 16 short-term beds, Racine County would be decreasing short-term detention capacity from 119 juveniles.

Racine is in the process of identifying available land for the facility. The County has received support from the Racine County Executive for the project. Racine is requesting \$40 million to construct a new facility, with a full project budget of \$45 million. The new facility is estimated to be 72,000 square feet. Further, Racine County is estimating a daily rate of \$400 per day.

Variances

Under 2019 Act 8, Corrections must grant a county-requested variance from the design and construction rules if all the following conditions are met: (a) the Grant Committee determines the variance is necessary to achieve a reasonable cost-saving measure that will not compromise the quality or type of evidence-based, trauma-informed care offered at the SRCC, or incorporate new practices of evidence-based, trauma-informed care at the SRCC; (b) the Grant Committee includes the variance in its recommendations to the Joint Committee on Finance; (c) the proposed SRCC, including the proposed variance, is part of the plan approved by JFC and receives grant funding; and (d) the proposed SRCC meets the minimum requirements of the commercial building code. While Dane and Milwaukee Counties proposed variances to the SRCC rule (DOC 347), the Grant Committee did not recommend any variances in the statewide plan.

FUNDING

Under 2017 Act 185 and 2019 Act 9, a total of \$80 million in general fund supported borrowing is enumerated and available for grants to counties. Given that the Juvenile Grant Committee's plan supports \$111 million in funding, an additional \$31 million is required to fully fund the plan.

If there is support for the plan as presented, it appears that the \$31 million could be provided under the two scenarios. First, legislation could enumerate an additional \$31 million for the facilities. Second, the Building Commission could authorize use of \$31 million from bonding that is authorized in 2019 Act 9, but not specified in statute for a specific purpose. In the 2019-21 budget act, the

Governor partially vetoed two provisions from which the \$31 million could come.

First, the budget as passed by the Legislature would have provided \$15 million of general fund supported bonding for a northern Wisconsin regional crisis center. The Governor's partial veto deleted the specific project to be funded so that the provision in Act 9 reads, "Building Commission may award this subsection [\$15 million] for a center." In the veto message, the Governor indicates that he is directing that the \$15 million be used for expansion of the Mendota Juvenile Treatment Center.

Second, the budget as passed by the Legislature, would have provided \$25 million of general fund supported borrowing for a grant program to assist non-state organizations to carry out construction projects having a public purpose. Of the \$25 million, the bill earmarked \$3 million for a project in the City of Wisconsin Rapids. In exercising his partial veto authority, the Governor left the Wisconsin Rapids project, but the remaining \$22 million would be for "construction projects having a public purpose." In the veto message, the Governor indicates that he is directing the \$22 million to support construction of a Type 1 facility to replace Lincoln Hills.

Because use of the \$37 million indicated above is not identified in the statutes, the Building Commission would have the ability to direct it for the grants as specified in the plan of the Juvenile Grants Committee.

The Committee could approve the statewide plan that would grant counties bonding authority to build SRCC's in Brown, Dane, Milwaukee, and Racine counties. Alternatively, the Committee could approve some, but not all, of the facilities recommended by the juvenile Grant Committee. Finally, because requested bonding authority exceeds current bonding authority, the Committee could deny the request and consider it once the difference in requested and provided bonding authority has been addressed.

ALTERNATIVES

1. Approve the Juvenile Grant Committee's statewide plan for secure residential care centers for children and youth.
2. Approve any of the following facilities recommended by the Juvenile Grant Committee.
 - a. Brown County
 - b. Dane County
 - c. Milwaukee County -- Plan "A"
 - d. Milwaukee County -- Plan "B"
 - e. Racine County
3. Deny the request.

Prepared by: Sarah Wynn