

## CORRECTIONS

<b>Budget Summary</b>							
Fund	2020-21 Base Year Doubled	2021-23 Governor	2021-23 Jt. Finance	2021-23 Legislature	2021-23 Act 58	Act 58 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,549,799,000	\$2,616,130,100	\$2,589,260,400	\$2,589,260,400	\$2,589,260,400	\$39,461,400	1.5%
FED	5,286,600	5,329,600	5,329,600	5,329,600	5,329,600	43,000	0.8
PR	<u>242,979,800</u>	<u>246,338,500</u>	<u>244,576,900</u>	<u>244,576,900</u>	<u>244,576,900</u>	<u>1,597,100</u>	0.7
<b>TOTAL</b>	<b>\$2,798,065,400</b>	<b>\$2,867,798,200</b>	<b>\$2,839,166,900</b>	<b>\$2,839,166,900</b>	<b>\$2,839,166,900</b>	<b>\$41,101,500</b>	<b>1.5%</b>

<b>FTE Position Summary</b>						
Fund	2020-21 Base	2022-23 Governor	2022-23 Jt. Finance	2022-23 Legislature	2022-23 Act 58	Act 58 Change
						Over 2020-21 Base
GPR	9,668.62	9,788.22	9,716.22	9,716.22	9,716.22	47.60
FED	1.00	1.00	1.00	1.00	1.00	0.00
PR	<u>544.30</u>	<u>544.30</u>	<u>544.30</u>	<u>544.30</u>	<u>544.30</u>	<u>0.00</u>
<b>TOTAL</b>	<b>10,213.92</b>	<b>10,333.52</b>	<b>10,261.52</b>	<b>10,261.52</b>	<b>10,261.52</b>	<b>47.60</b>

### Budget Change Items

### Departmentwide

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 101]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$41,094,800	- \$1,897,400	\$39,197,400
PR	3,740,800	- 68,600	3,672,200
FED	<u>43,000</u>	<u>0</u>	<u>43,000</u>
<b>Total</b>	<b>\$44,878,600</b>	<b>- \$1,966,000</b>	<b>\$42,912,600</b>

**Governor:** Provide \$22,439,300 (\$20,547,400 GPR, \$1,870,400 PR, and \$21,500 FED) annually related to the following standard budget adjustments: (a) full funding of salaries and fringe benefits (-\$31,986,200 GPR, -\$54,100 PR, and \$21,500 FED annually); (b) turnover

reduction (-\$12,423,100 GPR and -\$457,600 PR annually); (c) overtime (\$56,336,600 GPR and \$2,106,100 PR annually); and (d) night and weekend differential (\$8,620,100 GPR and \$276,000 PR annually).

Also included under standard budget adjustments are minor transfers of positions within appropriations to align the positions more closely to organization structure, including the transfer of 34.15 positions (31.55 GPR and 2.60 PR), as follows: (a) removing 5.75 positions from the Wisconsin correctional center system, 4.0 positions from the monitoring center, 4.0 positions from the Division of Management Services, 3.0 positions from the Bureau of Finance and Administrative Services, 2.0 positions from the Bureau of Classification and Movement, 2.0 positions from Waupun Correctional Institution, 2.0 positions from Redgranite Correctional Institution, 1.40 positions from the Wisconsin Women's Correctional System, 1.1 positions from Badger State Industries, 1.0 position from Racine Correctional Institution, 1.0 position from probation, parole, and extended supervision, 1.0 position from the Bureau of Technology Management, 1.0 position from the Division of Adult Institutions' Central Office, 1.0 position from the Bureau of Finance and Administrative Services (Juveniles), 1.0 position from Lincoln Hills School, 0.9 positions from Oakhill Correctional Institution, 0.75 positions from correctional farms, 0.75 positions from Copper Lake School, and 0.5 positions from 980 Evaluations; and (b) transferring 11.0 positions to the Secretary's Office, 9.0 positions to the Office of Records Management, 3.0 positions to Racine Youthful Offender Correctional Facility, 2.2 positions to the Bureau of Health Services, 2.0 positions to the Bureau of Technology Management, 2.0 positions to the Secretary's Office (Juveniles), 1.0 position to Fox Lake Correctional Institution, 1.0 position to Dodge Correctional Institution, 1.0 position to New Lisbon Correctional Institution, 0.75 positions to Badger State Industries, 0.75 positions to Lincoln Hills School, 0.25 positions to Columbia Correctional Institution, 0.1 positions to correctional farms, and 0.1 positions to Prairie du Chien Correctional Institution.

It should also be noted that under standard budget adjustments, funding for overtime and night and weekend differential are removed in the calculations under "full funding of salaries and fringe benefits." Thus, the amounts budgeted for overtime and night and weekend differential represent the Department's total estimated base costs. In addition to standard budget adjustment funding, the bill includes supplemental funding for overtime and night and weekend differential, summarized below.

**Joint Finance/Legislature:** Increase the rate used to calculate turnover reduction from 3% to 4% for all appropriations subject to a 3% turnover rate under the Governor's recommended budget. Reduce funding under the turnover reduction standard budget adjustment by \$948,700 GPR and \$34,300 PR annually.

**2. OVERTIME SUPPLEMENT [LFB Paper 235]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$53,327,000	- \$11,327,000	\$42,000,000
PR	<u>1,380,200</u>	<u>- 1,380,200</u>	<u>0</u>
Total	\$54,707,200	- \$12,707,200	\$42,000,000

**Governor:** Provide \$26,663,500 GPR and \$690,100 PR annually for an overtime supplement. Under standard budget adjustments each budget cycle, funding associated with overtime (and night and weekend differential) is removed in the calculations of full funding of salaries and fringe benefits. The budget instructions related to overtime specify that the same dollar amounts only be restored through the standard budget adjustment for overtime. As a result, the bill would provide overtime in the amount provided for the prior biennium, adjusted by the new variable fringe rate (\$56,336,600 GPR and \$2,106,100 PR annually). Based on 2018-19 and 2019-20 actual hours, the bill would provide supplemental funding of \$26,663,500 GPR and \$690,100 PR annually. In total, the bill would provide \$83,000,100 GPR and \$2,796,200 PR annually to fund costs associated with overtime.

**Joint Finance/Legislature:** Reduce funding by \$5,663,500 GPR and \$690,100 PR annually to provide an overtime supplement of \$21,000,000 GPR annually.

**3. NIGHT AND WEEKEND DIFFERENTIAL PAY SUPPLEMENT**

GPR	\$236,800
PR	<u>110,000</u>
Total	\$346,800

**Governor/Legislature:** Provide \$118,400 GPR and \$55,000 PR annually for a night and weekend differential pay supplement. Under standard budget adjustments each budget cycle, funding associated with night and weekend differential (and overtime) is removed in the calculations of full funding of salaries and fringe benefits. In total, the bill would provide \$8,738,500 GPR and \$331,000 PR annually to fund costs associated with night and weekend differential pay.

**4. DEBT SERVICE REESTIMATE [LFB Paper 102]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$27,205,600	\$2,308,600	-\$24,897,000
PR	<u>- 21,400</u>	<u>- 1,700</u>	<u>- 23,100</u>
Total	-\$27,227,000	\$2,306,900	-\$24,920,100

**Governor:** Adjust funding by -\$7,687,400 GPR and -\$9,400 PR in 2021-22 and -\$19,518,200 GPR and -\$12,000 PR in 2022-23 to reflect the current law reestimate of debt service costs. The reestimates include: (a) adult corrections (-\$7,675,600 GPR and -\$9,400 PR in 2021-22 and -\$20,931,900 GPR and -\$12,000 PR in 2022-23); and (b) juvenile corrections (-\$11,800 GPR in 2021-22 and \$1,413,700 GPR in 2022-23).

**Joint Finance/Legislature:** Adjust debt service by \$1,169,500 GPR and \$2,100 PR in 2021-22 and \$1,139,100 GPR and -\$3,800 PR in 2022-23 to reflect the reestimate of debt service costs.

**5. RISK MANAGEMENT PREMIUM REESTIMATE**

GPR	\$5,559,600
PR	<u>530,000</u>
Total	\$6,089,600

**Governor/Legislature:** Provide \$2,779,800 GPR and \$265,000 PR annually for increased premium costs associated with liability, property, and workers compensation insurance coverage. The state's risk management program is an insurance program for state agencies administered by the Department of Administration (DOA). Each year, DOA assesses state agencies risk management premiums based generally on program costs, claims history, and risk exposure.

**6. RENT**

GPR	- \$4,829,100
PR	<u>- 1,579,600</u>
Total	- \$6,408,700

**Governor/Legislature:** Provide an adjustment of -\$3,740,300 (-\$2,945,600 GPR and -\$794,700 PR) in 2021-22 and an adjustment of -\$2,668,400 (-\$1,883,500 GPR and -\$784,900 PR) in 2022-23 for departmentwide rent expenses and related supplies and services expenses.

**7. REALIGNMENT OF FUNDING AND POSITIONS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$205,400	1.00
PR	<u>- 205,400</u>	<u>- 1.00</u>
Total	\$0	0.00

**Governor/Legislature:** Remove \$102,700 PR and 1.0 PR position annually, provide \$102,700 GPR and 1.0 GPR position annually, and transfer funding and positions between appropriations related to realignment of departmental activities as follows:

**Realignment of Funding and Positions**

<u>Appropriation</u>	<u>Program</u>	<u>Annual Funding</u>		<u>Positions</u>	
		<u>GPR</u>	<u>PR</u>	<u>GPR</u>	<u>PR</u>
General Program Operations	Division of Management Services	-\$238,200			
General Program Operations	Office of Records Management	254,200			
General Program Operations	Waupun Correctional Institution	-4,000			
General Program Operations	Oakhill Correctional Institution	-4,000			
General Program Operations	Dodge Correctional Institution	-4,000			
General Program Operations	Secretary's Office	463,800		5.00	
Services for Community Corrections	Secretary's Office	-467,800		-5.00	
General Program Operations	Secretary's Office - Juvenile	102,700		1.00	
Juvenile Operations	Secretary's Office - Juvenile		<u>-\$102,700</u>		<u>-1.00</u>
	<b>TOTAL</b>	\$102,700	-\$102,700	1.00	-1.00

**8. PROGRAM REVENUE REESTIMATES**

PR	\$2,803,500
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**Governor/Legislature:** Provide \$1,344,000 in 2021-22 and \$1,459,500 in 2022-23 associated with funding adjustments identified in the table below. The table identifies the program

revenue appropriations that would be affected by this item, by program area, the base funding amounts for these appropriations, the funding changes that would be made to those appropriations under this item and other items in the bill, and the total funding that would be budgeted for these purposes.

Purpose	2020-21 Base	2021-22			2022-23		
		Funding Adjustment	Other Budget Items	Total	Funding Adjustment	Other Budget Items	Total
Badger State Logistics	\$8,207,100	\$385,000	-\$1,300	\$8,590,800	\$385,000	-\$1,300	\$8,590,800
Prison Industries	20,472,800	700,000	-54,800	21,118,800	700,000	-51,200	21,121,600
Sex Offender Management	1,109,100	400,000	0	1,509,100	400,000	0	1,509,100
Telephone Company Commissions	2,404,600	1,000,000	0	3,404,600	1,000,000	0	3,404,600
Probation, Parole, Ext. Supervision	8,294,600	1,000,000	4,200	9,298,800	1,000,000	4,200	9,298,800
Global Positioning System							
Devices - Sex Offenders	318,600	50,000	31,200	399,800	50,000	51,900	420,500
Juvenile Alternate Care Services	4,852,100	-2,208,600	0	2,643,500	-2,099,300	0	2,752,800
Juvenile Utilities & Heating	348,000	<u>17,600</u>	0	365,600	<u>23,800</u>	0	371,800
Total PR Reestimates		\$1,344,000			\$1,459,500		

## 9. AGENCY EQUITY OFFICER

**Governor:** Reallocate a vacant position from within the Department to create an agency equity officer position. The agency equity officer would be responsible for coordinating with other agency equity officers and identifying opportunities to advance equity in government operations. The bill does not identify a specific funding source or position to be reallocated. The Department has not yet identified the position and funding source for the reallocation. [See "Administration -- General Agency Provisions."]

**Joint Finance/Legislature:** Provision not included.

## 10. RENEWABLE ENERGY APPROPRIATION BUDGET REDUCTION GPR - \$200,000

**Joint Finance/Legislature:** Reduce the renewable energy appropriation budget by \$100,000 GPR annually.

## Adult Institutions

### 1. ADULT CORRECTIONAL FACILITY POPULATIONS [LFB Paper 240]

**Governor:** Estimate an average daily population in adult correctional facilities (correctional institutions and centers) and contract beds of 21,480 annually. From this projection, the following table identifies the adjusted estimated distribution of this population.

	March 5, 2021	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2021-22</u>	<u>2022-23</u>
Institutions*	17,520	18,597	18,597
Centers	1,731	2,879	2,879
Contract Beds**	<u>313</u>	<u>4</u>	<u>4</u>
Total	19,564	21,480	21,480

\* Includes inmates placed at the Wisconsin Resource Center, operated by the Department of Health Services (369 on March 5, 2021, and 402 for 2021-22 and 2022-23).

