



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #406

### **Forensic Unit Expansion at Sand Ridge Secure Treatment Center (Health Services -- Care and Treatment Services)**

[LFB 2019-21 Budget Summary: Page 210, #2]

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#### **CURRENT LAW**

The Department of Health Services operates the state's two mental health hospitals, the Mendota Mental Health Institute in Madison and the Winnebago Mental Health Institute in Oshkosh. Persons are committed to one of the mental health institutes either as the result of a criminal process or a civil process. Persons who have been committed as the result of a criminal proceeding, known as forensic patients, fall in one of three categories: (a) persons found not guilty of a crime by reason of mental disease or defect; (b) persons who have been deemed not competent to stand trial for a criminal charge as the result of mental illness and for whom the court has ordered treatment to restore competency; and (c) persons who are undergoing evaluation to determine competency to stand trial. Persons who are admitted to one of the mental health institutes under a civil process have been found to be dangerous to themselves or others as the result of mental illness or drug addiction. This can be done on an emergency, time-limited basis under a process known as emergency detention, or on a longer-term basis, known as civil commitment.

The Mendota Mental Health Institute is used almost exclusively for the treatment of male forensic patients, but also has a unit for civil patients who require geriatric care. Female forensic patients, and adult and adolescent emergency detention and civil commitment patients are admitted to Winnebago.

Mendota currently has 273 staffed beds for forensic patients and 15 geriatric civil beds. In addition to these beds at Mendota, there are 20 beds for forensic patients at the Sand Ridge Secure Treatment Center (SRSTC) in Mauston. Staffing for these beds was provided in the 2017-19 budget act, pending completion of a construction project to add beds at Mendota. SRSTC is otherwise used for civil commitment of sexually violent persons.

Mental health institute facility and operations costs associated with forensic patients are funded primarily with a GPR appropriation, although some costs can be billed separately to Medicaid or other third-party insurance. Costs associated with civil patients are primarily the responsibility of the patient's county of residence, although, like forensic patients, some costs can be billed to third parties. Payments received from counties and other parties are deposited in a program revenue appropriation for institution costs.

Mendota has a base budget (principal operations) of \$75,823,500 (\$66,706,100 GPR and \$9,117,400 PR) and 738.07 positions (640.89 GPR and 97.18 PR). These amounts include funding for forensic beds at SRSTC.

## **GOVERNOR**

Provide \$3,430,900 GPR in 2020-21 and 36.5 GPR positions, beginning in 2020-21 to operate a 20-bed unit for forensic patients at the Sand Ridge Secure Treatment Center. Of the funding provided under this item, \$2,445,000 would be for salary and fringe benefits, \$489,100 would be for supplies and services associated with the positions, and \$496,800 would be for food and variable non-food costs, such as medication and medical services, laundry, clothing, and linens.

## **DISCUSSION POINTS**

1. The 2017-19 budget provided funding and positions for a total of 34 additional forensic patient beds, housed in temporary space pending completion of a renovation project involving Mendota's Lorenz Hall. That project, which involves the conversion of vacant units that had previously been used for civil patients, to forensic units, will have capacity for a total of 40 maximum- and medium-security beds. Completion of the project is expected in the fall of 2020, allowing DHS to move the 34 staffed beds from temporary space to permanent space.

2. In addition to the 20 beds temporarily housed at SRSTC, the other 14 beds are currently housed in space at the Mendota Juvenile Treatment Center (MJTC). That unit was one of three built for MJTC, but has not been used as a part of Mendota's juvenile treatment program since 2001. Once vacated, DHS plans to use the unit to expand MJTC's capacity, using funding and positions that the bill would provide as part of a separate item.

3. Since the base funding and positions for the 20 forensic beds currently housed at SRSTC will be used for the new unit at Lorenz Hall, the Department will have no funding and positions to continue the SRSTC unit for forensic patients. The funding and positions provided by the bill is intended to allow DHS to continue operating a 20-bed forensic unit at SRSTC.

4. The continuation of the SRSTC forensic unit following the completion of the Lorenz Hall project would represent an increase in total forensic bed capacity for males. Although the Lorenz Hall project will provide space for 40 forensic beds, 34 of those beds are already effectively filled using temporary space, meaning that the total capacity for forensic patients will increase by only six beds.

