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Joint Committee on Finance

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Mendota Mental Health Unit Forensic Staffing and Permanent Positions for Forensic Units at Sand Ridge Secure Treatment Center (Health Services -- Care and Treatment Facilities)

[LFB 2021-23 Budget Summary: Page 303, #1 and Page 304, #2]

CURRENT LAW

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

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

The Department operates the Mendota Juvenile Treatment Center (MJTC), located on the campus of the Mendota Mental Institute. MJTC is a Type 1 juvenile correctional facility that provides psychiatric evaluation and treatment for male juveniles transferred from the juvenile correctional system whose behavior is highly disruptive and who have not responded to standard services and treatment. MJTC has 29 staffed beds. Since 2016, the Department has operated a 14-

bed unit for adult forensic patients within the MJTC building, in separate space not used for juveniles in that program.

The Sand Ridge Secure Treatment Center (SRSTC), in Mauston, houses the state's civil commitment program for sexually violent persons (SVPs). Since 2018, the Department has also operated units for forensic patients at Sand Ridge, utilizing space not needed for the SVP program. Currently the Department has two such units, with 40 beds, for forensic patients who otherwise would be at Mendota or on an admission waiting list.

Including the 14-bed unit in MJTC and the 40 beds at SRSTC, Mendota has a total capacity of 313 beds for forensic patients.

DISCUSSION POINTS

1. Beginning with the 2013-15 budget, the Legislature has provided additional resources, including funding, positions, and bonding authorization, to expand the state's capacity for forensic patients at the mental health institutes. The following timeline presents a summary of Legislative decisions.

- The 2013-15 budget provided \$5.9 million in 2013-14 and \$6.7 million in 2014-15 and 73.0 positions to open two 20-bed forensic units in vacant units in the west wing of Lorenz Hall. The new units were designated as admission units for court-ordered competency examinations and treatment to competency. The Lorenz Hall units, which had previously been used for civil patients, were already suitable for this purpose and so required no renovation.

- The 2013-15 biennial budget also provided a \$5.7 million bond authorization for the first phase of the renovation Lorenz Hall, involving two 20-bed units in the east wing of the building. The purpose of the renovation was to make modifications necessary for use as secure treatment for forensic patients. As with the west wing units, these units were vacant and had previously been used for civil patients.

- In February of 2016, the Department requested and the Joint Committee on Finance approved a \$2.0 million appropriation supplement for Lorenz Hall renovation work. Of this amount, \$1.0 million was to complete renovation of the east wing and \$1.0 million was to begin planning for the second phase of renovations, involving the west wing and general building improvements.

- The 2017-19 budget provided an \$18.0 million bond authorization for the second phase of the Lorenz Hall renovation, involving the west wing of the building, as well as building program space and perimeter security. Patients that had been in that wing were moved to the renovated east wing units.

- The 2017-19 budget also provided \$6.0 million annually and 73.0 positions to staff forensic units in temporary space, with the intent that these positions would eventually be used to staff the Lorenz Hall west wing units when the renovations were completed. The temporary space included a 14-bed unit in unused space within the building housing the Mendota Juvenile Treatment Center

(MJTC) and a 20-bed unit at the Sand Ridge Secure Treatment Center.

- The 2019-21 budget provided \$3.4 million and 36.5 project positions in 2020-21 to retain the 20-bed forensic unit at Sand Ridge Secure Treatment Center for the duration of the 2019-21 biennium, once the permanent positions provided in the previous budget were deployed to open the final completed units in Lorenz Hall.

- In March of 2020, DHS opened an additional 20-bed unit at Sand Ridge, utilizing the existing staffing, which allowed the Department to create more space at Mendota for COVID-19 isolation units.

2. At or near the end of the 2019-21 biennium, two transitions involving adult forensic populations will occur, in the absence of any changes to funding and position authority in the 2021-23 biennium.

- First, in the summer of 2021, the positions and funding currently used for the 14-bed forensic unit within the MJTC building will be transitioned to the finished west wing of Lorenz Hall. Once this transition occurs, the MJTC unit would be closed and the space will be vacated. [DHS does not expect to need the unit for MJTC use in the biennium.]

- Second, the project positions and funding used to staff the 40 adult forensic beds at Sand Ridge will expire and those units will be closed. The patients currently housed at Sand Ridge would be moved back to Mendota. While a portion of these patients may be accommodated with the opening of the Lorenz Hall west wing, the overall capacity to accept new patients will likely be reduced.

3. Assembly Bill 68 and Senate Bill 111 include proposals to keep the MJTC unit and the Sand Ridge units open for adult forensic patient use. For the MJTC unit, new positions and associated funding would be provided. For the Sand Ridge proposal, permanent positions and funding would be provided to replace expiring project positions and funding. In this case, the funding and positions for the Sand Ridge units would be equivalent to the funding and positions removed under the standard budget adjustments for removal of non-continuing elements.

4. The following table shows the funding and positions for each part of the proposal.

<u>Unit</u>	<u>2021-22</u>	<u>2022-23</u>	<u>Positions</u>
MJTC Unit	\$3,028,200	\$3,028,200	36.5
Sand Ridge Units	<u>2,654,300</u>	<u>2,654,300</u>	<u>36.5</u>
Total	\$5,682,500	\$5,682,500	73.0

5. Although the MJTC unit has 14 beds and the Sand Ridge units have a total of 40, each would be staffed with 36.5 positions. DHS indicates that the staffing requirements for the Sand Ridge units are lower than the typical adult forensic units, primarily due to the type of patient placed there. Since establishing the forensic units at Sand Ridge, the Department has used this space for patients with long-term commitments, with relatively stable conditions, and with known treatment needs.