\*\* Contract bed populations include inmates held in federal or other intergovernmental facilities. In addition, the Governor recommended budgeting for 200 contract beds for state inmates in Wisconsin County jails. These beds would be used as needed for quarantine or isolation purposes.

**Joint Finance/Legislature:** Reestimate the average daily population in adult correctional facilities and contract beds to 20,300 in 2021-22 and 22,431 in 2022-23. The following table identifies the estimated distribution of this population.

	July 9, 2021	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2021-22</u>	<u>2022-23</u>
Institutions & Centers*	19,138	20,296	22,405
Contract Beds**	<u>317</u>	<u>4</u>	<u>26</u>
Total	19,455	20,300	22,431

\* Includes inmates placed at the Wisconsin Resource Center, operated by the Department of Health Services (413 on July 9, 2021, and 402 for 2021-22 and 2022-23).

\*\* Contract bed populations include inmates held in federal or other intergovernmental facilities and inmates in Wisconsin County jail contract beds due to overcrowding. In addition, funding for 100 contract beds in 2021-22 and for approximately 28 contract beds in 2022-23 for state inmates in Wisconsin County jails would be used as needed for quarantine or isolation purposes (in addition to the 22 beds for overcrowding in 2022-23, the Finance Committee would provide a total of 50 contract beds in Wisconsin County jails in 2022-23).

## 2. POPULATION AND INFLATIONARY COST INCREASES -- ADULT CORRECTIONAL FACILITIES [LFB Paper 240]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	- \$3,495,200	- \$1,389,500	- \$4,884,700

**Governor:** Provide -\$7,358,200 in 2021-22 and \$3,863,000 in 2022-23 to reflect population-related cost adjustments for prisoners in facilities operated by the Division of Adult Institutions, as follows: (a) -\$1,173,700 in 2021-22 and -\$650,000 in 2022-23 for food costs; (b) -\$1,324,200 annually for variable non-food costs, such as inmate wages, bedding, clothing, kitchen utensils, and other supplies; and (c) -\$4,860,300 in 2021-22 and \$5,837,200 in 2022-23 for inmate non-food health services. The request for inmate health services assumes that per capita adult inmate cost will increase from an estimated \$4,814 in 2020-21 to \$5,269 in 2021-22 and \$5,767 in

2022-23. Health care costs include pharmaceutical costs, third party administrator costs, and contracting costs with the University Hospital and Clinics, the UW Medical Foundation, Waupun Memorial Hospital, St. Agnes Hospital, and other community hospitals.

**Joint Finance/Legislature:** Adjust funding by -\$9,078,900 in 2021-22 and by \$7,689,400 in 2022-23. This adjustment includes: (a) -\$1,607,500 in 2021-22 and \$1,297,700 in 2022-23 for food costs; (b) -\$1,275,100 in 2021-22 and \$1,011,600 in 2022-23 for variable non-food costs; and (c) -\$6,196,300 in 2021-22 and \$5,380,100 in 2022-23 for inmate health care.

**3. PRISON CONTRACT BED FUNDING [LFB Paper 240]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	- \$26,904,900	- \$4,695,800	- \$31,600,700

**Governor:** Provide an adjustment of -\$13,514,500 in 2021-22 and -\$13,390,400 in 2022-23 related to prison contract beds. The Department projects a total need of 200 contract prison beds annually. These beds would be used for the operational needs of the Department due to the public health emergency (for example, if individuals need to be quarantined or isolated); the overall population projections would not require contract beds in Wisconsin county jails. In addition, the Department projects an annual need of 500 beds the Division of Community Corrections would use for extended supervision sanctions and 28 beds the Department of Corrections would use for inmates in intergovernmental facilities, adult inmates in Division of Juvenile Corrections facilities, and temporary lock-ups of inmates from correctional centers. Base funding for the contract bed appropriation is \$32,890,800 GPR.

**Joint Finance/Legislature:** Reduce funding by -\$1,878,300 in 2021-22 and by -\$2,817,500 in 2022-23 and provide 628 contract beds in 2021-22 (including 100 contract beds for state inmates in Wisconsin county jails) and 578 contract beds in 2022-23 (including 50 contract beds in Wisconsin county jails).

**4. FUEL AND UTILITIES**

GPR	- \$1,189,900
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**Governor/Legislature:** Provide adjustments of -\$629,600 in 2021-22 and -\$560,300 in 2022-23 associated with expected changes in prices for fuel and utilities in adult correctional institutions. Current base funding for the fuel and utilities appropriation is \$26,866,300.

**5. EDUCATIONAL INITIATIVES [LFB Paper 241]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$4,175,800	9.00	- \$3,175,800	- 9.00	\$1,000,000	0.00

**Governor:** Provide \$2,300,800 in 2021-22 and \$2,450,000 in 2022-23 and 14.0 teacher

positions annually to allow additional inmates to enroll in and complete adult basic education (ABE) programming, to reduce the ABE program waitlist, and to provide supplies and services to career technical education (CTE) programs. As of July 1, 2020, 2,075 individuals were participating in ABE and 2,326 were on the waitlist.

Recommended positions include: (a) 9.0 teacher positions; and (b) a reallocation of 5.0 vacant GPR teacher positions. Reduce funding in the Division of Adult Institutions by \$287,500 and 5.0 positions annually. The table below identifies the funding and position reallocations. The Department indicates that one ABE teacher would be added at the Wisconsin Secure Program Facility, Taycheedah Correctional Institution, Oakhill Correctional Institution, Kettle Moraine Correctional Institution, Jackson Correctional Institution, New Lisbon Correctional Institution, Drug Abuse Correctional Center, Milwaukee Woman's Correctional Center, Winnebago Correctional Center, and St. Croix Correctional Center, and two teachers would be added to Columbia Correctional Institution and Robert Ellsworth Correctional Center.

Further, funding for adult institutions, central office is allocated to supplies and services to support CTE (vocational) programming for high-cost equipment upgrades to maintain current industry standards (such as welding equipment) and to purchase equipment for newly created programs to keep up with the current job market (such as a culinary arts program).

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$17,400	\$23,200	0.00
Adult Institutions	Central Office	1,500,000	1,500,000	0.00
Adult Institutions	Bureau of Health Services	3,000	0	0.00
Adult Institutions	Institutions	780,400	926,800	14.00
Adult Institutions	Green Bay Correctional Institution	-57,500	-57,500	-1.00
Adult Institutions	Columbia Correctional Institution	-115,000	-115,000	-2.00
Adult Institutions	Racine Correctional Institution	-57,500	-57,500	-1.00
Adult Institutions	New Lisbon Correctional Institution	-57,500	-57,500	-1.00
	<b>TOTAL</b>	<b>\$2,013,300</b>	<b>\$2,162,500</b>	<b>9.00</b>

**Joint Finance/Legislature:** Provide funding only for career and technical education equipment purchase, maintenance, and replacement on a one-time basis at \$500,000 annually for each year of the 2021-23 biennium.

## 6. EARNED RELEASE PROGRAM EXPANSION

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR	\$3,448,900	27.00	-\$3,448,900	-27.00	\$0	0.00

**Governor:** Provide \$1,901,700 in 2021-22 and \$2,191,000 in 2022-23 and 33.0 treatment specialist positions annually to expand treatment capacity in the earned release program and substance use disorder programming to serve an estimated 990 additional individuals



(approximately half of whom would be eligible for the earned release program). Recommended positions include: (a) 27.0 treatment specialist positions; and (b) a reallocation of 6.0 vacant GPR treatment specialist positions. Reduce funding in the Division of Adult Institutions by \$321,900 and 6.0 positions annually. The table below identifies the funding and position reallocations.

The Department indicates that the 33.0 treatment specialists would be allocated to institutions and centers as follows: 8.0 at New Lisbon Correctional Institution, 5.0 at Robert Ellsworth Correctional Center, 4.0 at Oakhill Correctional Institution, 4.0 at Jackson Correctional Institution, 3.0 at St. Croix Correctional Center, 2.0 at Redgranite Correctional Institution, 2.0 at Stanley Correctional Institution, 1.0 at Taycheedah Correctional Institution, 1.0 at Racine Youthful Offender Correctional Facility, 1.0 at Fox Lake Correctional Institution, 1.0 at Columbia Correctional Institution, and 1.0 at the Drug Abuse Correctional Center.

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$41,000	\$54,600	0.00
Adult Institutions	Bureau of Health Services	7,100	0	0.00
Adult Institutions	Institutions	1,853,600	2,136,400	33.00
Adult Institutions	Racine Correctional Institution	-107,300	-107,300	-2.00
Adult Institutions	Wisconsin correctional center system	-107,300	-107,300	-2.00
Adult Institutions	Milwaukee Secure Detention Facility	<u>-107,300</u>	<u>-107,300</u>	<u>-2.00</u>
	<b>TOTAL</b>	\$1,579,800	\$1,869,100	27.00

**Joint Finance/Legislature:** Provision not included.

**7. MEDICATION-ASSISTED TREATMENT [LFB Paper 242]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$1,600,000	- \$800,000	\$800,000

**Governor:** Provide \$800,000 annually for supplies and services to expand access to medication-assisted treatment (formerly known as the Vivitrol Program), which uses medication in combination with counseling and behavioral therapies to treat individuals with substance use disorders.

**Joint Finance/Legislature:** Modify funding by -\$400,000 annually to expand access to medication-assisted treatment by \$400,000 annually.

**8. RACINE YOUTHFUL OFFENDER CORRECTIONAL FACILITY BEHAVIOR MODIFICATION UNIT [LFB Paper 244]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$919,500	4.00	-\$919,500	- 4.00	\$0	0.00

**Governor:** Provide \$702,000 in 2021-22 and \$823,500 in 2022-23 and 9.6 positions annually to establish and staff a behavior modification unit at Racine Youthful Offender Correctional Facility. The unit would have a capacity of 30 beds, and would be used for individuals who have demonstrated rule-breaking behavior, struggle with impulsivity, or who are frequently placed in restrictive housing units. Recommended positions include: 5.0 correctional officers, 2.0 correctional sergeants, 1.0 licensed psychologist, 1.0 clinical social worker, and 0.60 teachers. Reduce funding in the Division of Adult Institutions by \$303,000 annually. The Department would reallocate 5.6 vacant GPR positions for this purpose (including 5.0 correctional officers and 0.6 teachers). The table below identifies the funding and position reallocations.

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR</u>
		<u>2021-22</u>	<u>2022-23</u>	<u>Positions</u>
Management Services	Bureau of Finance and Administrative Services	\$11,900	\$15,900	0.00
Management Services	Training Centers	75,100	18,000	0.00
Adult Institutions	Bureau of Health Services	2,100	0	0.00
Adult Institutions	Institutions	111,200	148,300	0.00
Adult Institutions	Wisconsin Women's Correctional System	-60,600	-60,600	-1.00
Adult Institutions	Kettle Moraine Correctional Institution	-60,600	-60,600	-1.00
Adult Institutions	Dodge Correctional Institution	-121,200	-121,200	-2.00
Adult Institutions	Racine Youthful Offender Correctional Facility	537,400	683,300	9.60
Adult Institutions	Racine Youthful Offender Correctional Facility	-35,700	-42,000	-0.60
Adult Institutions	Milwaukee Secure Detention Facility	<u>-60,600</u>	<u>-60,600</u>	<u>-1.00</u>
	TOTAL	\$399,000	\$520,500	4.00

**Joint Finance/Legislature:** Provision not included.

**9. FULL FUNDING OF THE WISCONSIN SECURE PROGRAM FACILITY PROGRAMS BUILDING**

GPR	\$283,600
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**Governor/Legislature:** Provide \$141,800 annually to fund non-salary costs funded for a partial year in 2020-21 associated with the expansion of the programs building at the Wisconsin Secure Program Facility (Boscobel).

**10. OAKHILL CORRECTIONAL INSTITUTION ASSISTED NEEDS FACILITY [LFB Paper 243]**

	<u>Governor</u> <u>(Chg. to Base)</u>	<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>	<u>Net Change</u>
	<u>Funding</u>	<u>Funding</u>	<u>Funding</u>
	<u>Positions</u>	<u>Positions</u>	<u>Positions</u>
GPR	\$6,528,400 35.60	-\$2,231,900 - 17.00	\$4,296,500 18.60

**Governor:** Provide \$5,212,600 in 2021-22 and \$5,599,400 in 2022-23 and 58.35 positions annually to operate the assisted needs living unit at Oakhill Correctional Institution. The 65-bed housing unit (15 hospital beds and 50 standard beds) will provide limited medical services to assist inmates with daily living activities. The project, which was authorized in 2017 Act 59, was designed to help the Department address an increased number of inmates requiring alternate accommodations, increased access to medical resources due to lack of physical mobility,

diminishing cognitive ability, poor physical health, or other impairments that prevent an inmate from being fully independent. The facility is anticipated to open in October, 2021. Recommended positions include: 17.5 nursing assistants, 12.5 nurse clinicians, 12.5 correctional officers, 6.25 correctional sergeants, 2.0 food service leaders, 1.0 facilities maintenance specialist-advanced, 1.0 therapist (recreation), 1.0 licensed psychologist, 1.0 nursing supervisor, 1.0 clinical social worker, 1.0 medical program assistant associate (MPAA), 1.0 correctional program supervisor, and 0.6 advanced practice nurse prescriber. Reduce funding in the Division of Adult Institutions by \$2,029,200 in 2021-22 and by \$2,254,400 in 2022-23. The Department would reallocate 22.75 vacant GPR positions for this purpose (including 12.5 correctional officers, 6.25 correctional sergeants, 1.0 nursing supervisor, 1.0 nursing assistant, 1.0 facilities maintenance specialist-advanced, and 1.0 licensed psychologist). The table below identifies the funding and positions reallocations.

