



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #300

Local Law Enforcement Reimbursement (Corrections -- Adult Institutions)

[LFB 2023-25 Budget Summary: Page 138, #18]

CURRENT LAW

Statutes require that county clerks may submit reimbursement claims of counties containing state prisons or juvenile correctional facilities to the Department of Corrections 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. Base funding for the appropriations is: (a) \$41,000 GPR associated adult correctional institutions; and (b) \$95,000 GPR associated with juvenile correctional institutions.

The Department of Corrections also currently reimburses two jurisdictions (the Village of Allouez and the County of Dodge) for costs associated with local law enforcement investigative services to correctional facilities in those jurisdictions.

DISCUSSION POINTS

1. The Department has a sum sufficient GPR appropriation for reimbursement claims of counties containing state prisons. The appropriation is designed to "pay all valid claims made by county clerks of counties containing state prisons." This appropriation is currently used exclusively for reimbursing counties for expenses incurred in connection with certain inmate litigation, and not for local law enforcement investigative services. Examples of allowable reimbursements under this appropriation include lawsuits, costs related to writs of habeas corpus or writs of certiorari involving an inmate's status as a prisoner, and costs related to extradition. Examples of non-allowable reimbursements include civil lawsuits, costs related to inmate accounts, family related litigation, and any costs unrelated to litigation. An identical appropriation exists for juvenile correctional facilities.

2. To receive reimbursement under the reimbursement claims of counties with state prisons

appropriation, counties must establish a memorandum of understanding with the Department, complete a departmental form, and provide supporting documentation (for example, in a criminal case, the case number and caption of the case). The form and documents are then subject to the audit process outlined in statute (s. 16.51(7)) for expense claims in connection with prisoners in correctional facilities. After review, the requesting counties are reimbursed for all approved expenses.

3. When an incident occurs in, or on the grounds of, a state correctional facility beyond the control of existing correctional security staff, the local law enforcement entity is called to respond to the situation. Examples of incidents that may require local law enforcement response include death investigations, assaults or batteries on facility staff, Prison Rape Elimination Act (PREA) situations, and drug investigations.

4. The current statutory reimbursement appropriation language does not apply to local law enforcement investigative services, and also only includes counties (as opposed to other municipal jurisdictions). As a result, Corrections currently reimburses two local units of government for local law enforcement services rendered to adult correctional facilities directly from its general program operations appropriation.

5. The Dodge County Sheriff's Department receives reimbursement for actual expenses associated with local law enforcement investigations at correctional institutions within the county. Dodge County has more correctional facilities than other counties in the state. These facilities include the Dodge Correctional Institution, Waupun Correctional Institution, Fox Lake Correctional Institution, and the John C. Burke Center (along with the Waupun Farm, and the Fox Lake Farm). As a result, the Dodge County Sheriff's Department entered into a memorandum of understanding with the Department of Corrections, whereby one full-time detective responds to all calls to correctional facilities within the county (additional personnel may respond if the situation requires). The Sheriff's Department then sends quarterly invoices of the investigative costs to Corrections, subject to review by the Department, before receiving reimbursement for the approved expenses. Corrections does not have specific funds budgeted for this purpose.

6. In 2021-22, Dodge County submitted invoices and was reimbursed for \$25,800 in local law enforcement investigative services expenses. This amount is significantly lower than the past several years (\$33,100 in 2020-21, \$36,300 in 2019-20, and an average of \$82,000 each in 2017-18 and 2018-19), largely due to the public health emergency, when inmate populations were reduced and in-cell confinement was increased.

