

## CORRECTIONS

<b>Budget Summary</b>							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,200,428,400	\$2,300,310,300	\$2,252,105,600	\$2,252,212,400	\$2,252,212,400	\$51,784,000	2.4%
FED	5,179,800	5,618,600	17,419,600	17,419,600	17,419,600	12,239,800	236.3
PR	286,015,400	301,510,700	295,891,700	296,047,200	296,047,200	10,031,700	3.5
SEG	<u>593,600</u>	<u>624,600</u>	<u>620,600</u>	<u>620,600</u>	<u>620,600</u>	<u>27,000</u>	4.5
<b>TOTAL</b>	<b>\$2,492,217,200</b>	<b>\$2,608,064,200</b>	<b>\$2,566,037,500</b>	<b>\$2,566,299,800</b>	<b>\$2,566,299,800</b>	<b>\$74,082,500</b>	<b>3.0%</b>

<b>FTE Position Summary</b>						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	9,494.22	9,689.22	9,670.57	9,670.57	9,670.57	176.35
FED	3.00	3.00	3.00	3.00	3.00	0.00
PR	895.65	888.15	901.65	901.65	901.65	6.00
SEG	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>0.00</u>
<b>TOTAL</b>	<b>10,394.87</b>	<b>10,582.37</b>	<b>10,577.22</b>	<b>10,577.22</b>	<b>10,577.22</b>	<b>182.35</b>

### Budget Change Items

### Departmentwide

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 270]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$62,199,500	0.00	-\$5,130,800	0.00	\$57,068,700	0.00
FED	438,800	0.00	0	0.00	438,800	0.00
PR	6,512,800	-1.00	0	0.00	6,512,800	-1.00
SEG	<u>23,000</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>23,000</u>	<u>0.00</u>
<b>Total</b>	<b>\$69,174,100</b>	<b>-1.00</b>	<b>-\$5,130,800</b>	<b>0.00</b>	<b>\$64,043,300</b>	<b>-1.00</b>

**Governor:** Provide \$30,781,700 GPR, \$219,400 FED, \$3,259,300 PR, and \$11,400 SEG in 2009-10, and \$31,417,800 GPR, \$219,400 FED, \$3,253,500 PR and -1.0 PR position, and \$11,600 SEG in 2010-11 for the following adjustments to the base budget: (a) turnover reduction (-\$10,249,100 GPR, -\$741,900 PR annually); (b) removal of non-continuing items (-\$308,200 GPR annually and -\$18,500 PR and -1.0 PR position in 2010-11); (c) full funding of salaries and fringe benefits (\$1,444,400 GPR, \$219,400 FED, \$1,333,900 PR, and \$5,500 SEG annually); and (d) night and weekend differential (\$7,471,900 GPR and \$623,600 PR annually). In addition, provide overtime of \$34,472,300 in 2009-10 (\$32,422,700 GPR, \$2,043,700 PR, and \$5,900 SEG), and \$35,121,300 in 2010-11 (\$33,058,800 GPR, \$2,056,400 PR, and \$6,100 SEG). It should be noted that in the calculation of full funding of salaries and fringe benefits, costs associated with overtime are removed. Thus, the overtime amounts represent the Department's estimated total cost for overtime.

**Joint Finance/Legislature:** Reduce overtime funding by \$1,688,200 GPR in 2009-10 and \$3,442,600 GPR in 2010-11. Increased funding and positions are provided to address overtime. [See "Positions to Replace Overtime Funding" under "Corrections -- Adult Institutions."]

**2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Papers 174 and 302]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$20,643,800	\$0	-\$20,643,800
PR	-2,853,000	49,800	-2,803,200
SEG	-6,000	0	-6,000
<b>Total</b>	<b>-\$23,502,800</b>	<b>\$49,800</b>	<b>-\$23,453,000</b>

**Governor:** Delete \$11,751,400 annually (-\$10,321,900 GPR, -\$1,426,500 PR, and -\$3,000 SEG), as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Adult Corrections General Program Operations	\$685,643,300	-\$6,856,400*
GPR	Institution Repair and Maintenance	4,201,300	-42,000
GPR	Contract Bed Funding	17,832,300	-178,300*
GPR	Community Corrections	135,998,100	-1,360,000*
GPR	Pharmacological Treatment for Certain Child Sex Offenders	110,000	-1,100
GPR	Reimbursing Counties for Probation, Extended Supervision, Parole Holds	4,935,100	-49,400
GPR	Mother-Young Child Care Program	200,000	-2,000
GPR	Purchased Services for Offenders	30,995,200	-310,000*
GPR	Energy Costs	29,532,700	-295,300*
PR	Sex Offender Honesty Testing	122,000	-1,200*
PR	Sex Offender Management	1,076,500	-10,800
PR	Probation, Parole, and Extended Supervision	11,848,400	-118,500*
PR	General Operations	4,080,700	-40,800
PR	GPS Tracking Devices	26,000	-300*

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Home Detention Services	\$624,100	-\$6,200*
PR	Telephone Company Commissions	1,116,300	-11,200
PR	Administration of Restitution	837,200	-8,400*
PR	Gifts and Grants	33,400	-300*
PR	Operations and Maintenance	382,500	-3,800*
PR	Correctional Institution Enterprises; Inmate Activities & Employment	3,162,400	-31,600*
PR	Correctional Farms	4,296,700	-43,000*
PR	Victim Services & Programs	278,800	-2,800
PR	Institutional Operations & Charges	17,996,200	-180,000*
PR	Prison Industries	18,547,300	-185,500*
PR	Correctional Officer Training	2,748,800	-27,500
PR	Interagency & Intra-Agency Programs	2,567,400	-25,700
PR	Interagency & Intra-Agency Aids	1,442,100	-14,400
SEG	Computer Recycling	296,800	-3,000*
GPR	Parole Commission	1,167,900	-11,700
GPR	Juvenile General Program Operations	1,068,100	-10,700
GPR	Mendota Juvenile Treatment Center	1,379,300	-13,800
GPR	Reimbursement Claims of Counties Containing Juvenile Facilities	200,000	-2,000
GPR	Youth Aids	98,341,000	-983,400
GPR	Serious Juvenile Offenders	16,829,800	-168,300*
GPR	Community Intervention Program	3,750,000	-37,500
PR	Juvenile Correctional Services	56,719,200	-567,200*
PR	Juvenile Residential Aftercare	5,395,300	-54,000
PR	Juvenile Corrective Sanctions	4,869,600	-48,700*
PR	Juvenile Gifts and Grants	7,700	-100
PR	Juvenile State-Owned Housing Maintenance	35,000	-400
PR	Institutional Operations & Charges	218,200	-2,200*
PR	Interagency Programs; Community Youth & Family Aids	2,449,200	-24,500
PR	Juvenile Interagency & Intra- Agency Programs	1,740,200	-17,400*

\*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

**Joint Finance/Legislature:** Delete the reduction to the Department's gifts and grants appropriations (\$400 PR annually) and the PR appropriation for youth aids (\$24,500 PR annually). Further, the Joint Finance Committee would appropriate federal monies in 2009-11 to address the 1% GPR reduction to youth aids (\$983,400 GPR annually), specifying the GPR reduction was for the 2009-11 biennium only (thus, GPR base funding will be restored for the next biennium). [See "Youth Aids" under "Corrections -- Juvenile Corrections."]