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	\$72,400	\$96,600	0.00
Management Services	Training Centers	201,000	48,100	0.00
Adult Institutions	Bureau of Health Services	105,600	206,300	-2.00
Adult Institutions	Institutions	292,300	386,500	0.00
Adult Institutions	Waupun Correctional Institution	-931,300	-944,700	-14.50
Adult Institutions	Green Bay Correctional Institution	-92,300	-103,900	-1.00
Adult Institutions	Wisconsin Women's Correctional System	-133,100	-147,800	-1.00
Adult Institutions	Fox Lake Correctional Institution	-104,000	-116,000	-1.00
Adult Institutions	Columbia Correctional Institution	-35,000	-46,000	0.00
Adult Institutions	Kettle Moraine Correctional Institution	-33,800	-44,400	0.00
Adult Institutions	Oakhill Correctional Institution	4,541,300	4,861,900	58.35
Adult Institutions	Dodge Correctional Institution	-121,400	-138,800	-1.00
Adult Institutions	Racine Correctional Institution	-54,200	-71,200	0.00
Adult Institutions	Wisconsin Resource Center	-11,400	-14,900	0.00
Adult Institutions	Oshkosh Correctional Institution	-137,000	-154,200	-1.25
Adult Institutions	Jackson Correctional Institution	-30,600	-40,100	0.00
Adult Institutions	Wisconsin Secure Program Facility	-25,900	-34,100	0.00
Adult Institutions	Racine Youthful Offender Correctional Facility	-22,700	-29,700	0.00
Adult Institutions	Redgranite Correctional Institution	-30,000	-39,400	0.00
Adult Institutions	New Lisbon Correctional Institution	-31,600	-41,500	0.00
Adult Institutions	Wisconsin correctional center system	-119,100	-135,800	-1.00
Adult Institutions	Chippewa Valley Correctional Treatment Institution	-18,700	-24,500	0.00
Adult Institutions	Prairie du Chien Correctional Institution	-21,300	-28,000	0.00
Adult Institutions	Stanley Correctional Institution	-37,400	-49,100	0.00
Adult Institutions	Milwaukee Secure Detention Facility	<u>-38,400</u>	<u>-50,300</u>	<u>0.00</u>
	TOTAL	\$3,183,400	\$3,345,000	35.60

**Joint Finance/Legislature:** Modify funding and positions by -\$1,145,600 in 2021-22, by -\$1,086,300 in 2022-23, and by -17.00 positions annually to staff the Oakhill Correctional Institution assisted needs facility and to purchase a handicapped van. Modify the staffing structure to provide security positions for 10 months and non-security positions for 11 months (instead of nine months) and to eliminate the need for temporary pool code positions. Require Corrections to reallocate an additional 39.75 vacant GPR positions (for a total of 58.35 positions) and associated funding to staff the facility.

**11. CENTRAL GENERATING PLANT POSITION**

	<b>Funding</b>	<b>Positions</b>
PR	\$19,500	1.00

**Governor/Legislature:** Provide \$19,500 in 2022-23 to fund 1.0 utility plant operator position beginning May, 2023, at the Waupun area central generating plant. The plant supplies water to several Department facilities. Currently, the central generating plant does not have a dedicated waterworks operator and instead relies on 2.0 power plant operators to cover waterworks-related duties (in addition to their regular work responsibilities as boiler operators for the central generating plant). In addition, the position is recommended to cover the increased workload associated with the plant's planned system infrastructure improvements.

This recommendation is part of the operating budget impact of the Governor's 2021-23 Capital Budget recommendation for water system infrastructure improvements to the central generating plant. The recommended construction start date for the project is August, 2022, and the final completion date is December, 2024.

**12. INSTITUTIONAL REPAIR AND MAINTENANCE**

GPR	\$603,800
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**Governor/Legislature:** Provide \$198,600 in 2021-22 and \$405,200 in 2022-23 for repair and maintenance costs associated with services and materials for adult institutions. Recommended funding is based on an estimated construction cost index of approximately 4% annually. Base funding for institutional repair and maintenance is \$4,915,900 annually.

**13. WINDOWS TO WORK EXPANSION [LFB Paper 245]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$500,000	-\$100,000	\$400,000

**Governor:** Provide \$250,000 annually to expand the Windows to Work program to allow for an additional 90 participants per year. The Windows to Work program is a pre- and post-release program designed to address criminogenic needs that can lead to recidivism. While still incarcerated, inmates participate in programming including cognitive intervention, general work skills and expectations, financial literacy, community resources, job seeking, applications, and resumes. Post-release includes assistance in job search and job retention activities for approximately 12 months after release. In 2019-20, the Windows to Work program had 418 newly enrolled participants (admitted into the program at a participating institution during their incarceration) and 115 transfer participants (enrolled at participating institutions, but transferred to a new coach for the post-release portion of the program). The program is currently budgeted at \$1,692,200.

**Joint Finance/Legislature:** Modify funding by -\$50,000 annually to expand Windows to Work by \$200,000 annually.

#### **14. LAW ENFORCEMENT INVESTIGATIVE SERVICES [LFB Paper 246]**

**Governor:** Modify statutory language to require the Department to reimburse counties or municipalities (including cities, villages, or towns) for expenses relating to actions or proceedings that are commenced in counties with prisons or juvenile correctional facilities. Specify that these actions include expenses relating to law enforcement investigative services provided for matters involving a prisoner in a state prison or a juvenile in a juvenile correctional facility within its jurisdiction. Reimbursement claims of counties or municipalities containing state prisons or juvenile correctional facilities must be made by clerks of counties, cities, villages, and towns.

Create statutory language to provide that the clerk of any town or city (including 1<sup>st</sup> Class cities (Milwaukee)) that is entitled to reimbursement must make a certified claim against the state, without direction from the county board or common council, in all cases in which reimbursement is directed upon forms prescribed by the Department of Administration. The forms must contain information required by the clerk and must be filed annually with the Department of Corrections, on or before June 1<sup>st</sup>.

Under current law, reimbursement claims of counties containing state prisons or juvenile correctional facilities may only be made by county clerks for certain expenses incurred or paid by the county in reference to all matters growing out of actions and proceedings involving prisoners in state prisons or juveniles in juvenile correctional facilities. The proposed changes would broaden the requirements to include expenses relating to actions and law enforcement investigative services, and to allow any jurisdiction (county, city, village, or town) to submit a claim for reimbursement.

In addition, reallocate \$142,000 GPR annually from the Division of Adult Institutions' general program operations appropriation to the reimbursement claims of counties or municipalities containing state prisons appropriation. Currently, the Department is reimbursing the Village of Allouez for local law enforcement investigative services provided to Green Bay Correctional Institution (\$60,000 annually, as required by 2019 Act 9) as well as Dodge County for local law enforcement investigative services provided to the various correctional facilities within the county (approximately \$82,000 annually, based on actual costs, as agreed upon by the county and the Department). The reallocation would move these amounts to the reimbursement claims appropriation.

**Joint Finance/Legislature:** Provision not included.

#### **15. PREGNANT OR POSTPARTUM INDIVIDUALS IN CORRECTIONAL FACILITIES**

**Governor:** Establish limits on the use of restraints on individuals in the custody of a correctional facility, known to be pregnant, unless a representative of a correctional facility makes an individualized determination that restraints are reasonably necessary to ensure safety and security, in which case the representative may use only the least restrictive effective type of restraint that is most reasonable under the circumstances. In addition, provide that a representative may not: (a) restrain an individual known to be pregnant with leg irons, waist chains, or other

devices that cross or otherwise touch the individual's abdomen, or handcuffs or other devices that cross or otherwise touch the individual's wrists when affixed behind the back, while being transported; (b) confine an individual known to be pregnant in solitary confinement for punitive purposes; or (c) restrain an individual who is in labor or who has given birth in the preceding three days, unless specific circumstances are present. All staff who may come in contact with a pregnant or postpartum individual at a correctional facility must receive annual training on the requirements of this provision.

Further, provide that: (a) every woman under 50 years of age is offered testing for pregnancy; (b) every pregnant individual is offered testing for sexually transmitted infections (including HIV); (c) every pregnant individual on a methadone treatment regimen is provided continuing treatment; (d) every pregnant individual and every individual who has given birth in the past six weeks is provided appropriate, relevant educational materials and resources, and has access to doula services, if there is no charge to the correctional facility; (e) every pregnant individual and every individual who has given birth in the past six months has access to a mental health assessment and evidence-based mental health treatment (including psychotropic medication and therapeutic care for depression), if needed, and is advised orally and in writing of all applicable laws and policies governing an incarcerated pregnant or postpartum person; and (f) every person who has given birth in the past 12 months whose body is producing breast milk has access to necessary supplies and has the opportunity to express breast milk, as needed.

For the purposes of the pregnant or postpartum individuals in correctional facilities provisions, provide the following definitions:

"Correctional facility" has the same meaning as provided elsewhere in statute ((a) a state prison, unless the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration; (b) a juvenile detention facility, a secured residential care center for children and youth, or a juvenile correctional facility, unless the facility is a private residence in which the juvenile is placed and no one is employed there to ensure the juvenile remains in custody; or (c) a jail, Huber facility, work camp, reforestation camp, or lock up facility).

"Doula" means a nonmedical, trained professional who provides continuous physical, emotional, and informational support during pregnancy, labor, birth, and the postpartum period.

"Doula services" means childbirth education and support services, including emotional, physical, and informational support provided during pregnancy, labor, birth, and the postpartum period.

"Postpartum" means the period of time following the birth of an infant to six months after the birth.

"Restrain" means to use a mechanical, chemical, or other device to constrain the movement of a person's body or limbs.

**Joint Finance/Legislature:** Provision not included.

## Community Corrections

### 1. OPENING AVENUES TO REENTRY SUCCESS EXPANSION [LFB Paper 255]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$5,260,200	-\$5,260,200	\$0

**Governor:** Provide \$2,254,400 in 2021-22 and \$3,005,800 GPR in 2022-23 to expand the Opening Avenues to Reentry Success (OARS) program to allow for an average daily population increase of 167 participants in currently-served counties. The OARS program began as a pilot program in 2011, providing intensive case management and mental health services to serious mentally ill offenders. To qualify for participation, an offender must: (a) volunteer for participation; (b) be referred to the program by Correctional staff; (c) be assessed at medium- or high-risk to reoffend; (d) be diagnosed with a serious mental illness; (e) have at least six months of post-release supervision remaining on their sentence; (f) be in a county where OARS programming is provided (currently 51 counties); and (g) have at least six months of post-release supervision remaining on their sentence. Services are provided based on each offender's needs and may include intensive case management and supervision, assistance with obtaining and maintaining safe affordable housing, resources for medication and access to psychiatric care, treatment addressing criminogenic needs, access to local transportation, budgeting, and financial resources, employment, and education. In 2019-20, the OARS program had 396 participants, with an average daily population of 216 participants. The program is currently budgeted at \$4,128,400.

**Joint Finance/Legislature:** Provision not included.

### 2. GLOBAL POSITIONING SYSTEM (GPS) SEX OFFENDER TRACKING [LFB Paper 256]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$6,223,500	43.00	-\$1,629,100	- 15.00	\$4,594,400	28.00
PR	<u>67,300</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>67,300</u>	<u>0.00</u>
Total	\$6,290,800	43.00	-\$1,629,100	- 15.00	\$4,661,700	28.00

**Governor:** Provide \$2,099,500 GPR, \$23,300 PR, and 28.0 GPR positions in 2021-22 and \$4,124,000 GPR, \$44,000 PR, and 43.0 GPR positions to monitor sex offenders who are on GPS tracking. The Department is statutorily required to monitor certain sex offenders, including sex offenders on lifetime supervision (who are tracked until they are deceased). As a result, the total number of individuals tracked by the Department continues to increase. The Department projects the GPS-monitored population to increase by 379 individuals by the end of 2021-22 and by an

additional 239 individuals by the end of 2022-23.

The 28.0 positions recommended in 2021-22 would include: (a) 12.0 probation and parole agents; (b) 8.0 corrections communications operators; (c) 3.0 office operations associates; (d) 2.0 corrections field supervisors; (e) 2.0 corrections program specialists; and (f) 1.0 program support supervisor. The additional 15.0 positions recommended in 2022-23 would include: (a) 7.0 additional probation and parole agents; (b) 4.0 additional corrections communications operators; (c) 2.0 additional office operations associates; (d) 1.0 additional corrections field supervisor; and (e) 1.0 corrections communications supervisor.