7. In addition to Dodge County, the Village of Allouez (Brown County) also receives reimbursement from Corrections' general program operations appropriation for expenses associated with local law enforcement investigative costs at Green Bay Correctional Institution (GBCI). The Brown County Sheriff's Department provides law enforcement services to Allouez under contract, because Allouez does not have a local police department. Allouez pays Brown County per-hour for the law enforcement services rendered to the jurisdiction, including services rendered to GBCI. However, unlike Dodge County, reimbursement for Allouez was provided as a result of a budget motion in the 2019-21 biennial budget. Given that a specific amount of funding was provided (\$60,000 GPR per fiscal year) the reimbursement process differs from Dodge County. The Department of Corrections finalized a memorandum of understanding with the Village of Allouez for

reimbursement at the end of 2020, and pays Allouez a set amount of \$15,000 per quarter.

8. In addition to Allouez and Dodge County, 2019 Assembly Bill (AB) 811 proposed reimbursing the Village of Redgranite \$8,000 GPR annually for similar expenses. The bill was passed by the Assembly but did not pass the Senate, pursuant to 2019 Senate Joint Resolution 1.

9. The budget bill would modify the existing sum sufficient appropriations (one for state prisons and one for juvenile correctional facilities) to allow the Department to reimburse counties or municipalities (including cities, villages, or towns) for certain expenses involving prisoners. The bill specifies 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. Further, the bill would create statutory language to provide that the clerk of any town or city (including 1st 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 (DOA). The forms must contain information required by the clerk and must be filed annually with the DOC, on or before June 1st.

10. In addition to statutory changes, \$125,700 GPR annually would be reallocated from the Division of Adult Institutions' general program operations appropriation to the reimbursement claims of counties or municipalities containing state prisons appropriation for reimbursement purposes. The amount being transferred was determined based on the amounts provided to Allouez for local law enforcement investigative services provided to GBCI (\$60,000 annually) and the estimated amounts provided to Dodge County (approximately \$65,700 annually, based on an average of actual costs from 2017-18 and 2018-19 (pre-COVID pandemic) and from 2020-21 (the most recently available billings at the time the provision was calculated)). The recommended reallocation is in part based on historical averages for Dodge County in pre-public health emergency periods, and is likely more reflective of future costs than the 2021-22 amount (\$25,800). The reallocation would move these amounts to the adult reimbursement claims appropriation and would allow for all reimbursement funds to come from the same appropriation.

11. It is difficult to estimate the total cost to the Department, if all eligible jurisdictions submit invoices for reimbursement under the bill, because reimbursement is based on actual expenses, which hinge on the number and size of incidents at correctional facilities requiring local law enforcement response.

12. The budget bill is similar to what was proposed in the 2021-23 biennial budget, and also to 2021 AB 569, although Assembly Amendment 1 to the bill removed language that would have allowed cities, villages, and towns to receive reimbursement from the sum sufficient appropriations. The enrolled bill (AB 569), with the adopted amendment, was vetoed by the Governor on April 8, 2022. In the veto message, the Governor indicated that the decision to veto was due to the removal of the funding necessary to support the legislation. The bill as introduced would have reallocated \$142,000 GPR annually.

13. The language included in the budget bill is the same as requested by Department in its 2021-23 agency budget request. For ease of organization and distribution of funds, the Committee may wish to approve the statutory changes and reallocation to more similarly provide reimbursements among jurisdictions with correctional facilities and to better align reimbursement funding with reimbursement appropriations. [Alternative 1] Under this alternative, Allouez and Dodge could still receive reimbursement, but would be required to follow the uniform process and once-per-year reimbursement criteria for actual expenses (including submitting documentation of actual expenses to Corrections), similar all other jurisdictions with correctional facilities.

14. Alternatively, the Committee could adopt the statutory changes and reallocation described in Alternative 1, but specify that reimbursement for Allouez and Dodge County remain as-is under current practices. This is similar to the 2021 AB 569 proposal. The recommended reallocation of \$125,700 would occur, and reimbursement of Allouez and Dodge would be provided from the reimbursement claims of counties or municipalities containing state prisons appropriation (as opposed to the general program operations appropriation), but Allouez would continue to receive a set amount of funding each quarter (\$15,000), as opposed to being required to submit invoices for actual expenses, and Dodge, while already submitting invoices for actual expenses, would continue to receive reimbursement each quarter, as opposed to once-per-year under the bill. [Alternative 2]. While maintaining the status quo for Allouez and Dodge, this alternative would introduce three different reimbursement processes for the same type of reimbursement claim, depending on which jurisdiction is requesting reimbursement.