5. The Department indicates that an increase in forensic capacity is needed to address a growing waiting list for forensic admissions. The forensic waiting list declined following the opening of the SRSTC unit in early 2018, from an average of 69 to approximately 60, but is now higher than it was before the unit opened. In the final quarter of calendar year 2018, there was an average of 72 forensic patients awaiting admission. The average time spend on the waiting list has remained relatively constant over the past year, at between 36 days and 38 days.

6. Persons who require inpatient competency evaluations or treatment to competency, but for whom no bed space is available, remain in the county jail while waiting for admission. While counties have some capacity to manage persons with mental health conditions, the Department maintains that jails are not appropriate for persons with severe mental illness and that a lengthy stay in the jail environment may worsen their condition, ultimately increasing the time needed for treatment. The county jail is responsible for the cost to hold a person with a forensic commitment.

7. DHS is statutorily required to accept all forensic patients committed by the court. The Department asserts that it is vulnerable to lawsuits from individuals or their families if a person is not promptly admitted for treatment. This risk is particularly acute in cases where a person attempts or commits suicide in the county jail while awaiting admission. In the interest of fulfilling its legal responsibilities to provide prompt treatment in an inpatient setting for forensic patients who require a secure environment, the Department asserts that an increase in the forensic bed capacity is needed.

8. The Department identifies several strategies that are used to control the size of the inpatient forensic population. Among these are the development and expansion of the outpatient competency restoration program, which allows the Department to avoid inpatient admissions in some cases, or else shorten the length of inpatient treatment in other cases. The Department also points to its court liaison program, which works to expedite competency hearings with the goal of shortening the length of time that a person must remain at one of the mental health institutes following treatment to competency. Finally, the conditional release program allows persons to be discharged from the mental health institutes and continue treatment in the community if approved by the court. The Department believes, nevertheless, that these measures are not sufficient to limit the size of the male forensic population to the existing capacity at Mendota.

9. One potential explanation for the growth in forensic patient admissions is a greater tendency within the law enforcement and judicial systems to view certain behaviors as having roots in mental illness, rather than criminal deviancy. The state has, in fact, provided grants to support training to help law enforcement officers to recognize and manage mental health crisis situations. Such events do not necessarily involve lawbreaking, but when a violation of law does occur in these situations, it may now be more likely to be treated as a mental health issue by both law enforcement officers and courts. Consequently, the increased demand for forensic patient treatment services is not necessarily the result of an increase in lawbreaking by individuals with a mental illness, but rather a shift in how the existing problems are being addressed. In that case, the increased cost of forensic patient care may be partially offset by decreased costs for county jails and state prisons.

10. The care of forensic patients is the Department's statutory responsibility. Given the current waitlist for admission already exceeds the total capacity of the proposed units, and has been at that level for well over one year, a case could be made that the state must address the deficiency in

its forensic capacity. In this case, the Governor's proposal to continue operating a 20-bed forensic unit at SRSTC (Alternative 1).

11. The bill would provide project positions, rather than permanent positions, to continue operating the SRSTC unit. Those positions would expire on June 30, 2021, at which point DHS would no longer have staffing resources to maintain the additional beds. The administration indicates that the need for forensic beds at SRSTC can be reevaluated after two years.

12. Given that the increase in the number of forensic patients appears to be a longer-term trend, the state may need an ongoing strategy to address the apparent need for more forensic treatment beds. Instead of providing project positions, the Committee could provide permanent positions to operate the SRSTC forensic patient unit on an ongoing basis (Alternative 2).

13. If the Committee determines that additional forensic bed capacity is not warranted, it could disapprove the positions and funding for that purpose (Alternative 3).

**ALTERNATIVES**

1. Approve the Governor's recommendation to provide \$3,430,900 GPR in 2020-21 and 36.5 GPR positions, beginning in 2020-21 to operate a 20-bed unit for forensic patients at the Sand Ridge Secure Treatment Center.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$3,430,900	36.50	\$0	0.00

2. Approve the Governor's recommendation by providing funding and positions to operate a 20-bed unit for forensic patients at the Sand Ridge Secure Treatment Center, but modify the Governor's recommendation by providing permanent positions instead of project positions, to operate the unit on an ongoing basis.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$3,430,900	36.50	\$0	0.00

3. Take no action.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	- \$3,430,900	- 36.50

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