**Joint Finance/Legislature:** Adjust all Division of Community Corrections staffing (including staffing to monitor the GPS-tracked sex offender population), to reflect the 2020 workload study recommendations. Modify funding by -\$683,200 GPR and -5.0 GPR positions in 2021-22, and by -\$945,900 GPR and -15.0 GPR positions in 2022-23. Require Corrections to reallocate and reclassify 29.0 vacant GPR positions and associated funding for additional correctional field supervisor positions. These changes (identified in the table, below) reflect the 2020 workload study staffing recommendations and provide staff and supplies and services to supervise estimated increases in the GPS-tracked population over the 2021-23 biennium. The workload study largely concluded that probation and parole agents' time spent on each case is lower than identified in the 2014 workload study, and that the current correctional field supervisor staffing is significantly below the recommended ratio to agents.

### Joint Finance/Legislature

Position Title	GPR		PR		New Positions		Reallocated Positions	
	2021-22	2022-23	2021-22	2022-23	2021-22	2022-23	2021-22	2022-23
Probation and Parole Agents	-\$2,583,800	-\$2,323,800					-27.00	-27.00
Program Support Supervisors	-163,000	-143,800					-2.00	-2.00
Office Operations Associates	511,400	556,900			9.00	9.00		
Corrections Field Supervisors	2,629,900	3,061,100			3.00	3.00	29.00	29.00
Corrections Communications Operators	388,100	815,500			8.00	12.00		
Corrections Communications Operator Supervisor	0	85,400				1.00		
SORP Office Operations Associates	42,200	61,900			1.00	1.00		
SORP Program Specialists	104,700	164,400			2.00	2.00		
GPS Tracking Supplies and Services	486,800	900,500	\$23,300	\$44,000				
<b>Total</b>	<b>\$1,416,300</b>	<b>\$3,178,100</b>	<b>\$23,300</b>	<b>\$44,000</b>	<b>23.00</b>	<b>28.00</b>	<b>0.00</b>	<b>0.00</b>

### 3. GLOBAL POSITIONING SYSTEM (GPS) TRACKING REESTIMATE

GPR	\$462,200
PR	15,800
<b>Total</b>	<b>\$478,000</b>

**Governor/Legislature:** Provide \$231,100 GPR and \$7,900 PR annually to fund non-salary costs funded for a partial year in 2020-21 associated with global positioning system tracking.



#### 4. ALTERNATIVE TO REVOCATION EXPANSION

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$3,117,500	-\$3,117,500	\$0

**Governor:** Provide \$1,039,200 in 2021-22 and \$2,078,300 in 2022-23 to expand available options for residential community alternatives to revocation by 50 additional beds. Available options for placement in a community alternative to revocation include placement in a specialized treatment program (such as sex offender treatment or domestic violence treatment), a residential services program (halfway house), or a residential treatment center. The Department currently contracts for 373 residential community beds that the Division of Community Corrections may use for alternative to revocation placements.

**Joint Finance/Legislature:** Provision not included.

#### 5. COMMUNITY CORRECTIONS STAFFING [LFB Paper 256]

GPR	\$86,300
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**Governor/Legislature:** Provide \$943,800 in 2021-22 and \$1,094,900 in 2022-23 and 12.0 positions annually to increase corrections field supervisor staffing at Division of Community Corrections field offices for the supervision of adults in the community. Reduce funding in the Divisions of Management Services and Adult Institutions by \$977,400 in 2021-22 and by \$975,000 in 2022-23 and 12.0 positions annually. The Department would reallocate 12.0 vacant GPR positions (including 4.0 corrections program supervisors, 3.0 nurse clinicians, 1.0 advanced accountant, 1.0 systems development position, 1.0 corrections unit supervisor, 1.0 capital project manager, and 1.0 licensed psychologist) for this purpose. The table below identifies the funding and position reallocations.

<u>Division</u>	<u>Program</u>	<u>GPR Funding</u>		<u>GPR Positions</u>
		<u>2021-22</u>	<u>2022-23</u>	
Management Services	Bureau of Finance and Administrative Services	-\$72,700	-\$67,700	-1.00
Management Services	Bureau of Technology Management	-81,500	-81,500	-1.00
Management Services	Bureau of Budget and Facilities Management	-74,900	-74,900	-1.00
Adult Institutions	Bureau of Health Services	-191,100	-193,700	-2.00
Adult Institutions	Waupun Correctional Institution	-224,600	-224,600	-3.00
Adult Institutions	Wisconsin Women's Correctional System	-160,800	-160,800	-2.00
Adult Institutions	Racine Correctional Institution	-74,900	-74,900	-1.00
Adult Institutions	New Lisbon Correctional Institution	-96,900	-96,900	-1.00
Community Corrections	Central Office	12,900	17,200	0.00
Community Corrections	Probation, Parole, and Extended Supervision	<u>930,900</u>	<u>1,077,700</u>	<u>12.00</u>
	TOTAL	-\$33,600	\$119,900	0.00

#### 6. HUBER PROGRAM ELIGIBILITY EXPANSION

**Governor:** Modify statutory language to provide that a probationer, parolee, or person on

extended supervision who is detained in a county jail, tribal jail, or county house of correction, or a person subject to a confinement sanction for a violation of a condition or rule of probation, parole, or extended supervision may be considered for participation in the Huber program. In addition, specify that any person sentenced to county jail for crime, nonpayment of a fine or forfeiture, or contempt of court subject to a confinement sanction or a probationer, parolee, or person on extended supervision who is detained pending disposition of revocation proceedings, investigation of a rule violation, or for a short-term sanction, may be considered for participation in the Huber program.

The Huber program grants individuals privilege to leave the jail during necessary and reasonable hours to: (a) seek employment or engage in employment training; (b) work at employment or perform community service work; (c) conduct any self-employed occupation (including housekeeping and attending to the needs of the person's family); (d) attend certain court proceedings or an educational institution; (e) obtain medical treatment, including counseling or therapy, or an assessment for those purposes; (f) attend a parenting education program; or (g) meet with the probation, extended supervision, or parole officer.

Under current law, only individuals sentenced to a county jail for crime, nonpayment of a fine or forfeiture, contempt of court, subject to a confinement sanction, and certain probationers detained in a county jail or another county facility for a probation violation are eligible for Huber release privileges. Under the bill, the eligibility criteria is expanded to parolees and persons on extended supervision being held pending the disposition of revocation proceedings, investigation of a rules violation, or as a short-term sanction.

**Joint Finance/Legislature:** Provision not included.

## Adult Sentencing

### 1. REVOCATION AND SANCTIONS

**Governor:** Provide modifications to extended supervision, probation, and parole revocation and sanction provisions, as follows:

*a. 30- or 90-Day Sanctions.* Provide that if a person on probation, parole, or extended supervision violates a condition or rule of that probation, parole, or extended supervision, the Department of Corrections may initiate a proceeding before Department of Administration's (DOA's) Division of Hearings and Appeals (DHA) to sanction the person for the violation. Specify that the hearing must be held no later than 21 days after the Department initiates the proceeding. Specify that the reviewing authority (DHA or the Department if a hearing is waived) may impose a sanction of imprisonment not to exceed 90 days, if: (1) the person committed three or more independent violations during the term of probation, parole, or extended supervision; (2) the violated condition was one prohibiting the person from contacting a specified individual; (3) the person was required to register as a sex offender; (4) when the violation occurred, the person also

allegedly committed a crime; and (5) the person failed to report or make him/herself available for supervision for a period of more than 60 consecutive days. In all other circumstances, specify that the reviewing authority may impose a sanction of imprisonment not to exceed 30 days. A person subject to a proceeding under this provision may waive the right to a hearing by signing a statement admitting the violation, in which case the reviewing authority may impose a 30- or 90-day sanction. If a hearing is to be held, modify statutory language to require the administrator of DHA to assign a hearing examiner to preside over the sanctions proceedings. Specify that a person is not eligible to earn good time credit on any period of confinement under this section. Include references to the created sanctions for violation of conditions of probation, parole, or extended supervision statutes in Huber law provisions (county jail temporary leave provisions).

Specify that if a person is confined in a county jail pending revocation, the Department must reimburse the county for actual costs in confining the person from the Department's services for community corrections appropriation and contracts and agreements appropriation.

*b. Revocation of Extended Supervision.* Modify the language to provide that the Department may initiate proceedings before DHA, but the reviewing authority may not revoke the extended supervision of the person unless the criteria specified above (see (1) through (5)) applies. If the individual is revoked under these circumstances, the reviewing authority must order the person returned to prison for any specified period that does not exceed the time remaining on the bifurcated sentence.

Repeal statutory language that allows the Department of Corrections to confine a person for up to 90 days as a sanction for a violation, if a person released to extended supervision signs a statement admitting a violation of a condition or rule of extended supervision, and that provides reimbursement, if the person is held in a county jail. Renumber remaining subsection language, that specifies persons on extended supervision remain under the custody of the Department, and may be taken into custody for the investigation of alleged violation.

*c. Revocation of Probation.* Modify current law to provide that the Department may initiate proceedings before DHA but the hearing examiner may not revoke probation under this provision unless specified criteria applies (see *a.*). Modify statutory language to provide that if probation is revoked, the Department must do one of the following: (a) if the probationer has not already been sentenced, order the probationer brought before the court for sentencing; or (b) if the probationer has already been sentenced, order the probationer to prison. Specify that the circuit court may act on the imposition of a sentence upon revocation of probation under these provisions, despite any pending appeal.

Repeal statutory language that allows the Department Corrections to confine a probationer for up to 90 days as a sanction for a violation, if the parolee signs a statement admitting to a violation of a condition of probation, and that provides reimbursement, if the probationer is held in a county jail.

*d. Revocation of Parole.* Modify current law to provide that the Department may initiate proceedings before DHA, but the hearing examiner, administrator, or Secretary may not revoke parole unless specified criteria applies (see *a.*). Specify that the hearing examiner may order audiovisual or recorded depositions in these hearings. In addition, require the DHA administrator

to review the order. If a parolee waives the final administrative hearing, the Secretary must enter an order revoking or not revoking parole.

Repeal statutory language that allows the Department Corrections to confine a parolee for up to 90 days as a sanction for a violation, if the parolee signs a statement admitting to a violation of a condition or rule of parole, and that provides reimbursement, if the parolee is held in a county jail.

*e. Mandatory Release.* Modify current law related to a parolee released on mandatory release to provide that the reviewing authority may not revoke parole under this provision unless specified criteria applies (see *a.*). If the individual is revoked under these circumstances, the reviewing authority must order the person returned to prison for any specified period that does not exceed the time remaining on a bifurcated sentence.

*f. Applicability.* Treatment of the created or modified revocation and sanction provisions first apply to a person who is alleged to have violated a condition or rule of probation, parole, or extended supervision on the effective date of the bill.

*g. Definitions.* For the purposes of mandatory release, release to extended supervision, and sanctions for violation of conditions of probation, parole, or extended supervision provisions, renumber and reorganize the "reviewing authority" definition and modify the definition of "division" to mean the Division of Hearings and Appeals in the Department of Administration (for the sanctions for violating conditions of probation, parole, and extended supervision provisions).

For the purposes of mandatory release and release to extended supervision provisions, modify the "time remaining on the bifurcated sentence" and "remainder of the sentence is" definitions to reflect any earned compliance credit time. In addition, specify that "crime" has the same meaning as defined elsewhere in statute ("...conduct which is prohibited by state law and punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture is not a crime.").

**Joint Finance/Legislature:** Provision not included.

## **2. EARNED RELEASE PROGRAM CRITERIA AND ELIGIBILITY**

**Governor:** Modify statutory language to change the name of the Wisconsin substance abuse program to the Wisconsin earned release program and to change the language of "substance abuse" to "substance use disorder" under program provisions. In addition, make the following modifications to the program:

*a. Earned Release Program Eligibility.* Modify current law to allow the Department of Corrections, rather than the sentencing court, to determine eligibility in the earned release program. In considering program eligibility, specify that the Department must consider a prior determination by the sentencing court, if applicable. Repeal statutory language that allows an inmate sentenced before July 26, 2003, to petition the sentencing court to determine earned release program eligibility. [Under the bill, the Department would be able to make program eligibility

determinations for these individuals.] However, modify statutory language to specify that the court must inform a person of the availability of the earned release program.

*b. Earned Release Program - Vocational Readiness Training Program.* Expand the earned release program to include not only substance use disorder programs, but also vocational readiness training programs. For the purposes of the Wisconsin earned release program, define "vocational readiness training program" to mean an educational, vocational, treatment, or other evidence-based training program to reduce recidivism. Specify that the Department must provide vocational readiness training programs as an eligible program for earned release at any correctional facility the Department deems appropriate.

The Department must inform the sentencing court when an eligible inmate serving a bifurcated sentence has completed a substance use disorder treatment program or a vocational readiness training program. Upon being informed, as under current law, the court must modify the inmate's sentence by shortening the confinement portion of a sentence and lengthening the extended supervision period by a corresponding amount.

Specify that, for individuals serving an indeterminate sentence, upon successful completion of a substance use disorder or vocational readiness training program the parole commission must parole an inmate, regardless of time served, and must require the parolee to participate in an intensive supervision program for drug abusers, as a condition of parole. Conversely, the Department may place intensive sanction program participants in a substance use disorder treatment program (although the Department is not required to notify the court, and the court is not required to modify the participant's sentence, in this circumstance).

*c. Appropriations and Savings Transfers.* Create a continuing, program revenue training programs for inmates, recidivism reduction services, and community supervision appropriation to provide vocational readiness training programs that qualify for the earned release program, to provide services to individuals on probation, or who are soon to be or are currently on parole or extended supervision, and to reduce caseloads for community supervision officers.

Specify that the Department must transfer, from the GPR general programs operation and the corrections contracts and agreements appropriations to the new PR appropriation, the amount of cost savings attributable to the GPR appropriations, as identified in the annual revocation of probation, parole, and extended supervision report and the vocational readiness training programs report. In addition, transfer the amount of cost savings attributable to the GPR general program operations appropriation and the corrections contracts and agreements appropriation to the new PR appropriation from reduced days of incarceration resulting from the earned compliance credit provisions, as identified in the annual earned compliance credit and early discharge from extended supervision report.

Specify that the Department must transfer, from the GPR services for community corrections (probation, parole and extended supervision) appropriation to the new PR appropriation, the amount of cost savings from reduced days of community supervision that resulted from the earned compliance credit and early discharge from extended supervision, as identified in the earned compliance credit and early discharge from extended supervision report.

*d. Administrative Rules.* Specify that the Department of Corrections must update its administrative rules to implement earned release for completion of a vocational readiness training program, including specification of eligibility to participate criteria for persons sentenced before the effective date of this provision.

**Joint Finance/Legislature:** Provision not included.

### **3. EARNED RELEASE COMPLIANCE CREDIT**

**Governor:** Establish the earned compliance credit to require a person with a qualifying offense, upon revocation of extended supervision or parole, to be given credit toward the service of his or her sentence for each day the person spent on extended supervision or parole without violating a condition or rule of extended supervision or parole, prior to the violation that resulted in the revocation. Define "qualifying offense" to mean any offense but not including: (1) a crime against life and bodily security (Chapter 940 of the statutes); (2) sexual assault of a child; (3) repeat acts of sexual assault of the same child; (4) physical abuse of a child; (5) sexual exploitation of a child; (6) trafficking of a child; (7) causing a child to view or listen to sexual activity; (8) incest with a child; (9) child enticement; (10) use of a computer to facilitate a child sex crime; (11) soliciting a child for prostitution; (12) sexual assault of a child placed in substitute care; or (13) sexual assault of a child by a school staff person or a person who works or volunteers with children

Specify that earned compliance credit amounts must be calculated and applied by the appropriate reviewing authority (DOA's Division of Hearings and Appeals, or the Secretary of the Department of Corrections if the individual has waived a revocation hearing).

Specify that the earned release compliance credit does not apply to any time between the date of the most recent violation and the date of the revocation. In addition, the credit does not apply to a person required to register as a sex offender and may only be used for the time spent in the community for qualifying offenses, if a person is serving more than one sentence. However, specify that a convicted offender made available to another jurisdiction must be credited with service of his or her Wisconsin sentence, including any earned compliance credit, for the duration of custody in the other jurisdiction.

Specify that a person who is serving a sentence for a qualifying offense and who is in custody upon revocation of extended supervision or parole on the effective date of this provision may petition to be given earned compliance credit. Upon proper verification of the facts alleged in the petition, the earned compliance credit must be applied retroactively. If the Department is unable to determine whether credit should be given, or otherwise refuses to award retroactive credit, the person may petition the sentencing court for relief. Specify that this provision applies regardless of the sentencing date. Individuals subject to the sex offender registry remain ineligible for the earned release credit under this provision.

Modify statutory language to include the earned compliance credit to the revoked parolee tolling period provisions. Under current law, the sentence of a revoked parolee or person on extended supervision resumes running on the day he or she is received at a correctional institution, subject to sentence credit for the period of custody in a jail, correctional institution, or any other

detention facility, pending revocation.

**Joint Finance/Legislature:** Provision not included.

#### 4. EXTENDED SUPERVISION MODIFICATIONS

**Governor:** Provide modifications to extended supervision provisions and create an early discharge from extended supervision sentencing adjustment option, as follows:

*a. Early Discharge from Extended Supervision.* Provide that a court may modify a person's sentence by reducing the term of extended supervision and ordering early discharge if: (1) the Department petitions the court to discharge the person from extended supervision for a qualifying offense; (2) the person has completed three years or 50% of his or her term of extended supervision for the qualifying offense, whichever is less; (3) the person has satisfied all conditions of extended supervision set by the sentencing court and by the Department for the qualifying offense; (4) the person has fulfilled all financial obligations to his or her victims; and (5) the person is not required to register as a sex offender. Specify that if the person is serving more than one sentence, early discharge only applies to the terms of extended supervision imposed for qualifying offenses.

Define "qualifying offense" to mean any offense but not including: (1) a crime against life and bodily security (Chapter 940 of the statutes); (2) sexual assault of a child; (3) repeat acts of sexual assault of the same child; (4) physical abuse of a child; (5) sexual exploitation of a child; (6) trafficking of a child; (7) causing a child to view or listen to sexual activity; (8) incest with a child; (9) child enticement; (10) use of a computer to facilitate a child sex crime; (11) soliciting a child for prostitution; (12) sexual assault of a child placed in substitute care; or (13) sexual assault of a child by a school staff person or a person who works or volunteers with children.

Establish court procedure for when a court receives a petition for early discharge from extended supervision. Specify that a court may discharge a person from extended supervision if all of the following apply: (1) the Department petitions the court to discharge the person from extended supervision for a qualifying offense; (2) the person has completed three years or 50% of his or her term of extended supervision for the qualifying offense, whichever is less; (3) the person has satisfied all conditions of extended supervision that were set by the sentencing court for the qualifying offense; (4) the person has satisfied all rules and conditions of supervision that were set by the Department for the qualifying offense; (5) the person has fulfilled all financial obligations to his or her victims; and (6) the person is not required to register as a sex offender.

Provide that the rules of evidence do not apply in early discharge from extended supervision proceedings. In addition, modify statutory requirements of a court to explain an imposed bifurcated sentence to also include an explanation, in writing, of the conditions under which the court may reduce a person's extended supervision under early discharge from extended supervision provisions.

*b. Victim Notification of Sentence Adjustment Petitions.* Specify that the Clerk of Circuit Court must send a notice of hearing on an early discharge to the victim of the crime, if the victim

submitted a card requesting notification. The notice must inform the victim that he or she may appear at any hearing scheduled and of the manner in which the victim may provide a statement concerning the early discharge from extended supervision. The Clerk must make a reasonable attempt to send a notice of hearing to the victim's last known address, postmarked at least 10 days before the date of the hearing.

Specify that the Director of State Courts must design and prepare cards for a victim to send to the Clerk of the Circuit Court for the county in which the person serving the term of extended supervision was convicted and sentenced. The card must have space for the victim to provide his or her name, address, the name of the offender, and any other information the Director deems necessary. The cards must be provided to Clerks and victims without charge. Completed cards may be sent to the Clerk for the county in which the person serving a term of extended supervision was convicted and sentenced. All records that relate to victim mailing addresses are not subject to inspection or copying under access of records provisions.

Modify statutory language on the basic bill of rights for victims and witnesses to require reasonable attempts to notify the victim of early discharge from extended supervision sentence adjustment petitions and youthful offender sentence adjustment petitions. Remove references to repealed provisions concerning sanctions after admitting a violation from victim notification provisions.

*c. Release to Extended Supervision after Revocation.* Modify statutory language to provide that a person released to extended supervision is subject to all imposed conditions and rules until the expiration of the time remaining on the bifurcated sentence. Under current law, this provision applies until the expiration of the remaining extended supervision portion of the bifurcated sentence (the total length of the bifurcated sentence, less time served by the person in confinement before release to extended supervision).

*d. Definitions.* For the purposes of early discharge from extended supervision provisions, "victim" has the same meaning as defined elsewhere in statute.

**Joint Finance/Legislature:** Provision not included.

## **5. MAXIMUM SENTENCE MODIFICATIONS FOR A CLASS D FELONY**

**Governor:** Reduce the maximum bifurcated sentence for a Class D felony from 25 years to 20 years. In addition, repeal statutory language that specifies the maximum term of extended supervision for a Class D felony under a bifurcated sentence is 10 years, and instead, include Class D felony to the list of felonies for which the term of extended supervision may not exceed five years.

Under current law, the total maximum bifurcated sentence (a term of confinement in prison followed by a term of extended supervision) for a Class D felony, committed on or after February 1, 2003, is 25 years, including a 15 year maximum term of confinement and a 10 year maximum term of extended supervision. Under the bill, the total maximum bifurcated sentence would be reduced to 20 years, including a 15 year maximum term of confinement and a five year maximum



term of extended supervision.

**Joint Finance/Legislature:** Provision not included.

## 6. ANNUAL REPORTING REQUIREMENTS

**Governor:** Require the Department of Corrections to submit the following annual reports:

a. *Revocation of Probation, Parole, and Extended Supervision Report.* Specify that the report must include: (1) the rate of recidivism among probationers, parolees, and persons on extended supervision, by region and demographics, including the level of the recidivism event; (2) the number of and reason for the revocations; (3) the number and lengths of short-term sanctions imposed under sanctions for violation of conditions of probation, parole, or extended supervision statutes; and (4) an accounting of the cost savings for the preceding 12-month period that resulted from the use of short-term sanctions in lieu of revocations provisions.

b. *Earned Release Compliance Credit and Early Discharge from Extended Supervision Report.* Specify that the report must provide data from the preceding 12-month period and must include: (1) the demographics of individuals who received the earned compliance credit or were discharged early by region; (2) the demographics and the rate of recidivism among those individuals; and (3) an accounting of the cost savings from reduced days of incarceration or reduced days of parole or extended supervision that resulted from the earned compliance credit or early discharge from extended supervision provisions.

c. *Vocational Readiness Training Programs Report.* Specify that the report must provide data on participation in substance use disorder and vocational readiness training programs qualifying for earned release. In addition, the report must include: (1) a list of available vocational readiness training programs and the number of participants in each program; (2) the number of eligible inmates on the wait list for participation in a vocational readiness training program, and the department's methodology for selecting wait list participants; (3) the rate of recidivism among individuals who earned release through completion of a vocational readiness program, the type of recidivism event, and a regional and demographic breakdown of the data; and (4) an accounting of the cost savings for the preceding 12-month period that resulted from reduced terms of confinement in prison for participants in the earned release program who were released after completion of a vocational readiness training program. For purposes of the report, define "recidivism" to mean any of the following: (1) a return to prison upon revocation of extended supervision, parole, or probation; or (2) a conviction for a crime that was committed within 3 years of release from confinement.

For the reports described in a., b., and c. require that the reports be submitted to the Governor, the Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees, and the Director of State Courts, no later than June 15<sup>th</sup> of each year.

d. *Earned Release Program: Aging and Elderly Populations Report.* Specify that the report must include the number of, cost of healthcare and other accommodations for, and trends and projections for the aging and elderly population of inmates in Wisconsin prisons. Require the

report to include the feasibility of: (1) establishing and operating state run facility for elderly inmates; (2) adopting electronic monitoring as an alternative to incarceration for elderly inmates; and (3) eligibility for medical assistance for individuals who would qualify for alternatives to revocation.

Specify that the report must be submitted to the Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees, no later than the first day of the 12<sup>th</sup> month beginning after the effective date of the bill.

*e. Risk Assessment Report.* Provide that the Department of Corrections conduct a review of, and submit a report on the Department's evidence-based risk assessment tool and the available alternatives and the cost savings that would result from the use of alternatives. The Department must include a review of the efficacy of an evidence-based risk assessment tool that uses ongoing or recurring evaluations of an individual's ability to meet the conditions of supervision.

*f. Training of Community Supervision Officers Report.* Provide that the Department of Corrections conduct a review of, and submit a report on, the Department's training of community supervision officers and include an evaluation of best practices and outcomes of training models used in other states.

Specify that the reports described in e. and f. must be submitted to the Governor, Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees, and the Director of State Courts, no later than the first day of the 12<sup>th</sup> month beginning after the effective date of the bill.

*g. Conditions of Supervision Report.* Provide that the Department of Corrections review the efficacy of its standard conditions and rules of supervision. The report must include the number of violations reported for each condition and rule, and a comparison of the Department's standard conditions and rules of supervision to the conditions and rules of supervision in other states.

Specify that the report must be submitted to the Governor, Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees, and the Director of State Courts, no later than July 1, 2022.

**Joint Finance/Legislature:** Provision not included.

## **7. EXPUNGEMENT OF CRIMINAL RECORDS**

**Governor:** Modify expungement of criminal records and related provisions, as follows:

*a. Expungement of Criminal Record Modifications.* Modify the current expungement statutes to remove the provisions related to differentiated treatment of persons under the age of 25, and instead provide that a court may order a criminal case be expunged after a conviction by one of the following methods: (1) at the time of sentencing, the court may order the record expunged upon successful completion of the sentence, if the court determines that the person will benefit and society will not be harmed by the disposition; or (2) the person may file a petition in the county of conviction requesting the record be expunged, if at least one year has passed since successful

completion of his or her sentence. Under the bill, a person has successfully completed the sentence if: (1) the person completed all periods of incarceration, parole, or extended supervision to which he or she was sentenced; (2) paid all fines, costs, fees, surcharges, and restitution assessed; (3) completed any court-ordered community services; (4) the person has not been convicted of a subsequent crime; and (5) if probation was imposed, the probation has not been revoked. Specify that if a sentence is completed involving incarceration or probation, the detaining or probationary authority shall issue and forward to the court of record a certificate of discharge that indicates whether the person successfully completed his or her sentence. If the person has been incarcerated, the detaining authority must forward a copy of the certificate to the Department of Corrections. In addition, specify that if the court has ordered the record expunged and the person successfully completed the sentence, the record shall be expunged, as ordered.

In addition, a person is ineligible for expungement if there are criminal charges pending against the person, the person has exceeded the maximum number of petitions allowed (two), or the conviction at issue: (1) is for a crime for which the maximum period of imprisonment is more than six years (Class H felony or higher); (2) is a violation of traffic crimes (Chapters 341 to 348); or (3) the court ordered the record ineligible for expungement at sentencing. Current law provisions prohibiting expungement for a violent felony remains unchanged under the bill.

Provide that the court must review the petition and determine if the person is eligible. If the court determines the person is eligible, the petition is forwarded to the district attorney. If the district attorney requests a hearing within 90 days after reviewing the petition, the court must schedule a hearing to review the petition. If the district attorney waives the hearing, or at least 90 days has passed, the court may review the petition with or without a hearing. If a hearing is held, the sentencing judge must be the judge to review the petition, if practicable. Specify that the court may order the record expunged if the person will benefit and society will not be harmed by the disposition. If the record is not expunged, the person may file a second petition, along with a \$100 fee to the Clerk of Circuit Court, only if two years have passed since the first petition was filed. No person may file more than two petitions per record.

Under current law, a court may expunge a criminal record if: (1) the person is under the age of 25 at the time of the commission of the offense for which the person has been found guilty; (2) the offense is not a violent felony and carries a maximum period of imprisonment of six years or less (Class H felony or less); (3) the person has not been previously convicted of a felony; and (4) the court ordered at the time of sentencing that the record be expunged upon successful completion of the sentence (if the court determines the person will benefit and society will not be harmed by the disposition). The court must order at the time of sentencing that the record be expunged upon successful completion of the sentence if the offense was for a violation of certain invasion of privacy provisions and the person was under the age of 18 at the time the crime was committed. The current law expungement provisions do not apply to certain specified crimes.

Under current law, a person has successfully completed the sentence if the person has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and all probation conditions have been satisfied. Upon successful completion of the sentence, the detaining or probationary authority must issue a certificate of discharge which must be forwarded to the court, having the effect of expunging the record. If the person has been imprisoned, the

detaining authority must forward a copy of the certificate of discharge to the Department of Corrections. Current law specifies that a court may also expunge a record for certain crimes upon motion to the court.

*b. Victim Notification and Rights.* Include expungement proceedings and hearings as events for which victims and witnesses have the right to require reasonable attempts to be made to notify the victim of hearings or court proceedings. Specifically, the district attorney must make a reasonable attempt to notify the victim of the petition (including obtaining the victim address information from the Clerk of the Circuit Court), and must inform the victim that he or she may waive the requirement and that, if waived, the court may review the petition without a hearing. In addition, specify that the district attorney must inform the victim of manners in which he or she may provide written statements concerning the petition and that, if the victim does not waive the hearing requirement, he or she may appear at the hearing. If the victim waives the hearing requirement, the district attorney may inform the court that there is no objection to waving the requirement.

*c. Employment Discrimination Due to Criminal Record.* Provide that employment discrimination because of conviction record includes requesting an individual, on an application form or otherwise, to supply information regarding a crime for which the record has been expunged. Specify that a request to supply information regarding criminal convictions must not be construed as a request to supply information regarding a crime for which the record has been expunged.

Specify that it is employment discrimination for an employer to engage in any act of employment discrimination on the basis of an expunged conviction record. Specify that this provision also applies to discrimination by licensing agencies in licensing provisions. Specify that a record for a crime expunged is not considered a conviction for employment purposes or for purposes of the issuance of a license by a licensing agency. These provisions do not apply to the extent that they conflict with federal law.

*d. Applicability.* The treatment of the created or modified expungement of criminal records provisions first apply to a conviction for which sentencing has occurred, but for which the record has not been ordered or expunged on the effective date of these provisions.

*e. Definitions.* For the purposes of the expungement provisions, define "record" to mean a criminal case file.

The expungement provisions are identical to 2019 Assembly Bill (AB) 33 and Assembly Amendment 1 of AB 33, except for additional clarifying language in the applicability section of the budget bill. 2019 AB 33 passed the Assembly, but was not taken up by the Senate.

**Joint Finance/Legislature:** Provision not included.

## **8. REDUCTION OF MANDATORY MINIMUM SENTENCES**

**Governor:** Provide that a sentencing court may reduce a term of confinement, below the

applicable mandatory minimum, if the person serving a bifurcated sentence subject to a mandatory term of confinement qualifies for reduction under: (a) challenge incarceration program provisions; (b) earned release program provisions; (c) extraordinary health condition provisions; (d) sentence adjustment provisions; or (e) positive adjustment time provisions.

Under current law, an individual serving a bifurcated sentence may petition the sentencing court for a reduction of the confinement portion of his or her sentence, under certain circumstances. However, a 2020 Wisconsin Court of Appeals decision (*State v. Grazma*) held that these circumstances do not allow sentence reductions below mandatory minimum confinement times.

**Joint Finance/Legislature:** Provision not included.

## 9. SENTENCING REVIEW COUNCIL

**Governor:** Establish a Sentencing Review Council in the Department of Justice. Specify that membership and appointments to the Council be determined by the Governor. [No Council membership size or qualifications are identified in the bill.] Specify that the Council must: (a) study criminal penalties and make recommendations for reforming the criminal code; (b) study whether sentences for similar offenses and circumstances are consistent and make recommendations to ensure equity; (c) study and make recommendations regarding the state's bifurcated sentencing structure; and (d) review and make recommendations regarding sentences for violations committed by individuals age 18 to 25.

Require the Sentencing Review Council to submit a report on its findings and recommendations to the Attorney General and to the appropriate standing committees of the Legislature, no later than July 1, 2022.

**Joint Finance/Legislature:** Provision not included.

## 10. DRUG PARAPHERNALIA

**Governor:** Exclude any materials used or intended for use in the testing for the presence of fentanyl or a fentanyl analog in a substance from the definition of "drug paraphernalia."

Under current law, "drug paraphernalia" includes all equipment, products, and materials of any kind that are used, designed for use, or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing (including testing for fentanyl or fentanyl analog), analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or introducing into the human body a controlled substance or controlled substance analog. Current law excludes hypodermic syringes, needles, and other objects used in parenterally injecting substances into the human body, and any items that are designed for use with tobacco products.

**Joint Finance/Legislature:** Provision not included.

## 11. IMMUNITY FOR CERTAIN CONTROLLED SUBSTANCES OFFENSES

**Governor:** Modify the immunity from criminal prosecution provisions to provide that an "aider" may not have his or her parole, probation, or extended supervision revoked for the possession of drug paraphernalia, a controlled substance, controlled substance analog, or of a masking agent under the circumstances surrounding or leading to the commission of an act that qualifies a person as an aider, if the aider's attempt to obtain assistance occurs immediately after the aider believes the other person is suffering from an overdose or other adverse reaction.

Specify that no aided person may have his or her parole, probation, or extended supervision revoked under the circumstances surrounding or leading to the commission of an "aider" act if the aided person completes a training program as a condition of his or her parole, probation, or extended supervision or, if programming is unavailable or would be financially prohibitive, if the aided person agrees to be imprisoned in the county jail for not less than 15 days. In addition, specify that if an aided person is subject to prosecution for the possession of drug paraphernalia, a controlled substance, controlled substance analog, or of a masking agent under circumstances surrounding or leading to the commission of an act that qualifies a person as an aider, the district attorney must offer the aided person a deferred prosecution agreement that includes the completion of a treatment program. This provision does not apply to an aided person who is on parole, probation, or extended supervision and fails to meet the above-mentioned treatment program or county jail conditions.

Under current law, an "aider" means a person who: (a) brings another person who is, or is reasonably believed to be, suffering from an overdose to a fire station or healthcare facility and makes contact with staff; (b) summons and makes contact with a law enforcement officer, ambulance, emergency medical services practitioner, or other health care provider in order to assist another person who is, or is reasonably believed to be, suffering from an overdose; or (c) calls "911," or where the number is not available, calls a number for an emergency medical service provider and makes contact with an individual answering the number, with the intent to obtain assistance for another person who is, or is reasonably believed to be, suffering from an overdose.

This provision permanently restores the expanded immunities temporarily provided under 2017 Act 33. The provisions under Act 33 expired on August 1, 2020.

**Joint Finance/Legislature:** Provision not included.

## 12. SENTENCE ADJUSTMENT FOR YOUTHFUL OFFENDERS

**Governor:** Create and modify statutory language to provide a sentence adjustment option for youthful offenders, defined as persons who committed a crime before he or she turned 18 years old, as follows:

Modify statutory language to include sentence adjustment for youthful offender provisions in the list of sentence adjustments entitling an individual to release to extended supervision provisions, and in parole provisions.

Specify that the petition for release and release to extended supervision for felony offenders

serving life sentences provisions do not apply to a youthful offender sentenced to life imprisonment for a crime committed on or after December 31, 1999, and before the effective date of this provision. In addition, modify work release, special action parole release, military parole, and obsolete district attorney records provisions to include provisions related to certain life imprisonment sentences for youthful offenders.

Create statutory language to establish a sentence adjustment for youthful offenders. Specify that a court may reduce a term of imprisonment, including certain life imprisonment sentences for a youthful offender who has served 15 years of his or her term of imprisonment if the court finds that the interests of justice warrant a reduction. In making its determination, the court must consider: (a) sentencing factors and mitigating factors; and (b) the youthful offender's subsequent growth, behavior, and rehabilitation while incarcerated.

Specify that the Department must provide written notice of the eligibility to the qualifying youthful offender, the sentencing court, the district attorney for the county in which the youthful offender was sentenced, and the State Public Defender one year before the youthful offender becomes eligible for sentence adjustment. Notice includes notice of right to counsel and notice that a State Public Defender may be appointed. Right to counsel begins at the service of notice.

Provide that subsequent to notice, and upon request by the youthful offender or the youthful offender's attorney, the court must make documents from the sentencing hearing available to the youthful offender or his or her attorney, including the presentence investigation report and the sentencing transcript.

Specify that a qualifying youthful offender may file a petition for a sentence adjustment under this provision. The petitioner must file the petition and any affidavits or supporting documents for the petition in the sentencing court, no more than 90 days before the youthful offender's eligibility date. A copy of the petition must be served on the district attorney in the county in which the youthful offender was sentenced. Upon receipt of the petition, the district attorney must notify any victims of the crime.

Provide that the court must hold a hearing within 120 days of a youthful offender sentencing adjustment petition, unless all parties agree to an extension for the hearing date. The court must consider relevant information, including expert testimony and other information about the youthful offender's participation in available programming, work reports, conduct, or psychological evaluations. The youthful offender has the right to: (a) attend the hearing; (b) be represented by counsel; and (c) testify, present evidence, and cross examine witnesses. In addition, modify the basic bill of rights for victims and witnesses to provide that the victim must be given the opportunity to provide a statement concerning sentencing, disposition, or parole. Specify that these hearings must be recorded, and that the decision of the court on the petition is the final adjudication, subject to appeal.

Provide that, if the court finds that the interests of justice warrant a sentence adjustment, the court may amend the judgment of conviction according to one of the following:

a. if the youthful offender is serving a sentence for a crime committed before December 31, 1999, reduce the parole eligibility date and modify the conditions of parole. The court may

also reduce the sentence, but must provide for at least three years of parole supervision after release from prison.

b. upon request by the youthful offender, for a crime committed before December 31, 1999, covert an indeterminate sentence to a bifurcated sentence (in which case the court must set a date for release to extended supervision that is no later than the original parole eligibility date, and the court may also modify the conditions of parole or extended supervision).

c. for a crime committed on or after December 31, 1999, reduce the term of confinement in prison and modify the conditions of extended supervision. The court may also reduce the total length of the bifurcated sentence (in which case the court must provide for at least three years of extended supervision) (modify the "determinate sentence" definition under sentence, terms, and escape provisions to include this provision).

d. for a life sentence without the possibility of parole or release to extended supervision, convert the sentence to a life sentence with the possibility of parole or release to extended supervision and set a date for parole eligibility or release to extended supervision and conditions for parole or extended supervision accordingly.

Specify that a youthful offender is eligible to file a subsequent petition no earlier than five years after a hearing is held, unless the court sets an earlier date. In addition, specify that a youthful offender may file no more than five petitions during his or her sentence. Specify that nothing in the sentence adjustment for youthful offenders limits the youthful offender's right to resentencing, sentence adjustment, or sentence modification on other grounds.

Modify statutory language to provide that a State Public Defender must provide legal services in cases involving sentence adjustments for youthful offenders.

Modify statutory language to include sentence adjustment for youthful offenders as an exception to the mandatory minimum sentence for child sex offenses extended supervision eligibility determination provisions. In addition, modify statutory language to include sentence adjustment for youthful offenders to the list of provisions subject to extension or reduction of term of imprisonment sections of bifurcated sentence of imprisonment and extended supervision provisions.

Modify statutory language on increased penalty for habitual criminality to provide that an actor is a persistent repeater if the offense for which he or she is presently being sentenced was committed after he or she attained the age of 18.

Create statutory language to provide that: (a) when a court sentences a youthful offender to life imprisonment for a crime committed on or after July 1, 1988, but before September 21, 1999, the court must set a date on which the youthful offender is eligible for parole; or (b) when a court sentences a youthful offender to life imprisonment for a crime committed on or after December 31, 1999, the court must set a date on which the youthful offender is eligible for release to extended supervision. When sentencing a youthful offender to life imprisonment under (a) or (b), the court is required to inform the youthful offender of the procedure for petitioning for a sentence adjustment and must consider, in addition to all other relevant factors, all of the following: (a) that, because children are less criminally culpable and more amenable to reform, youthful offenders are



constitutionally different from adults for the purposes of sentencing; (b) that the sentencing goals of deterrence, retribution, and incapacitation are secondary to the goal of rehabilitation when sentencing youthful offenders; and (c) that unless the state proves beyond a reasonable doubt that the youthful offender is permanently incorrigible and is therefore unable to be rehabilitated, youthful offenders must have a meaningful opportunity to obtain release from prison based on maturity and rehabilitation. Modify statutory language to add this provision to the list of exceptions for certain sentence of life imprisonment, parole eligibility determination, and extended supervision eligibility determination provisions. As a result, the bill would eliminate life without the possibility of parole or extended supervision release for a youthful offender. In addition, create mitigation for youth statutory language to provide these relevant factors as mitigating factors that a court must consider when making a sentencing decision for a person who has not attained the age of 18 years at the time the crime was committed.

No later than the first day of the sixth month beginning after enactment of the bill, the Department of Corrections would be required to provide written notice of sentence adjustment for youthful offender eligibility to all youthful offenders who have served at least 14 years of their terms of imprisonment.

Provide that the youthful offender sentence adjustment provisions first apply to a conviction for which sentencing has occurred on the effective date of this provision. However, the treatment of sentence adjustments for youthful offenders first applies to a youthful offender who is serving a term of imprisonment on the effective date of this paragraph.

**Joint Finance/Legislature:** Provision not included.

## **Juvenile Corrections**

### **1. NEW COUNTY AND STATE FACILITY AND CLOSURE OF LINCOLN HILLS DEADLINES**

**Governor:** Modify the July 1, 2021, deadline for closing Lincoln Hills and Copper Lake schools and for constructing secure residential center for children and youth (SRCCs) and a new state-run juvenile correctional facility. Instead, Corrections would transfer juveniles as soon as a substitute placement that meets the needs of the juvenile are ready. Once all juveniles are transferred to SRCC's or the new state facility, Lincoln Hills and Copper Lakes Schools would be closed.

Under 2017 Act 185 as modified by 2019 Act 8, the current juvenile correctional facility owned and operated by the Corrections (Lincoln Hills and Copper Lake schools) must be closed on the earlier date of either when all of the juveniles that are held there are transferred to the new county-run SRCC or a new state-run juvenile correctional facility or July 1, 2021.

**Joint Finance/Legislature:** Provision not included.

**2. STATUTORY DAILY RATES [LFB Paper 262]**

**Governor:** Remove statutory daily rates for placements at juvenile correctional facilities from the statutes. Instead, allow the Department to establish a per person daily rate for care of juveniles transferred to its care. The modification is intended to address the existing deficit in the juvenile correctional services appropriation by allowing rates to respond more quickly to changes in population. Statutory daily rates to be established for juvenile correctional services provided or purchased by the Department that would be charged to counties and paid through counties' youth aids allocations, or paid by the state through the serious juvenile offender appropriation.

Under current law, daily rates for juvenile care in a given biennium are specified in statute by fiscal year for juvenile correctional facilities. Further, the daily rate for the juvenile correctional facilities currently includes a \$6 add-on to address the juvenile operations appropriation deficit. The statutory daily rate for the period January 1, 2021, to June 30, 2021, is set at \$615.

**Joint Finance/Legislature:** Provision not included. Instead, establish the daily rate at \$1,154 in 2021-22 and \$1,178 in 2022-23 based on reestimated populations and expenditures.

[Act 58 Sections: 388 and 389]

**3. JUVENILE CORRECTIONAL SERVICES DEFICIT [LFB Paper 261]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$11,341,600	- \$11,341,600	\$0

**Governor:** Provide \$11,341,600 in 2021-22 in a new GPR appropriation to address an existing deficit in the juvenile correctional services program revenue appropriation if the amount in the juvenile correctional services appropriation is insufficient. In addition, modify current law to allow the Secretary of Corrections (rather than require the Governor) to charge an additional \$6 daily amount for care provided by the Department in order to address a deficit in the juvenile correctional services appropriation until the deficit is eliminated.

**Joint Finance/Legislature:** Provision not included.

**4. JUVENILE POPULATION ESTIMATES [LFB Paper 260]**

**Governor:** Under the bill, the juvenile correctional facility average daily population (ADP) is estimated as shown in the table below. The juvenile facilities include Lincoln Hills School (LHS) (males), Copper Lake School (CLS) (females), the Mendota Juvenile Treatment Center (MJTC), and the Grow Academy, an agriculture science-based experiential education program held at a facility in Oregon, Wisconsin. The population projections below assume: (a) the elimination of the serious juvenile offender program for new dispositional orders on the effective date of the bill; (b) the increase of the age of juveniles subject to juvenile delinquency proceedings from 10 to 12; and (c) the modification of the closing date of LHS/CLS from July 1, 2021 to after all juveniles are

transferred to appropriate alternative placements.

<u>Facilities</u>	March 5, 2021	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2021-22</u>	<u>2022-23</u>
Lincoln Hills School	52	72	73
Copper Lake School	5	9	10
Mendota Juvenile Treatment Center	16	16	16
Grow Academy	<u>4</u>	<u>2</u>	<u>2</u>
Total Juvenile Correctional Facility	77	99	101

**Joint Finance/Legislature:** Reestimate the juvenile ADPs to be 86 annually at the juvenile correctional facilities.

<u>Facilities</u>	Reestimated ADPs	
	<u>2021-22</u>	<u>2022-23</u>
Lincoln Hills School	59	59
Copper Lake School	6	6
Grow Academy	2	2
Mendota Juvenile Treatment Center	<u>19</u>	<u>19</u>
Total Juvenile Correctional Facility	86	86

**5. POPULATION AND INFLATIONARY COSTS [LFB Paper 260]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	-\$696,600	-\$311,100	-\$1,007,700

**Governor:** Modify population-related funding for juvenile corrections by -\$384,900 in 2021-22 and -\$311,700 in 2022-23, as follows: (a) -\$37,600 in 2021-22 and -\$26,200 in 2022-23 for food costs at juvenile correctional facilities; (b) -\$21,800 in 2021-22 and -\$20,000 in 2022-23 for variable non-food costs (such as clothing, laundry, and personal items); and (c) -\$325,500 in 2021-22 and -\$265,500 in 2022-23 for juvenile health costs.

**Joint Finance/Legislature:** Based on population reestimates, modify population related funding by -\$140,900 in 2021-22 and -\$170,200 in 2022-23. The total reduction to base funding would be -\$525,800 in 2021-22 and -\$481,900 in 2022-23, associated with: (a) food costs (-\$91,800 in 2021-22 and -\$88,100 in 2022-23); (b) variable non-food costs (-\$38,500 in 2021-22 and -\$38,700 in 2022-23); and (c) juvenile health costs (-\$395,500 in 2021-22 and -\$355,100 in 2022-23).

**6. MENDOTA JUVENILE TREATMENT CENTER RE-ESTIMATE [LFB Paper 262]**

PR	-\$2,805,400
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**Governor/Joint Finance:** Adjust funding by -\$1,445,000 in 2021-22 and -\$1,360,400 in

2021-23 related to payments to the Department of Health Services (DHS) for juveniles placed at the Mendota Juvenile Treatment Center. The Department currently contracts with DHS for 29 mental health beds for juveniles.

Replace the statutorily specified amounts for transfer (\$1,365,500 GPR annually, \$3,224,100 PR in 2019-20 and \$5,429,000 PR in 2020-21) with a requirement that Corrections reimburse DHS for the cost of providing those services at a per person daily cost (daily rate) specified by DHS. The provision would first be effective for acts committed on or after the day after publication. The bill maintains the current law requirement that DHS charge Corrections not more than the actual cost of providing those services.

[Act 58 Section: 187]

**7. SERIOUS JUVENILE OFFENDER FUNDING [LFB Paper 262]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$15,019,100	\$17,152,200	\$2,133,100

**Governor:** Provide -\$4,561,300 in 2021-22 and -\$10,457,800 in 2022-23 to reflect population reestimates related to: (a) elimination of the Serious Juvenile Offender (SJO) program beginning with acts first committed on or after the day after publication of the bill; and (b) providing additional Youth Aids to counties. [See "Children and Families -- Juvenile Justice."]

Eliminate the SJO program as an available disposition for a juvenile adjudicated delinquent under the juvenile justice code. The Serious Juvenile Offender Program would continue for youth under that disposition prior to the effective date of the elimination. The estimated ADP for the SJO population would be 70 in 2021-22 and 49 in 2022-23. The estimated juvenile correctional facility daily rate used to calculate SJO funding for these juveniles would be \$1,007 in 2021-22 and \$1,009 in 2022-23. Base funding for the program is \$17,792,800 GPR annually. The following ADPs for the SJO appropriation, are projected for the 2021-23 biennium:

**Average Daily Population**

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>		
	<u>January, 2021</u>	<u>2021-22</u>	<u>2022-23</u>
Juvenile Corrections Facilities	27	17	0
Community Supervision Program	<u>56</u>	<u>53</u>	<u>49</u>
Total ADP	83	70	49
Alternate Care*	17	19	17

\* A subset of the community supervision program (corrective sanctions and aftercare supervision) program that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

Under current law, Corrections is required to administer the SJO program for juveniles who meet the age requirements and who are adjudicated delinquent for certain violations of the criminal code. Juveniles who are placed in the SJO program may be placed in a secured facility for up to three years or, if the juvenile has committed an act that would be punishable by life imprisonment if committed by an adult, until the juvenile reaches 25 years of age. Corrections may impose other sanctions, including intensive supervision, electronic monitoring, alcohol or other drug abuse treatment and services, mental health treatment and services, community service, restitution, and education and employment services.

**Joint Finance/Legislature:** Provision not included. As a result, restore funding of \$4,561,300 in 2021-22 and \$10,457,800 in 2022-23. In addition, increase SJO funding by \$720,600 in 2021-22 and \$1,412,500 in 2022-23. The following ADPs for the SJO appropriation, are projected for the 2021-23 biennium:

### Reestimated SJO Average Daily Population

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2021-22</u>	<u>2022-23</u>
Juvenile Corrections Facilities	28	29
Community Supervision Program	<u>51</u>	<u>45</u>
Total ADP	79	74
Alternate Care <sup>1</sup>	18	16

<sup>1</sup> A subset of the community supervision program (corrective sanctions and aftercare supervision) that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

## 8. EXTENDED JUVENILE JURISDICTION

**Governor:** Create extended juvenile jurisdiction (EJJ) for juveniles who are alleged delinquent for the commission of certain acts. If a juvenile meets the requirements for waiver of juvenile court jurisdiction, the district attorney or the juvenile may instead petition the juvenile court to place the juvenile under EJJ or the court may initiate such a proceeding on its own motion. In order to grant EJJ, the court must find: (a) the juvenile qualifies for waiver and the juvenile qualifies for a correctional placement, if adjudged delinquent for the alleged acts; and (b) that a correctional placement is insufficient to protect public safety or for rehabilitation of the juvenile. These findings must be made on clear and convincing evidence at a hearing to the court. If the court grants EJJ, the juvenile would be entitled to a jury trial and the court may, after trial, impose any juvenile disposition that it deems appropriate. The EJJ would be available as a dispositional alternative starting July 1, 2022. The EJJ program would replace the SJO program (above).

Create a new juvenile disposition that may be used only for juveniles subject to EJJ. The extended juvenile disposition would be available only to juveniles who are given a juvenile correctional placement and for whom the court finds that the correctional placement alone is insufficient to protect public safety or for rehabilitation of the juvenile. In this case, the court may impose an extended juvenile disposition, which has the same force and effect as a criminal sentence, after a juvenile correctional placement terminates on the juvenile's 19<sup>th</sup> birthday. The

extended juvenile disposition may not extend beyond the juvenile's 23<sup>rd</sup> birthday unless the juvenile is adjudicated delinquent for first-degree intentional homicide, in which case the extended juvenile disposition may extend to the juvenile's 25<sup>th</sup> birthday. The extended juvenile disposition would be stayed in the original juvenile dispositional order until a hearing is held between the juvenile's 18<sup>th</sup> and 19<sup>th</sup> birthdays. At the hearing, the court must dismiss the extended juvenile disposition unless it finds, by clear and convincing evidence presented at the hearing, that the juvenile continues to pose a risk to the public, considering the juvenile's risk and treatment needs at the time of the hearing.

If the court upholds the extended juvenile disposition after the hearing, the court determines whether to impose probation or confinement in jail or prison and imposes the sentence. If the juvenile is on aftercare supervision, the court may only impose probation. Corrections is charged with promulgating rules for release to extended juvenile supervision or discharge of individuals on an extended juvenile disposition. An extended juvenile disposition would not be subject to the requirements of bifurcated sentencing, but a juvenile who violates a condition of probation or extended supervision under an extended juvenile disposition may have his or her probation or extended supervision revoked after a hearing held by the Division of Hearings and Appeals in DOA. If probation is revoked, the juvenile may be sent back to the court to determine the term of confinement in jail or prison.

In summary, the Corrections run EJJ program would replace the SJO program and process for extending the jurisdiction of a juvenile disposition beyond age 17. A juvenile with a juvenile disposition would generally be under county supervision until age 18, at which point, after a hearing and a decision to continue juvenile jurisdiction, the youth would be transferred to state supervision.

**Joint Finance/Legislature:** Provision not included.

## **9. JUVENILE CORRECTIONAL FACILITIES**

**Governor:** Authorize Corrections to establish and operate a secured residential care center for children and youth (SRCC). Remove the requirement for Corrections to establish one or more Type 1 juvenile correctional facilities. Further, remove the classification of Mendota Juvenile Treatment Center (MJTC) as a Type 1 juvenile correctional facility and eliminate the term "Type 1 juvenile correctional facility." The bill allows a juvenile to be placed under the supervision of Corrections in a SRCC run by the Department.

Under current law, the juvenile court may place a juvenile in a Type 1 juvenile correctional facility under the supervision of Corrections or an SRCC under the supervision of a county department of human or social services if the juvenile is adjudged delinquent for an act that would be punishable by a sentence of six months or more if committed by an adult or is found to be a danger to the public. Corrections currently operates a Type 1 juvenile correctional facility known as the Lincoln Hills and Copper Lakes Schools, and DHS operates a Type 1 juvenile correctional facility known as MJTC.

Under current law, Corrections must close the Lincoln Hills and Copper Lakes Schools and establish and operate one or more new Type 1 juvenile correctional facilities by no later than July

1, 2021. By this same date (removed under the bill), each county must establish or contract with another county to access an SRCC to hold juveniles who are placed under county supervision in secured custody. A SRCC may have less restrictive physical security barriers than a Type 1 juvenile correctional facility and must provide trauma-informed, evidence-based programming and services.

**Joint Finance/Legislature:** Provision not included.

## **10. ELIMINATE TYPE 2 STATUS**

**Governor:** Eliminate Type 2 status and Type 2 facilities from the Juvenile Justice Code.

Under current law, any secured or nonsecured facility that holds a juvenile with a Type 2 status is referred to as a Type 2 juvenile correctional facility or a Type 2 residential care center for children and youth (collectively, Type 2 facility). A Type 2 facility is operated in a manner that is less restrictive than a Type 1 juvenile correctional facility or an SRCC. Under current law, Corrections may place a juvenile under its supervision under Type 2 status, and the juvenile court may place a juvenile under the supervision of a county department in a Type 2 residential care center for children and youth. A juvenile subject to Type 2 status may be placed in a Type 2 facility or under aftercare or community supervision. The juvenile is subject to certain conditions for maintaining Type 2 status. If the juvenile violates the conditions of Type 2 status, the juvenile may be moved to a Type 1 juvenile correctional facility or an SRCC without a change in placement hearing.

**Joint Finance/Legislature:** Provision not included.

## **11. COMMUNITY SUPERVISION AND AFTERCARE SUPERVISION**

**Governor:** Eliminate state run community supervision and require county departments to provide aftercare supervision for any juvenile who is released from a juvenile correctional facility or a SRCC.

Under current law, when a juvenile who is placed under the supervision of Corrections under the Juvenile Justice Code is released from a juvenile correctional facility, Corrections provides community supervision for the juvenile until Corrections discharges the juvenile from supervision. When a juvenile who is placed under the supervision of a county department is released from a juvenile correctional facility or an SRCC, the county department provides aftercare supervision for the juvenile until the county department discharges the juvenile from supervision.

**Joint Finance/Legislature:** Provision not included.

## **12. JUVENILE HEARINGS OPEN TO THE GENERAL PUBLIC**

**Governor:** Eliminate the exception that allows the general public to attend any hearing relating to a juvenile who has been alleged to be delinquent for committing a violation that would

be a felony if committed by an adult if the juvenile has been adjudicated delinquent previously and that previous adjudication remains of record and unreversed or relating to a juvenile who has been alleged to be delinquent for committing a violation. Generally, the public is excluded from juvenile hearings unless a public fact-finding hearing is demanded by a juvenile and their counsel.

**Joint Finance/Legislature:** Provision not included.

### **13. AGE OF JUVENILE JURISDICTION**

**Governor:** Modify current law, first effective for acts committed on the day after publication of the bill, to specify that persons who have not attained the age of 18 years are subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, subject to an array of dispositions under that code including placement in a juvenile correctional facility. Similarly, modify from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court.

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to adult procedures and sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. [For information on funding provided to counties associated with the age of juvenile jurisdiction, see "Children and Families -- Juvenile Justice."]

**Joint Finance/Legislature:** Provision not included.

### **14. ORIGINAL JURISDICTION OF THE ADULT COURT OVER A JUVENILE**

**Governor:** Eliminate original adult court jurisdiction over a juvenile. Under current law, the adult court has original jurisdiction over a juvenile who meets any of the following criteria:

1. A juvenile who is over the age of 10 and is alleged to have committed or attempted to commit first-degree intentional homicide or committed first-degree reckless homicide or second-degree homicide.

2. A juvenile who is alleged to have committed assault or battery while placed in a secured juvenile facility or to have committed battery against a probation, aftercare, community supervision, parole, or extended supervision officer.

3. A juvenile who is alleged to have attempted or committed a violation of any state criminal law in addition to an offense listed under item 1 or item 2, if the violations may be joined into a single criminal case.

4. A juvenile who has previously come under the jurisdiction of the adult court.



This provision would first become effective for acts committed on or after the day after publication of the bill.

**Joint Finance/Legislature:** Provision not included.

## **15. WAIVER PETITION FOR ADULT COURT JURISDICTION OVER A JUVENILE**

**Governor:** Modify current law, first effective for acts committed on the day after publication of the bill, to specify that a petition to waive a juvenile into adult court may be filed if the juvenile is at least 16 years old and is alleged to have violated any state law that would be a felony if committed by an adult. Further, specify that a 14-year-old or 15-year-old may be waived into adult court if he or she is alleged to have committed a violation that would grant original adult court jurisdiction over a juvenile under current law, or that would allow for a 14-year-old to be waived by petition into adult court under current law, except for the manufacture, distribution, or delivery of a controlled substance.

Under current law, a district attorney or a juvenile may apply to the juvenile court to waive its jurisdiction in any of the following situations: (a) If the juvenile is alleged to have committed felony murder, second-degree reckless homicide, first- or second-degree sexual assault, taking hostages, kidnapping, armed robbery, armed burglary, robbery of a financial institution, or the manufacture, distribution or delivery of a controlled substance on or after the juvenile's 14<sup>th</sup> birthday; (b) if the juvenile is alleged to have committed, on or after the juvenile's 14<sup>th</sup> birthday, a violation at the request of or for the benefit of a criminal gang, that would constitute a felony if committed by an adult; or (c) if the juvenile is alleged to have violated any state criminal law on or after the juvenile's 15<sup>th</sup> birthday. The judge may also initiate a petition for waiver in any of these situations, if the judge disqualifies himself or herself from any future proceedings on the case.

**Joint Finance/Legislature:** Provision not included.

## **16. MINIMUM AGE OF DELINQUENCY**

**Governor:** Modify current law to specify that children who have attained the age of 12 years or over, rather than 10 years or over, may be subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, subject to an array of dispositions under that Code. Modify current law to specify that for certain crimes a juvenile age 12 or older, rather than 10 or older, may be subject to adult court jurisdiction. Children under 12 would still be under the jurisdiction of children in need of protective services.

Create nonstatutory language that specifies that for purposes of conducting a criminal history and child abuse record search "nonclient resident" and "household member" include a person who has attained 10 years of age.

**Joint Finance/Legislature:** Provision not included.

## 17. LONG-TERM PLACEMENTS IN JUVENILE DETENTION FACILITIES

**Governor:** Eliminate as an available disposition under the Juvenile Justice Code the placement of a juvenile in a juvenile detention facility or juvenile portion of a county jail for more than 30 days effective one year after Corrections sends notice to the Legislative Reference Bureau that Lincoln Hills School and Copper Lake School are closed.

Under current law, the juvenile court may place a juvenile that has been adjudicated delinquent in a juvenile detention facility or juvenile portion of a county jail for up to 30 days or, if the facility is eligible, up to 365 days. A juvenile detention facility is eligible to accept a juvenile for more than 30 days if: (a) prior to January 1, 2018, the county board of supervisors of the county operating the facility has adopted a resolution authorizing such a placement; and (b) the county has not been awarded a grant under the juvenile corrections grant program, which provides funding for the establishment of a secured residential care center for children and youth.

**Joint Finance/Legislature:** Provision not included.

## 18. JUVENILE DETENTION PLACEMENT AS SANCTION

**Governor:** Eliminate placement in a juvenile detention facility as a sanction or for short-term detention unless the juvenile court finds that the juvenile poses a threat to public safety and the underlying offense for which the juvenile court order was imposed is not a status offense. A status offense is defined as an offense committed by a juvenile that would not be an offense if committed by an adult (for example, truancy).

Under current law, a juvenile adjudged delinquent or to have committed a civil law or municipal ordinance violation, including a habitual truancy violation, who violates a condition of his or her dispositional order is subject to various sanctions, including placement in a juvenile detention facility or a place of nonsecure custody for not more than 10 days. In addition, a juvenile adjudged delinquent who violates a condition of his or her delinquency order or aftercare supervision may, without a hearing, be placed in a juvenile detention facility or a place of nonsecure custody for not more than 72 hours (short-term detention) during an investigation of the violation and potential sanctions or as a consequence of that violation.

**Joint Finance/Legislature:** Provision not included.

## 19. USE OF RESTRAINTS ON A CHILD IN COURT

**Governor:** Prohibit the use of restraints on anyone under the age of 18 when appearing before the juvenile court or criminal court. Prohibited restraints would include items such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, or other similar items. Upon a request of the district attorney, corporation counsel, or other appropriate county official, a court may order the use of restraints on a child if, after a hearing, it issues written findings of fact showing that the use of restraints is necessary under certain conditions. In such a situation, require the court to make all of the following findings:

a. that the use of restraints is necessary due to one of the following factors: (1) to prevent physical harm to the child or another person; (2) the individual has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or the child presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or (3) there is a reasonable belief that the child presents a substantial risk of flight from the courtroom;

b. that there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including the presence of court personnel, law enforcement officers, or bailiffs.

Specify that the restraints allow an individual limited movement of the hands to read and handle documents and writings necessary during a hearing. Further, require that any restraints used on a child must allow limited movement of the hands and prohibits the use of fixed restraints that are attached to a wall, floor, or furniture.

**Joint Finance/Legislature:** Provision not included.

**20. YOUTH WITH ADULT SENTENCES CONTRACT BED FUNDING** [LFB Paper 262] 

GPR	\$5,175,700
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**Joint Finance/Legislature:** Based on reestimated populations and daily rate, increase contract bed funding by \$2,562,300 GPR in 2021-22 and \$2,613,400 GPR in 2022-23.

**21. REIMBURSEMENT CLAIMS OF COUNTIES CONTAINING JUVENILE CORRECTIONAL FACILITIES** [LFB Paper 102] 

GPR	\$28,000
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**Joint Finance/Legislature:** Reestimate the reimbursement claims of counties containing juvenile correctional facilities by \$14,000 annually. Base funding for the appropriation is \$81,000.