15. In addition to the Department of Corrections appropriations used for reimbursement, DOA provides annual municipal service payments (MSP) to reimburse municipalities for a portion of eligible property tax supported expenses, including police expenses, incurred in providing services to state facilities and on state land. According to MSP guidelines, municipalities with correctional facilities receive a reduced MSP payment for police services, as state personnel (correctional officers and sergeants) assist with some police services within institutions. Specifically, DOA deducts 80% of the base entitlement for minimum- and medium-security correctional institutions, and 90% for maximum-security institutions. The Department of Administration pays a percentage of the remaining 20% or 10% respectively, to the municipality. These payments are provided to cities, towns, and villages, and not to counties. County sheriff's departments that provide services to a state facility may receive payment from a municipality under an intergovernmental agreement. Any compensation paid by the municipality to the sheriff's department would be an eligible police expense for which the municipality would be eligible for reimbursement.

16. The calendar year 2023 payment schedule (for services provided during calendar year 2021) includes 21 municipalities receiving a police municipal services payment based on correctional facilities. Of the \$24,205,600 in MSP entitlements in 2022, approximately \$646,900 were associated with these facilities. At a proration rate of 38.12%, \$246,600 in MSP were made to municipalities associated with police costs at Corrections facilities.

17. Despite the small amount of MSP police payments associated with correctional facilities, some jurisdictions may receive more than 100% reimbursement under the bill. The bill provides 100% reimbursement to counties and municipalities for law enforcement services rendered

to state correctional facilities. However, given the proposed statutory expansion and the structure of MSP payments, some of these jurisdictions may also be receiving partial reimbursement from DOA in addition to the full reimbursement from Corrections for police services rendered to state facilities/lands. Given this possibility, the Committee may consider approving Alternative 1, but also requiring DOA to remove police MSP for correctional facilities from the MSP formula. This alternative would put the responsibility on the local jurisdictions to submit the required documentation to Corrections to receive reimbursement, and would also prevent any payments beyond a 100% reimbursement. [Alternative 3]. It is important to note that some municipalities have multiple state facilities/lands, including a combination of both correctional and non-correctional facilities/lands. This alternative would only impact MSP police costs related specifically to correctional facilities/lands. The alternative would allow monies not distributed as MSP associated with police services at correctional institutions to be redistributed within the existing formula.

18. Corrections has indicated that it is willing to work with other law enforcement agencies to reimburse costs (similar to the manner in which Dodge County is currently reimbursed) without additional legislation. As a result, the Committee could take no action related to this item. However, without statutory language changes, any agreed-upon reimbursement would come from the general program operations appropriation (only if funding is available), as opposed to the sum sufficient reimbursement claims of counties appropriation as discussed above. [Alternative 4]

ALTERNATIVES

1. Modify the current sum sufficient appropriations and other statutes related to reimbursement claims of counties containing state correctional facilities to allow the Department of Corrections to reimburse all jurisdictions for local law enforcement investigative services rendered to state correctional facilities from the appropriations. Reallocate \$125,700 GPR within the Department for reimbursement purposes from general program operations to the reimbursement claims of counties or municipalities containing state prisons appropriation.

2. Adopt Alternative 1, but additionally specify that Dodge County and the Village of Allouez would continue to receive reimbursement as provided under current practices.

3. Adopt Alternative 1, but additionally require DOA to remove police municipal service payments for correctional facilities from their municipal service payments formula.

4. Take no action.

Prepared by: Shannon E. Huberty