**3. ADDITIONAL 5% REDUCTION TO GPR APPROPRIATIONS [LFB Papers 175 and 302]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$13,995,200	\$4,161,000	-\$9,834,200

**Governor:** Delete \$6,997,600 annually as part of an additional GPR reduction. The reductions, by appropriation, are shown below:

<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Institution Repair & Maintenance	\$4,201,300	-\$210,100
Pharmacological Treatment for Certain Child Sex Offenders	110,000	-5,500
Mother-Young Child Care Program	200,000	-10,000
Energy Costs	29,532,700	-1,476,600
Parole Commission	1,167,900	-58,400
Juvenile General Program Operations	1,068,100	-53,400
Mendota Juvenile Treatment Center	1,379,300	-69,000
Reimbursement Claims of Counties Containing Juvenile Facilities	200,000	-10,000
Youth Aids	98,341,000	-4,917,100
Juvenile Energy Costs	3,750,000	-187,500

**Joint Finance/Legislature:** Restore the 5% GPR reductions, except for youth aids. The Joint Finance Committee appropriated federal monies in 2009-11 to address the reduction to youth aids funding and specified that the reduction was for the 2009-11 biennium only (thus, base funding will be restored for the next biennium). [See "Youth Aids" under "Corrections -- Juvenile Corrections."]

**4. ELIMINATE 2% GENERAL WAGE ADJUSTMENT**

**Joint Finance/Legislature:** Delete \$10,904,200 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$9,983,100 GPR, \$920,300 PR, and \$800 SEG annually.

GPR	-\$19,966,200
PR	- 1,840,600
SEG	<u>- 1,600</u>
Total	-\$21,808,400

**5. STATE EMPLOYEE FURLOUGH**

**Joint Finance/Legislature:** Delete \$7,868,100 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$7,030,100 GPR, \$836,800 PR, and \$1,200 SEG annually.

GPR	-\$14,060,200
PR	- 1,673,600
SEG	<u>- 2,400</u>
Total	-\$15,736,200

**6. BUDGET EFFICIENCY MEASURE**

GPR	- \$30,000,000
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**Governor/Legislature:** Delete \$15,000,000 annually from funding for the Department's Division of Adult Institutions (DAI). The DAI funding is generally allocated to institutions during the fiscal year for various costs, including overtime, food, and variable non-food items.

**7. DEBT SERVICE REESTIMATE**

GPR	\$36,416,500
PR	- 77,400
Total	\$36,339,100

**Governor/Legislature:** Provide \$19,458,400 GPR and -\$123,700 PR in 2009-10 and \$16,958,100 GPR and \$46,300 PR in 2010-11 to reflect a reestimate of debt service costs in the Department. The reestimates include: (a) adult corrections, \$19,272,100 GPR in 2009-10 and \$16,852,200 GPR in 2010-11; (b) juvenile corrections, \$186,300 GPR in 2009-10 and \$105,900 GPR in 2010-11; and (c) prison industries, -\$123,700 PR in 2009-10 and \$46,300 in 2010-11.

In total, debt services for Corrections would be: (a) adult corrections, \$82,651,900 GPR in 2009-10 and \$80,232,000 GPR in 2010-11; (b) juvenile corrections, \$4,750,900 GPR in 2009-10 and \$4,670,500 GPR in 2010-11; and (c) prison industries, \$262,800 PR in 2009-10 and \$432,800 PR in 2010-11.

**8. RENT**

GPR	\$4,697,400
PR	93,000
Total	\$4,790,400

**Governor/Legislature:** Provide \$2,139,600 GPR and \$21,600 PR in 2009-10 and \$2,557,800 GPR and \$71,400 PR in 2010-11 for rental costs on a departmentwide basis. Funding would be divided as follows: (a) Division of Management Services (\$675,600 GPR and \$85,700 PR in 2009-10 and \$808,800 GPR and \$113,400 PR in 2010-11); (b) Division of Adult Institutions (-\$1,400 GPR and -\$200 PR in 2009-10 and -\$1,200 GPR and \$6,100 PR in 2010-11); (c) Division of Community Corrections (\$1,465,900 GPR and -\$45,100 PR in 2009-10 and \$1,750,400 GPR and -\$44,000 PR in 2010-11); (d) Secretary's Office (\$200 GPR in 2009-10 and \$300 GPR in 2010-11); (e) Parole Commission (-\$900 annually); and (f) Division of Juvenile Corrections (\$200 GPR and -\$18,800 PR in 2009-10 and \$400 GPR and -\$4,100 PR in 2010-11).

**9. REALIGNMENT**

**Governor/Legislature:** Reallocate base level funding and positions between and within appropriations in the Department to reflect departmental reorganization. Overall funding and position totals for each fiscal year would not change. Changes to appropriations due to reallocations would be as follows: (a) general program operations, adult institutions, -\$174,200 GPR annually; (b) services for community corrections, \$174,200 GPR annually; (c) juvenile aftercare, -\$19,900 PR and -0.25 PR position annually; (d) juvenile corrective sanctions, \$59,700 PR and 0.75 PR position annually; and (e) juvenile interagency and intra-agency programs, -\$38,800 PR and -0.50 PR position annually.

**10. HEALTH AND INFORMATION TECHNOLOGY POSITIONS**

	Funding	Positions
GPR	-\$1,323,400	10.00

**Governor/Legislature:** Provide 10.0 positions annually to replace contracted consultants in the Department for inmate health services and information technology (IT) operations. Delete \$1,574,600 in 2009-10 and \$2,099,400 in 2010-11 from supplies and services, and provide \$1,007,400 in 2009-10 and \$1,343,200 in 2010-11. In total, funding would be reduced by \$567,200 in 2009-10 and \$756,200 in 2010-11. Staffing would include: 4.0 licensed practical nurses, 0.5 dentist, 0.5 dental assistant, 4.0 IT technical services positions, and 1.0 IT system development services position.

**11. CHIEF LEGAL ADVISOR [LFB Paper 115]**

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$358,600	1.00	-\$358,600	- 1.00	\$0	0.00

**Governor:** Provide \$179,300 and 1.0 attorney position annually in the Department. Specify that the Department Secretary may appoint a chief legal advisor from the unclassified service.

**Joint Finance/Legislature:** Delete provision.

**12. REINTEGRATION OF CORRECTIONAL EMPLOYEES RETURNING FROM ACTIVE DUTY IN THE ARMED SERVICES [LFB Paper 271]**

GPR	\$240,500
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**Governor/Legislature:** Provide \$110,500 in 2009-10 and \$130,000 in 2010-11 for services to support the "successful reintegration of department employees returning to work from active duty in the armed forces." According to the Department, funding would support training institutional staff on issues related to veterans returning from active duty, as well as educating veterans on support resources available for them.

**13. PROGRAM REVENUE AND SEGREGATED REVENUE REESTIMATES**

PR	\$10,318,700
SEG	14,000
Total	\$10,332,700

**Governor/Legislature:** Provide \$3,946,600 PR and \$4,000 SEG in 2009-10 and \$6,372,100 PR and \$10,000 SEG in 2010-11 associated with the 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 these appropriations under this item and other items in the bill, and the total funding that would be budgeted for these purposes.

Purpose	2009-10				2010-11			
	2008-09 Base	Funding Adjustment	Other Agency Budget Items	Total	Funding Adjustment	Other Agency Budget Items	Total	
<b>Prison Industries</b>								
Fuel, Supplies and Services	\$18,547,300	\$2,118,700	\$110,300	\$20,776,300	\$3,135,300	\$120,100	\$21,802,700	
Correctional Institution Enterprises	3,162,400	370,100	-14,200	3,518,300	570,500	-14,000	3,718,900	
<b>Correctional Farms</b>								
Fuel, Supplies and Services	4,296,700	718,000	45,700	5,060,400	1,220,500	46,600	5,563,800	
<b>Sex Offenders</b>								
Sex Offender Management	1,076,500	-200,000	-51,700	824,800	-200,000	-51,700	824,800	
Sex Offender Honesty Testing	122,000	330,000	-1,200	450,800	450,000	-1,200	570,800	
Sex Offender Registry Child Pornography Surcharge	0	5,000	0	5,000	5,000	0	5,000	
<b>Juvenile Corrections</b>								
Fuel and Utilities	2,302,100	-458,400	0	1,843,700	-283,300	0	2,018,800	
Aftercare Program Position Vacancies	1,076,800	-113,000	104,300	1,068,100	-113,000	105,800	1,069,600	
Secure Detention Services	0	200,000	0	200,000	200,000	0	200,000	
<b>Inmate Health Care</b>								
General Operations Supplies and Services	4,080,700	-237,500	-29,800	3,813,400	-230,400	-29,700	3,820,600	
<b>Restitution</b>								
Administration of Restitution	837,200	300,000	39,600	1,176,800	300,000	40,500	1,177,700	
<b>Central Generating Plant</b>								
Energy Costs	4,447,400	223,600	-77,300	4,593,700	627,400	-76,300	4,998,500	
<b>Central Warehouse</b>								
Product Costs	13,165,700	700,000	33,600	13,899,900	700,000	34,200	13,899,900	
<b>Miscellaneous</b>								
Inter- and Intra-Agency Programs	2,567,400	<u>-9,900</u>	-338,800	2,218,700	<u>-9,900</u>	-465,900	2,091,600	
<b>Total PR Reestimates</b>		<b>\$3,946,600</b>			<b>\$6,372,100</b>			
<b>Computer Recycling (SEG)</b>								
Fuel, Supplies and Services	\$296,800	\$4,000	\$8,400	\$309,200	\$10,000	\$8,600	\$315,400	
<b>Departmental Total</b>		<b>\$3,950,600</b>			<b>\$6,382,100</b>			

## Sentencing Modifications

Items in this section reflect proposed modifications to the state's bifurcated felony sentencing structure and programs administered by Corrections which may affect an offender's total prison and extended supervision sentence. The administration indicates that the proposed modifications "were created for the primary purpose of giving inmates incentives for making positive changes, both while in institutions and under supervision in the community. By fostering this behavior and allowing the Department to develop new tracks within existing rehabilitation programs to meet inmate needs, the goal is to reduce recidivism, which ultimately will impact the size of the prison population."

The 2009-11 prison population estimates of AB 75 assume that the expansion of the earned release program (Item #2) and the challenge incarceration program (Item #3), will reduce average daily prison population estimates by 57 in 2009-10 and by 377 in 2010-11. Population estimates associated with the other provisions in this section have not been identified.

**1. SENTENCE ADJUSTMENT FOR CLASS C THROUGH I FELONIES [LFB Paper 275]**

**Governor:** Modify current felony sentencing provisions, as follows:

***Positive Adjustment Time - Non-Violent Class F to Class I Felonies, Adjustment to Confinement Time.*** Specify that an inmate who is sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense (defined below) may earn one day of positive adjustment time for every two days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. Specify that an inmate is ineligible for the one day of positive adjustment time for every two days served if: (a) the inmate is subject to a special bulletin notification (for offenders convicted, or found not guilty or not responsible by reasons of mental disease or defect, on two or more separate occasions of a sex offense); (b) the inmate is a violent offender (described below); or (c) the Department determined that the person poses a high risk of reoffending after applying an objective risk assessment instrument supported by research.

Specify that the Department must release the inmate to extended supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Under the bill, the person's term of extended supervision would be increased so that the total length of the bifurcated sentence would not change.

***Positive Adjustment Time - High Risk or Violent Class F to Class I Felonies, and Class C to Class E Felonies, Adjustment to Confinement Time.*** Specify that certain inmates who are ineligible under the above provision may earn one day of positive adjustment time for every three days served that they do not violate any regulation of the prison or do not refuse or neglect to perform required or assigned duties. Inmates eligible for this positive adjustment time include: (a) inmates sentenced for a Class F to Class I felony that is a violent offense; or (b) inmates who the Department determines pose a high risk of reoffending after applying an objective risk assessment instrument supported by research. Specify that an inmate eligible for the one day of positive adjustment time for every three days served may petition the Earned Release Review Commission (described below) for release to extended supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Specify that inmates subject to a special bulletin notification are ineligible for release under the provision.

Further, specify that an inmate sentenced to a Class C to Class E felony may earn one day of positive adjustment time for every 5.7 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. Specify that an inmate eligible for the one day of positive adjustment time for every 5.7 days served may petition the Earned Release Review Commission for release to extended

supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Specify that inmates subject to a special bulletin notification are ineligible for release under the provision.

For petitions for release to extended supervision, the Earned Release Review Commission may consider any of the following: (a) the inmate's conduct, efforts at, and progress in, rehabilitation, or participation and progress in education, treatment, or other correctional programs since he or she was sentenced; (b) whether the inmate is subject to a sentence of confinement in another state or is in the U.S. illegally and may be deported; or (c) sentence adjustment is otherwise in the interests of justice.

Specify that the Earned Release Review Commission may reduce the term of confinement of a person who petitions only as follows: (a) if the inmate is serving the term of confinement in prison portion of the sentence, a reduction in the term of confinement in prison by the amount of time remaining in the term of confinement in prison portion of the sentence, less up to 30 days, and a corresponding increase in the term of extended supervision; or (b) if the inmate is confined in prison upon revocation of extended supervision, a reduction in the amount of time remaining in the period of confinement in prison imposed upon revocation, less up to 30 days, and a corresponding increase in the term of extended supervision.

***Good Time - Non-Violent Class F to Class I Felonies, Adjustment to Extended Supervision Time.*** Specify that offenders who are sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense are eligible to earn good time credit in the amount of one day for every day served without violating a rule or condition of extended supervision leading to a sanction or revocation. Specify that inmates are ineligible for the one day of good time credit for every one day served if the inmate is: (a) subject to a special bulletin notification; or (b) a violent offender.

Specify that the Department must discharge the person from extended supervision once he or she has served the extended supervision portion of his or her sentence, less the good time earned.

***Good Time - High Risk or Violent Class F to Class I Felonies, and Class C to Class E Felonies, Adjustment to Extended Supervision Time.*** Specify that offenders who are sentenced for a Class F to Class I felony that is a violent offense or who the Department determines pose a high risk of reoffending after applying an objective risk assessment instrument supported by research, are eligible to earn good time credit in the amount of one day for every three days served without violating a rule or condition of extended supervision leading to a sanction or revocation. Specify that after serving the extended supervision portion of his or her sentence, less good time earned, an offender may petition the Earned Release Review Commission to have his or her extended supervision reduced. Specify that inmates subject to a special bulletin notification are ineligible for release under this provision.

Further, specify that offenders who are sentenced for a Class C to Class E felony are eligible to earn good time credit in the amount of one day for every 5.7 days served without violating a rule or condition of extended supervision leading to a sanction or revocation.

Specify that after serving the extended supervision portion of his or her sentence, less good time earned, an offender may petition the Earned Release Review Commission to have his or her extended supervision reduced. Specify that inmates subject to a special bulletin notification are ineligible for release under this provision.

For petitions to reduce an offender's period of extended supervision, specify that the Earned Release Review Commission may consider as grounds whether the person has met the conditions of extended supervision and a reduction is in the interests of justice.

***Earned Release Review Commission.*** Rename the Parole Commission, the Earned Release Review Commission. In addition to the Parole Commission's current duties, provide that the Earned Release Review Commission may consider petitions to adjust the prison portion or extended supervision portion of eligible inmates' sentences (described above) and modify bifurcated sentences accordingly.

***Miscellaneous Provisions.*** Specify that when an offender is given a bifurcated sentence with a term of confinement in prison, Corrections must apply an objective risk assessment instrument supported by research, and determine how likely it is that the person will commit another offense. Further, if Department determines that the offender poses a high risk of reoffending, the offender is ineligible to earn positive adjustment time for non-violent Class F to Class I felony offenders.

Specify that Corrections must discharge a person who is serving a bifurcated sentence from custody, control and supervision when the person has served the entire bifurcated sentence as modified under provisions of the bill. Currently, the Department of Corrections may not discharge a person who is serving a bifurcated sentence from custody, control and supervision until the person has served the entire bifurcated sentence.

Require the court, at the time of sentencing, in writing and orally, to not only identify the total length of the bifurcated sentence, and the amount of time an offender will serve in prison and under extended supervision (current law), but also: (a) the date upon which the offender is eligible to be released to extended supervision or the date upon which the offender may apply for release to extended supervision; and (b) the date upon which the offender may be eligible for discharge or apply for a reduction of his or her period of extended supervision.

Specify that rules of evidence are inapplicable in regards to proceedings related to releases to and discharges from extended supervision.

Specify that a victim and witness has the right to reasonable attempts for notice of applications for release to or discharge from extended supervision.

***Definitions.*** Under the bill, "violent offense" is defined using a current law definition and includes the following offenses: (a) first-degree intentional homicide; (b) first-degree reckless homicide; (c) felony murder; (d) second-degree intentional homicide; (e) second-degree reckless homicide; (f) homicide by negligent handling of dangerous weapon, explosives or fire; (g) homicide by intoxicated use of vehicle or firearm; (h) homicide by negligent operation of

vehicle; (i) battery that causes great bodily harm to another by an act done with intent to cause bodily harm or great bodily harm; (j) battery that causes great bodily harm to an unborn child by an act done with intent to cause bodily harm or great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another; (k) battery in specific circumstances; (l) battery or threat to witnesses; (m) battery or threat to a judge; (n) mayhem; (o) first-, second-, and third-degree sexual assault; (p) reckless injury; (q) intentional or reckless abuse of individuals at-risk; (r) abuse of residents of penal facilities; (s) abuse and neglect of patients and residents causing death, great bodily harm or intentional bodily harm; (t) kidnapping; (u) intimidation of victims or witnesses by force or threat, or damage to property; (v) endangering safety by use of dangerous weapon; (w) use of machine guns and other weapons in certain cases; (x) recklessly endangering safety; (y) tampering with household products; (z) damage to property belonging to a grand or petit juror and the damage was caused by reason of any verdict or indictment; (aa) damage or threat to property of witness; (ab) criminal damage or threat to the property of a judge; (ac) arson of buildings and damage of property by explosives; (ad) arson with intent to defraud; (ae) molotov cocktails; (af) aggravated burglary; (ag) carjacking; (ah) threats to injure or accuse of crime; (ai) robbery; (aj) assaults by prisoners; (ak) bomb scares; (al) first- and second-degree sexual assault of a child; (am) engaging in repeated acts of sexual assault of the same child; (an) physical abuse of a child; (ao) causing mental harm to a child; (ap) sexual exploitation of a child; (aq) trafficking of a child; (ar) incest with a child; (as) child enticement; (at) soliciting a child for prostitution; (au) sexual assault of a child placed in substitute care; (av) abduction of another's child; and (aw) a crime under federal law or the law of any other state that is comparable to one of the preceding crimes.

Under the bill, a "violent offender" is defined, using a current law definition, as a person to whom one of the following applies: (a) the person has been charged with, or convicted of, an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm; or (b) the person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

**Effective Date.** Specify the statutory changes first apply to persons sentenced on December 31, 1999. Thus, the provision would apply to any eligible offender sentenced under the state's bifurcated sentencing structure.

**Current Law.** Under current law, an inmate's bifurcated sentence may only be modified by the sentencing court in the following incidences: (a) upon successful completion of the challenge incarceration program or the earned release program; (b) if certain conditions are met after serving 85% of the prison portion of the sentence for a Class C to E felony; (c) if certain conditions are met after serving 75% of the prison portion of the sentence for a Class F to I felony; (d) for a crime other than a Class B felony, if the inmate is 65 years or older and has served at least five years of the prison portion of his or her sentence, or if the inmate is 60 years or older and has served at least ten years of the prison portion of the sentence; or (e) for a crime other than a Class B felony, if the inmate has a terminal condition. The bill deletes the

sentencing modification provisions identified in (b) and (c) above.

**Summary.** The following table provides a summary of the AB 75 provisions related to sentence adjustments for Class C to Class I felonies.

### Sentence Modification Provisions Under AB 75

<u>Offender Type</u>	<u>Maximum Confinement Modification (Positive Adjustment Time)</u>	<u>Maximum Extended Supervision Modification (Good Time)</u>	<u>Deciding Authority</u>
Non-violent Class F to Class I felony offense or misdemeanor, whom Corrections determines is: (a) not at high risk of reoffending; (b) not a violent offender; and (c) not subject to a special bulletin notice.	<b>One day adjustment for every two days</b> served without violation of prison regulation, or refusal or neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender has served less than the entire confinement time, extended supervision portion of the sentence lengthened by the amount of time that the confinement time is reduced.	<b>One day adjustment for every one day</b> served without violation of a rule, or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	<b>Department of Corrections</b> , required to release the offender to extended supervision or discharge the offender from supervision, if specific conditions are met.
Violent Class F to Class I felony offense or a non-violent Class F to Class I felony offense but determined by Corrections to be at high risk of reoffending. Would not apply to offenders subject to a special bulletin notice.	<b>One day adjustment for every three days</b> served without violation of prison regulation, or refusal or neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender is serving the confinement portion of the sentence, the reduction in confinement time is the amount of time remaining in confinement, and the extended supervision portion of the sentence is lengthened by the amount of time that the confinement time is reduced.	<b>One day adjustment for every three days</b> served without violation of a rule, or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	<b>Earned Release Review Commission</b> , based on a petition from the offender after the offender has served the confinement or extended supervision sentence less any adjustment or good time. Commission's decision for confinement release is based on: (a) inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs; (b) inmate is subject to a sentence of confinement in another state, or is in the United States illegally and may be deported; or (c) the interests of justice. The Commission may consider as grounds for discharge from extended supervision whether the offender has met the conditions of extended supervision and a reduction is in the interests of justice.
Sentenced for a Class C to Class E felony offense.	<b>One day adjustment for every 5.7 days</b> served without violation of prison regulation, or refusal or	<b>One day adjustment for every 5.7 days</b> served without violation of a rule,	<b>Earned Release Review Commission</b> , based on a petition from the offender after

<u>Offender Type</u>	<u>Maximum Confinement Modification (Positive Adjustment Time)</u>	<u>Maximum Extended Supervision Modification (Good Time)</u>	<u>Deciding Authority</u>
Would not apply to offenders subject to a special bulletin notice.	neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender is serving the confinement portion of the sentence, the reduction in confinement time is the amount of time remaining in confinement, and the extended supervision portion of the sentence is lengthened by the amount of time that the confinement time is reduced.	or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	the offender has served the confinement or extended supervision sentence less any adjustment or good time. Commission's decision for confinement release is based on: (a) inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs; (b) inmate is subject to a sentence of confinement in another state, or is in the United States illegally and may be deported; or (c) the interests of justice. The Commission may consider as grounds for discharge from extended supervision whether the offender has met the conditions of extended supervision and a reduction is in the interests of justice.

**Joint Finance:** Adopt the AB 75 provision related to "positive adjustment time" to earn earlier release from prison, but delete provisions related to "good time" to allow certain offenders to earn earlier release from extended supervision. Further, exclude from this provision sex offenders who: (a) are subject to a special bulletin notice; (b) have been convicted of or found not guilty by reason of mental disease or defect of a sex offense defined under the sex offender registry; (c) are required to registry with the sex offender registry; and (d) have been committed under Chapter 975 (Sex Crimes).

Specify that once the inmate earns enough positive adjustment time to be within 90 days of release to extended supervision, the Department (for non-violent Class F to I felonies) or the Earned Release Review Commission (for violent or high-risk Class F to I felonies, or Class C to E felonies) must notify the sentencing court that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department or the Earned Release Review Commission (ERRC) must release the inmate to extended supervision. If the court schedules a hearing relating to granting positive adjustment time, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the positive adjustment time, deny the positive adjustment time or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument, or the nature of the offense for which the inmate was sentenced.

Adopt the recommendation of the Special Committee on Justice Reinvestment Initiative Oversight (JRIO Committee) to specify that the maximum term of extended supervision imposed by the court be not more than 75% of the length of the term of confinement in prison. The JRIO recommendation excludes Class B and C felonies, and sex offenses defined under the sex offender registry statute.

Further, adopt the JRIO recommendation to provide that a court may order a person to serve a "risk reduction" portion of the imposed sentence, if the court determines such a sentence is appropriate and the person agrees: (a) to cooperate in an assessment of his or her criminogenic needs and risk of reoffending; and (b) to participate in any programming or treatment required by the Department of Corrections to address the issues raised in the risk assessment.

If the Department determines that the inmate has successfully completed the required treatment or programming, the Department will release the inmate to extended supervision after he or she has served at least 67% of the term of confinement portion of the sentence for non-violent Class F to I felonies (as defined under the sentencing adjustment provision), and at least 75% of the term of confinement portion of the sentence for all other eligible offenses. [JRIO Committee, modified]

Require the Department to: (a) provide risk reduction programming and treatment for an inmate sentenced to a risk reduction sentence; (b) conduct a validated and objective assessment of the person's criminogenic needs and risk of reoffending; and (c) develop a program plan for the person that is designed to reduce the risks and address needs identified in the assessment. The Department may modify an inmate's program plan if specified programming or treatment is unavailable to the inmate due to the inmate's security classification, because the programming or treatment is no longer offered by the Department, or because there is a waiting list for the programming or treatment. The Department must notify the inmate of any modification to the inmate's plan. If, due to a plan modification, the inmate is unable to successfully complete the treatment or programming under the plan before he or she has served 75% of the term of confinement, the inmate will be released to extended supervision when he or she has successfully completed the treatment and programming. [JRIO Committee, modified]

**Assembly:** Exclude the following offenses from the class C through I felonies sentence adjustment and risk program:

- a. Provisions regarding "offenses related to school safety;"
- c. Provisions regarding "offenses related to ethical government" violations;
- d. Provisions regarding "offenses against elderly and vulnerable persons;"
- e. Felony murder (940.03);
- f. Kidnapping (940.31);
- g. Physical abuse of a child that causes great bodily harm to a child (948.03(2)(a));
- h. Second-degree reckless homicide (940.06);
- i. Human trafficking (940.302);
- j. Contributing to the delinquency of a minor that causes death of the minor

(948.40(4)(a));

k. Stalking involving bodily harm to a victim or if the offender used a weapon (940.32(3));

l. Mutilating a corpse (940.11(1));

m. Strangulation or suffocation (940.235(1));

n. Disarming a peace officer (941.21); and

o. Sex offender tampering with GPS monitoring device while on supervision (946.465).

Define "offenses related to school safety" to include the following offenses:

a. Possession of a gun in a gun-free school zone (948.605(2)(a)); and

b. Dangerous weapons other than firearms on school premises (948.61(2)(b)).

Define "offenses related to ethical government" to include the following offenses:

a. Criminal violation of lobby law statutes (13.69(6m));

b. Political influence violations of conduct standards and ethics codes for state and local public officials (19.58(1)(b)); and

c. Misconduct in public office (946.12).

Define "offenses against elderly and vulnerable persons" to include the following offenses, if the offense caused death, great bodily harm, or bodily harm to the victim:

a. Abuse of individuals at risk, intentional, reckless or negligent (940.285(2)); and

b. Abuse of individuals at risk by person in charge of or employed in a facility or program, intentional, reckless and negligent (940.295(3)(b)).

Felony murder offenses include the following, if the offender causes the death of another human being while committing or attempting to commit the offense:

a. Battery, substantial battery, aggravated battery (940.19);

b. Battery, substantial battery, aggravated battery to unborn child (940.195);

c. Battery: special circumstances (e.g. battery by prisoners) (940.20);

d. Battery or threat to witnesses (940.201);

e. Battery or threat to judge (940.203);

f. First- or second-degree sexual assault (940.225(1) or (2)(a)) (Note: already excluded under Joint Finance);

g. False imprisonment (940.30);

h. Kidnapping (940.31);

i. Arson of buildings, damage of property by explosives (943.02);

j. Burglary (943.10(2));

k. Operating vehicle without owner's consent (943.23(1g))

l. Robbery (943.32(2))

**Senate:** Modify provisions related to sentencing as follows:

- Specify the positive adjustment time provision does not apply to persons sentenced for offenses committed on or after the effective date of the bill.
- Related to revocation of extended supervision, require the Department of Corrections to promulgate administrative rules defining "substantial risk to public safety."
- Related to expansion of modification to bifurcated sentences, require that the Department notify the sentencing court within 90 days of release to extended supervision that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department must release the inmate to extended supervision. If the court schedules a hearing relating to modification, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the modification, deny the modification or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument, or the nature of the offense for which the inmate was sentenced.
- Delete the provision that would allow Corrections to release an offender to extended supervision under a risk reduction sentence after he or she has served at least 67% of the term of confinement portion of the sentence for non-violent Class F to I felonies. As a result, under provisions of the substitute amendment, all offenders given a risk reduction sentence would serve at least 75% of the term of confinement portion of the sentence.

**Conference Committee/Legislature:** Adopt the Joint Finance, Assembly and Senate modifications. In addition modify the Assembly exclusions include the following to the list of offenses not eligible for sentence adjustment, risk reduction sentence, and extended supervision discharge: (a) all strangulation and suffocation offenses (940.235, rather than 940.235(1)); and (b) discharge of a firearm in a school zone (948.605(3)) as an offense defined under "offenses related to school safety."

Further, delay the effective date of the provisions to October 1, 2009 or the 90<sup>th</sup> day after publication of the bill, whichever is later.

**Veto by Governor [A-6 and A-7]:** Delete the following items related to sentencing modifications:

a. *Positive Adjustment Time.* Veto the specification that positive adjustment time does not apply to persons sentenced for offenses committed on or after the effective date of the bill. Additionally, veto the language requiring the sentencing court, when imposing a bifurcated sentence, to explain the date upon which a person is eligible to be released or may apply for release to extended supervision under positive adjustment time.

b. *Risk Reduction.* Veto the language specifying that the Department may modify an inmate's program plan "if programming or treatment specified in a plan is unavailable to the inmate because of the inmate's security classification, the Department discontinues the

programming or treatment, or there is a waiting list for the programming or treatment." [As a result, the Department may modify a plan for any reason.]

c. *Maximum Extended Supervision.* Veto the provision specifying that the maximum term of extended supervision imposed by the court for certain offenses be not more than 75% of the length of the term of confinement in prison.

[Act 28 Sections: 25, 27, 34, 161, 311, 312, 661, 2487, 2666, 2668, 2672, 2673, 2699m, 2702, 2709, 2714 thru 2725, 2729, 2740, 2742 thru 2748, 2750 thru 2772, 3228, 3286, 3339L, 3339n, 3339p, 3360, 3361, 3377, 3378, 3387t, 3396, 3397, 9311(2), 9311(4), and 9411(2u)]

[Act 28 Vetoed Sections: 2699m, 2722, 2751, 3376p, 3377, 3382, 3383, 9311(4), and 9411(2u)]

## 2. EARNED RELEASE PROGRAM MODIFICATIONS [LFB Paper 276]

**Governor:** Modify the earned release program as follows:

a. Repeal the current provision which specifies that Corrections and the Department of Health Services (DHS) must, at any correctional facility the departments determine is appropriate, provide a substance abuse treatment program for inmates for the purposes of the earned release program. Instead, provide that Corrections must, at any correctional facility the Department determines is appropriate, provide a rehabilitation program for inmates for the purposes of the earned release program.

b. Repeal the current provision specifying that DHS may designate a section of a mental health institute as a correctional treatment facility for the treatment of substance abuse of inmates transferred from state prisons, jointly administered by Corrections and DHS, and known as the "Wisconsin Substance Abuse Program." [The new Drug Abuse Correctional Center, scheduled to open in August, 2010, replaces the prior DHS facility utilized by Corrections for the substance abuse program.]

c. Repeal the current provision specifying that Corrections and DHS ensure that the residents at the DHS facility and the residents in the substance abuse program: (a) have access to all those facilities which are available at the institution and are necessary for the treatment programs designed by the departments; and (b) are housed on separate wards.

d. Retitle the "Wisconsin Substance Abuse Program," the "Wisconsin Earned Release Program."

e. In defining the earned release program, delete the phrase "treatment program" and instead substitute "rehabilitation program." Under this provision, the earned release program would no longer be limited to offenders with substance abuse treatment needs.

f. Allow Corrections to transfer an inmate to a facility for participation in the earned release program, rather than, under current law, allowing the Department to transfer an offender to a treatment facility for the treatment of substance abuse.

**Joint Finance/Legislature:** In addition, direct the Department to submit a report to the Committee by December 31, 2009, on how the Department will have implemented the expansion, including: (a) the types of programs; (b) program length; (c) the number of program participants; and (d) at which facilities the programs would be operated.

**Veto by Governor [A-7]:** Delete the date to submit the report to the Joint Committee on Finance.

[Act 28 Sections: 2703 thru 2708, 2710 thru 2712, and 9111(12g)]

[Act 28 Vetoed Section: 9111(12g)]

### 3. CHALLENGE INCARCERATION EXPANSION [LFB Paper 276]

**Governor:** Modify the Challenge Incarceration Program ("boot camp") to specify that the program provide, based on each participant's assessed needs, substance abuse treatment and education, including intensive intervention when indicated, education, employment readiness training, and other treatment options that are directly related to the participant's criminal behavior.

Repeal the current Challenge Incarceration Program eligibility criteria that Corrections determine, during the assessment and evaluation process, that an inmate has a substance abuse problem. Instead, create criteria specifying that Corrections, using evidence-based assessment instruments, determine that one of the following applies: (a) the inmate has a substance abuse treatment need that requires an intensive level of treatment; (b) the inmate has a substance abuse treatment need that does not require an intensive level of treatment but does require education or outpatient services, and the inmate's substance use is not a key factor in his or her criminal behavior; or (c) the inmate has one or more treatment needs not related to substance use that is directly related to his or her criminal behavior.

Under current law, for inmates serving a bifurcated sentence, the sentencing court must decide at sentencing whether or not an inmate is eligible for the Challenge Incarceration Program. An eligible inmate may be placed in the program if all the following criteria are met: (a) the inmate volunteers for the program; (b) the inmate has not attained the age of 40 as of the program start date; (c) the Department determines during assessment and evaluation that the inmate has a substance abuse problem; (d) the Department determines that the inmate has no psychological, physical or medical limitations that would preclude participation in the program; and (e) the inmate is not incarcerated for a crime against life and bodily security (crimes under Chapter 940 of the statutes), or for certain crimes against a child. [The bill modifies criteria (c) above.]

Under current law, if the Department determines that an inmate serving a bifurcated sentence has successfully completed the boot camp program, the Department must inform the sentencing court. The sentencing court then will: (a) reduce the prison portion of the bifurcated sentence so that the inmate will be released to extended supervision within 30 days of the date

on which the court received notice; and (b) lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change. Inmates in the program serving indeterminate sentences may be paroled upon successful completion and must be placed in an intensive supervision program for drug abuses.

**Joint Finance/Legislature:** In addition, direct the Department to submit a report to the Joint Committee on Finance by December 31, 2009, on how the Department will have implemented the expansion, including: (a) the types of programs; (b) program length; (c) the number of program participants; and (d) at which facilities the programs would be operated.

**Veto by Governor [A-7]:** Delete the date to submit the report to the Joint Committee on Finance.

[Act 28 Sections: 2700, 2701, 2702m, and 9111(12g)]

[Act 28 Vetoed Section: 9111(12g)]

#### **4. EXPANSION OF MODIFICATION TO BIFURCATED SENTENCE [LFB Paper 277]**

**Governor:** Modify current law to expand the incidences of when an inmate may petition for release to extended supervision to include inmates who meet all of the following conditions: (a) the person is not serving time following a conviction for a felony assaultive crime; (b) the prison social worker or extended supervision agent of record has reason to believe that the person will not engage in assaultive activity if released; and (c) the release date is not more than 12 months before the person's extended supervision eligibility date. Require the Department to promulgate rules for determining whether or not a bifurcated sentence should be modified.

If the above conditions are met, specify that the Department may modify the person's sentence. If the Department modifies the sentence to provide for release to extended supervision, require the Department to notify the applicable court and district attorney's office. In modifying the sentence, specify that the Department must release the person within 30 days of modification, and lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change.

**Joint Finance:** Modify the Governor's recommendation to authorize the Department to modify inmates' sentences and release them to extended supervision, if the inmate: (a) is sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense (as defined under the sentencing adjustment provision); (b) the prison social worker or extended supervision agent of record has reason to believe that the person will be able to maintain himself or herself while not confined without engaging in assaultive activity; and (c) the release to extended supervision date is not more than 12 months before the person's extended supervision eligibility date. Specify that sex offenders (the same groups as under the sentence adjustment provision) are excluded. Specify the statutory changes first apply to persons sentenced for offenses committed on or after December 31, 1999.

Retain current law provisions providing for bifurcated sentence modification at 75% or

85% for certain felonies (the Governor would delete this provision). Instead, provide that the provisions do not apply to persons sentenced for offenses committed on or after the effective date of the bill. Further, provide, that persons sentenced for offenses committed prior to the effective date of the bill may apply for sentence modification under either the current law provision or the provision created in the bill, but not both.

**Senate/Legislature:** Require that the Department notify the sentencing court within 90 days of release to extended supervision that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department must release the inmate to extended supervision. If the court schedules a hearing relating to modification, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the modification, deny the modification or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument or the nature of the offense for which the inmate was sentenced.

**Veto by Governor [A-7]:** Delete Senate provision.

[Act 28 Sections: 2739, 3395g, 3395r, and 9411(2u)]

[Act 28 Vetoed Sections: 2739 and 9411(2u)]

## 5. **RELEASE TO EXTENDED SUPERVISION FOR ELDERLY INMATES OR INMATES WITH EXTRAORDINARY HEALTH CIRCUMSTANCES**

**Governor:** Provide authority to the Department to modify certain older or terminally ill inmates' bifurcated sentences and release them to extended supervision, rather than the circuit court. Specify that the Department's decision may be appealed under judicial review. Specify that the venue to review a decision by the Department occur in the county where the person was last convicted of an offense or the county where the person is currently incarcerated. Specify that the provisions in this paragraph first apply to petitions not referred by an institution's program review committee on the effective date of the bill.

**Joint Finance/Legislature:** Further modify the provisions as follows: (a) provide that the Earned Release Review Commission, rather than an institution's program review committee, may review eligible inmate's petitions and release inmates if the inmate proves by the greater weight of the credible evidence that the release to extended supervision would serve public interest; (b) expand eligibility to allow older inmates (65 years or older who have served at least five years in prison; or 60 years or older who have served at least 10 years in prison) to petition for sentence modification if serving for a Class B felony or life sentence (previously excluded from petitioning); and (c) delete statutory language related to terminal conditions, and instead provide that inmates with an "extraordinary health condition" may petition the ERRC for sentence modification (extraordinary health conditions means a condition afflicting a person, such as advanced age, infirmity, or disability of the person or a need for medical treatment or

services not available within a correctional institution).

[Act 28 Sections: 2726, 2729j thru 2739p, 3222, 3286, 3360n, 3362, 3400, 9311(2), and 9411(2u)]

## **6. REVOCATION OF EXTENDED SUPERVISION [LFB Paper 278]**

**Governor:** Modify current law to specify that, if a person on extended supervision violates any condition of his or her release to extended supervision, and the reviewing authority (DOA's Division of Hearings and Appeals, or in the circumstances where a hearing is waived, Corrections) revokes extended supervision as a result, the reviewing authority, rather than the court, will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

Under current law, if a person on extended supervision violates any condition of his or her extended supervision, and the reviewing authority revokes extended supervision as a result, the offender is brought before the court and the court will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence. Under the bill, the reviewing authority, instead of the circuit court, has authority to return the person to prison for a specified period of time.

**Joint Finance:** In addition to the Governor's recommendation, limit the time for which a person may be returned to prison up to six months, or the remainder of the sentence, whichever is less, which the Department could extend up to 90 days if the person violates any regulation or refused participation in any required programming.

Specify that the six-month limitation for returns to prison on revocation does not apply if: (a) the Department shows that the person's conduct leading to the revocation indicates the person presents a substantial risk to public safety; or (b) if the person is a sex offender (as defined under the sentence adjustment provision).

**Senate/Legislature:** Require the Department to promulgate administrative rules defining "substantial risk to public safety."

**Veto by Governor [A-7]:** Delete the six-month limitation for returns to prison on revocation, the associated exceptions, and the requirement to promulgate rules defining "substantial risk to public safety." [As a result, no new time restriction is applicable for revocations.]

[Act 28 Sections: 2726, 2727, 2728, and 9311(4q)]

[Act 28 Vetoed Sections: 2724h, 2726, 2726h, 2726p, 2728, and 9311(4q)]

**7. ELIMINATION OF PROBATION FOR CERTAIN MISDEMEANANTS [LFB Paper 279]**

**Governor:** Modify current law to require that the Department establish by rule a system for risk assessment that classifies a probationer's level of risk for committing another offense. Specify the system established must contain levels of risk, with a person who poses the most risk classified at the highest level of risk. Require the Department to assess the risk of each person sentenced to probation for a misdemeanor and classify the person according to his or her risk. "Risk assessment" is defined as the application of an objective instrument supported by research to determine how likely an offender is to commit another offense.

Further, specify that the Department will only supervise a person sentenced to probation for a misdemeanor if one of the following applies:

- a. The Department classifies the person at a high level of risk;
- b. The person is a violent offender, defined as a person who: (1) has been charged with or convicted of an offense in a pending case, and during the course of the offense, he or she carried, possessed, or used a dangerous weapon, used force against another person, or a person died or suffered serious bodily harm; or (2) has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm;
- c. The person is required to register as a sex offender;
- d. The person has, in his or her lifetime, been convicted of or adjudicated delinquent for committing any crime involving the use or possession of a weapon or of one of the following offenses: (1) domestic abuse incidents; (2) burglary of a building or dwelling; (3) burglary of a motor home or other motorized type of home or a trailer home; (4) manufacturing, distribution, or delivery of schedule I and II narcotic drugs, schedule I, II and III non-narcotic drugs, cocaine and cocaine base, heroin, phencyclidine, amphetamine, methamphetamine, and methcathinone, or tetrahydrocannabinols; (5) possession with intent to manufacture, distribute, or deliver of schedule I and II narcotic drugs, schedule I, II and III non-narcotic drugs, cocaine and cocaine base, heroin, phencyclidine, amphetamine, methamphetamine, and methcathinone, or tetrahydrocannabinols; (6) using a child for illegal drug distribution or manufacturing purposes; (7) distribution of a controlled substance or analog to a person under age 18; or (8) an offense under Chapter 940 (Crimes Against Life and Bodily Security); or
- e. The person had been charged with a felony for the conduct that resulted in the current misdemeanor conviction.

Under the bill, if the Department determines that it cannot supervise the person, the Department must make a reasonable attempt to provide written notification to the victim of the person or a member of the family of the victim that the person will not be supervised while he or she is on probation. "Victim" is defined as a person against whom a crime has been committed. "Member of the family" means spouse, child, parent, sibling, or legal guardian.

Specify that misdemeanor supervision provisions first apply to persons sentenced on February 1, 2003.

Under current law, if a person is sentenced to probation, the person is subject to the control of the Department under conditions set by the court and rules and regulations established by the Department.

**Joint Finance/Legislature:** Delete the Governor's recommendation. Instead, provide the Department may petition the sentencing court to discharge a person from probation who has served less than 50% of their probation term. The court may approve the petition and discharge the person from probation if the person has complied with the conditions of supervision and paid ordered restitution, court costs, fines or forfeitures, and supervision fees owed to the Department.

**Veto by Governor [A-7]:** Delete the language related to: (a) petitioning the court for discharge; (b) the words "less than"; and (c) the requirement of complying with conditions of supervision and paying ordered restitution, court costs, fines or forfeitures, and supervision fees. [As a result, the Department may discharge a person from probation if the person has completed 50% of probation.]

[Act 28 Sections: 3392d and 9311(4)]

[Act 28 Vetoed Sections: 3392d, 3392s, and 9311(4)]

## 8. COMMUNITY SUPERVISION SERVICES

**Joint Finance/Legislature:** Adopt the recommendation of the Legislative Council Special Committee on Justice Reinvestment Initiative Oversight to require the Department to establish community services that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the recidivism rate of persons on probation, parole, or extended supervision for a felony conviction by 25% by 2011. The services to reduce recidivism must meet certain conditions and target the criminogenic needs of medium- and high-risk offenders and, in establishing services, the Department must consider the capacity of existing services, and gaps in services for those offenders placed in the community. Further, the Department must: (a) develop an accountability system for monitoring and tracking offenders in order to evaluate the effectiveness of services; (b) provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and develop policies related to community supervision; and (c) report annually to the Governor, Legislature, and the Director of State Courts on the services provided, the number arrests, reconvictions, and returns to prison, progress toward the reduced recidivism goal, and service adjustments that will be made to meet the goal.

Create an annual GPR appropriation entitled the "Becky Young Community Corrections" appropriation to provide or purchase community services to reduce recidivism under the above provisions for persons on probation or who are transitioning to or are on parole or extended

supervision for a felony conviction. Place \$10,000,000 GPR in 2009-10 in the Joint Committee on Finance's biennial supplemental appropriation for the community supervision services provisions. [See "Program Supplements."]

**Veto by Governor [A-7]:** Delete the language specifying a "25% recidivism" reduction goal.

[Act 28 Sections: 307f and 2669h]

[Act 28 Vetoed Section: 2669h]

## 9. EXTENDED SUPERVISION DISCHARGE

**Joint Finance/Legislature:** Provide that the Department may discharge a person released to extended supervision after two years of supervision. Require the Department to provide notice to victims who have requested notification. