

COUNTY OF MILWAUKEE
Inter-Office Communication

DATE: June 9, 2021

TO: Supervisor Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

FROM: Shakita LaGrant-McClain, Director, Department of Health and Human Services
Prepared by: Mark Mertens, Division of Youth & Family Services Administrator

SUBJECT: An informational report from the Director, Department of Health and Human Services, providing an update to Wisconsin Act 185

Background

Over the past few years, the County Executive and Milwaukee County Board have been working with key stakeholders to address the crisis at Lincoln Hills and Copper Lake and have embraced policies surrounding the creation of a local alternative option for Milwaukee County youth to be placed in a safe environment, closer to home.

In March 2018, the Wisconsin State Legislature adopted Act 185 paving the way for the development of local alternatives to Lincoln Hills and Copper Lake. Act 185 directs the closure of Lincoln Hills and Copper Lake for use as youth correctional facilities by July 1, 2021 and authorizes County-operated Secured Residential Care Centers for Children and Youth (SRCCCYs). Under Act 185, the Wisconsin Department of Corrections (DOC) maintains supervision over youth with adult court sentences and youth in the Serious Juvenile Offender Program (SJOP), but the supervision of youth under other correctional placements is now transferred to the counties. As part of Act 185, the State is required to build Type 1 facilities for the SJOP placements.

In late June 2019, the Legislature passed AB188/SB168 which amended Act 185 and extended the deadline for the closure of Lincoln Hills and Copper Lake from January 1, 2021 to July 1, 2021. The amendments also pushed out the deadline to October 1 as the date by which the Juvenile Corrections Grant Committee must make recommendations and establish a Wisconsin Model of Youth Justice Statewide Plan.

The original Act 185 legislation included \$40 million to counties for the planning and construction of SRCCCYs. The 2019-2021 Adopted State Budget increased this allocation by \$40 million for a total of \$80 million in State bonding. Per Act 185, the State is to fund 95 percent of the design and construction of SRCCCYs with counties contributing the remaining 5 percent. Grants are to cover 100 percent of the design and construction of facilities for girls.

Eligible construction costs under Act 185 include new construction as well as the renovation of an existing structure. To qualify for the funds, counties were required to submit a grant application to the Grant Committee by July 1, 2019. The original deadline in Act 185 of March 31, 2019 was amended by the Legislature as part of AB188/SB168.

In order to meet the original March 31 deadline, DHHS submitted an application, approved by the County Board (File No. 19-236), which reflected the construction of a new facility at an estimated cost of \$41 million. It wasn't until mid-June that the DOC released the application for the July 1 submittal.

DHHS then revised its application for submittal by the July 1 deadline. As discussed in its September 2019 report (File No. 19-23), based on a request from the Grant Committee that counties identify cost-saving proposals due to a significant gap in available funding, DHHS revised its original proposal and submitted two options on September 9. Option A involved the renovation of the Vel R. Phillips Youth & Family Justice Center and leased beds in the community and Option B reflected the renovation of Vel Phillips only. Both options were anticipated to cost the same at \$24,858,203 – the State portion of which was expected to be \$23,615,293 based on the 95 percent cost share. This overall cost is dramatically lower than the previous estimate of \$41 million.

On October 1, 2019, the Grant Committee recommended Milwaukee County's proposal along with the proposals from Dane, Brown and Racine Counties to the State Legislature's Joint Committee on Finance (JCF) as part of the Wisconsin Model of Youth Justice. Per Act 185, the Grant Committee is required to submit this plan for approval to JCF. The amount approved by the Grant Committee of nearly \$111 million is about \$31 million more than the State's appropriation of \$80 million for the construction of the SRCCCYs.

JCF Grant Award Approval

On Feb. 12, 2020, JCF met to approve the grant proposals and address the funding gap. In order to close this gap, JCF redirected \$22.6 million in funding for the State Type 1 facilities to SRCCCYs. This left a gap of about \$8.4 million which was taken from Milwaukee County's proposal. Of the four participating counties (including Racine, Brown, Dane), only Milwaukee received a reduction to its grant amount. On Feb. 27, 2020, the State Building Commission approved the release of the funding recommended by JCF.

Revised Scope & Cost Estimate

Based on the reduction to Milwaukee County's grant award by JCF, the Milwaukee County SRCCCY facility design team has developed a new conceptual plan, program and cost estimate for the Vel Phillips renovation and expansion. The revised scope holds the same planned 32-bed capacity for the SRCCCY as the previous design.

The revised estimated total project cost is \$17.9 million. After applying the State grant amount of \$15.2 million which covers 85 percent of the cost, the county's obligation is about \$2.7 million or 15 percent of the cost.

Grant Deferral

In July 2020, DHHS received a communication from the DOC requesting that Milwaukee County accept the \$15.2 million grant award. In response, County Executive David Crowley and I submitted a letter to the DOC requesting deferral of the grant award. The reasons for the deferral include the uncertainty around the State's plans for its Type 1 facilities and additional operating support for the SRCCCY. This decision is also consistent with the recommendation by the SRCCCY Steering Committee which convened shortly before receipt of DOC's request.

The remaining three counties that applied for SRCCCY funding made the following decisions on the grant award: Racine accepted the grant award, Dane declined but expressed interest in “future collaborations with the state” and Brown deferred acceptance until certain conditions are met.

Project Update

As a part of his 2021-2023 proposed State Budget, Governor Evers has included sweeping youth justice reforms that, if passed, would supersede Act 185 and require new modifications to county plans for serving youth in secure settings. The plan includes:

1. **Alternatives to Youth Incarceration** – More information is needed to assess the impact to Milwaukee youth on the following new grant programs.
 - a. Community-Based Services Grant Program - \$8.9 million
 - b. Residential Services Grant Program - \$1.6 million
2. **Elimination of the Serious Juvenile Offender Program** - The SJO Program is eliminated as an available disposition and responsibility for future young offenders shifts to counties with funding of \$5.3 million in General Purpose Revenue (GPR) in FY22 and \$13.5 million in FY23. DHHS supports this change assuming the funding fully covers the cost.
3. **Secure Confinement Model of Treatment** – The budget establishes a single-tier secure confinement model in which Type 1 facilities are eliminated and SRCCCYs are run by either the state or individual counties.
 - a. Eliminates detention for long-term post-dispositional placements: This change will “sunset” programs like the Milwaukee County Accountability Program (MCAP) and other 180/365 day post-disposition programs and require counties to transition to SRCCCYs or to purchase beds from other counties or the new state facility. More study and careful planning needs to occur to assure: 1. the rightsizing of statewide capacity and 2. secure facilities are only used for youth who present a serious risk to community safety.
 - b. Modifies the closure date for Lincoln Hills and Copper Lake to align it with the establishment of suitable replacement facilities
4. **Additional Reforms** – DHHS supports these changes assuming the funding appropriated fully covers the additional costs.
 - a. Eliminates automatic original adult court jurisdiction for youth under the age of 18
 - b. Modifies the conditions under which a youth under the age of 18 may be waived into adult court
 - c. Increases the age of delinquency from 10 years of age to 12 years of age
 - d. Returns 17-year-olds to the youth justice system and creates a new sum sufficient appropriation to reimburse counties for the associated increased costs

5. Reduces Use of Detention

- a. Limits the use of detention sanctions or holds for youth to situations where there is a public safety risk

6. Best Practices

- a. Creates a sentence adjustment procedure for individuals who commit criminal offenses prior to the age of 18 and creates certain mitigating factors that a court must consider when sentencing an individual who committed a criminal offense prior to the age of 18.
- b. Eliminates the life without the possibility of extended supervision for young offenders.
- c. Prohibits the use of restraints on anyone under the age of 18 when appearing before a court, unless the court orders their use after finding that their use is necessary under certain conditions.

7. Youth Aids – Modifies the youth justice statutes and appropriations to provide more flexibility in allocating Youth Aids funding and enhancing system improvements**Next Steps**

The County Executive's Office, DHHS, and Division of Youth and Family Services (DYFS) will continue to explore the implications of the governor's proposals and will monitor and evaluate any changes that may occur during budget deliberations with the Joint Finance Committee and ultimately the full State Legislature. Regardless of the outcome of the budget process, it will be necessary to continue to explore local options to expand program capacity and resources to support youth transitioning from the State facilities.

To that end, DHHS leaders have been meeting with state legislators to address Youth Aids disincentives within the formula and daily rate as well as to explore any potential new allocations to support county programming to replace the state institutions. In addition, the Milwaukee County Act 185 Steering Committee met on April 19 to review the governor's youth justice budget proposals and to discuss steps going forward. The Steering Committee decided to proceed with the current plan to reduce the ADP at Lincoln Hills/ Copper Lake as part of the Zero In, All Out Initiative. However, no decision was made on how to proceed with modifications to the physical space at Vel Phillips given the pending State Budget. DHHS will continue to update the County Board on any future changes.

Update for June County Board Cycle

As of this writing, there have been no new developments since the last report. However, the Joint Finance Committee is scheduled to take up youth justice related budget issues on Thursday, June 10. It is possible that more information will be available for a verbal update at the upcoming Health Equity, Human Needs, and Strategic Planning Committee meeting.

Recommendation

This report is informational and no action is required.

Shakita LaGrant-McClain

Shakita LaGrant-McClain, Director
Department of Health and Human Services

cc: County Executive David Crowley
Hon. Mary E. Triggiano, Chief Judge
Sup. Felesia Martin, Chair, Health Equity, Human Needs, and Strategic Planning Committee
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