With relatively low patient turnover and lower treatment demands, the staffing needs are lower. The MJTC unit, by contrast, requires the more typical forensic staffing ratio since it is characterized by shorter-term stays (generally competency assessment and restoration to competency), greater turnover rate (more discharges and admissions), and patients with more acute, and less predictable, needs.

6. Although the number of positions is the same for both proposals, the total funding provided under the AB 68/SB 111 for the MJTC unit is higher, primarily because it includes funding for position-related supplies and services. The 2019-21 budget provided ongoing base funding for the supplies and services for the project positions at Sand Ridge, so no additional funding for this purpose would be needed.

7. The following table summarizes the number of staffed beds that are currently in use in comparison with two scenarios: (a) no change to base funding and positions (closure of MJTC and Sand Ridge units); and (b) approval of the AB 68/SB 111 forensic position initiative (maintain MJTC and Sand Ridge open).

**Adult Forensic Patient Capacity by Unit,
Currently and Under Two Scenarios**

<u>Unit</u>	<u>In 2020-21</u>	<u>In 2021-22 and Thereafter:</u>	
		<u>With no Change to Base Funding and Positions</u>	<u>With Approval of AB 68/SB 111</u>
Lorenz Hall West Wing	0	40	40
Sand Ridge Units	40	0	40
MJTC Unit	14	0	14
All Other Units*	<u>259</u>	<u>259</u>	<u>259</u>
Total	313	299	353
<i>Change from 2020-21</i>		-14	+40

* Includes Lorenz Hall east wing units.

8. With the approval of both proposals, the number of staffed beds for adult forensic use would increase by 40, relative to current levels. If the Sand Ridge proposal is approved, but not the MJTC proposal, the number of staffed beds would increase by 26 from current levels.

9. The proposals to add forensic beds were developed to address a persistent backlog in the number of individuals awaiting admission to Mendota. The number of forensic referrals has been increasing over the past decade, and was the impetus for initiating the Lorenz Hall renovations. Despite this added capacity, the number of individuals awaiting forensic admission has generally ranged between 60 to 80 over the past two years, exceeding the number of new beds that would be

added with approval of both of the forensic positions proposals.

10. The size of the forensic population (including those on the admissions waiting list) is generally outside the Department's control, since the Department is statutorily required to accept all forensic patients committed by the court. In the interest of fulfilling its legal responsibilities to provide prompt treatment in an inpatient setting for forensic patients who require a secure environment, the Department asserts that an increase in the forensic bed capacity is needed.

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

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

13. The trend toward increasing court-ordered forensic referrals is a nationwide issue. A 2017 study produced by the National Association of State Mental Health Program Directors indicates that most or all states reported seeing such an increase over the previous decade, and that many report that their state psychiatric hospitals are operating at or above capacity. As in Wisconsin, this trend appears to be driven primarily by an increase in the number of individual referred for restoration to competency treatment. The report also indicates that many states are employing the same measures as Wisconsin to address the issue, including outpatient or jail-based restoration to competency services.

14. One potential explanation for the growth in forensic patient admissions is a greater sensitivity by the courts to the degree to which mental illness can inhibit a person's competency to stand trial. In this sense, the trend toward an increase in forensic referrals, while imposing greater costs on the state, may reflect a move toward a judicial system that is attempting to meet its obligations with respect to the treatment of individuals with mental illness.

15. The care of forensic patients is the Department's statutory responsibility. Given the current waitlist for admission already exceeds the total capacity of the proposed units, and has been at that level for at least two years, a case could be made that the state must address the deficiency in its forensic capacity. In this case, the Committee could provide additional positions and funding to maintain forensic units in operation by adopting one or both of the forensic position proposals.

16. When the budget bill provides additional positions, normal practice is to provide the equivalent of nine months of salary and fringe benefit funding in the first year. This accounts for the expectation that an agency would not be able to recruit for and fill those positions immediately upon the start of the fiscal year and so they would be vacant for, on average, the first three months. However, since the permanent positions for the Sand Ridge units would replace project positions that would otherwise expire and these positions are expected to be filled at the time of this transition, AB 68/SB 111 would provide a full year of salary and fringe benefits funding (\$2,654,300 annually) for those positions [Alternative 1a].

17. While the MJTC unit is currently staffed with permanent positions, it is expected that those positions will be transitioned to the Lorenz Hall west wing units. Thus, DHS would need to conduct a recruitment to continue to staff the MJTC unit. Following the standard practice for budgeting new positions, salary and fringe benefits could be provided for nine months in the first year. In this case, the MJTC unit alternative would provide 36.5 GPR positions, beginning in 2021-22, and \$2,372,500 in 2021-22 and \$3,028,200 in 2022-23 [Alternative 1b].

ALTERNATIVES

1. Adopt one or both of the following alternatives to add capacity for adult forensic patients utilizing existing space:

a. Provide \$2,654,300 GPR annually and 36.5 GPR positions, beginning in 2021-22, to staff 40 forensic beds in two units at the Sand Ridge Secure Treatment Center. The positions would replace an equal number of expiring project positions and the funding would equal the funding associated with the project positions, which is removed from the base appropriation under a standard budget adjustment.

ALT 1a	Change to Base	
	Funding	Positions
GPR	\$5,308,600	36.50

b. Provide \$2,372,500 GPR in 2021-22 and \$3,028,200 GPR in 2022-23 and 36.5 GPR positions, beginning in 2021-22, to staff a 14-bed unit in the building that houses the Mendota Juvenile Treatment Center.

ALT 1b	Change to Base	
	Funding	Positions
GPR	\$5,400,700	36.50

2. Take no action.

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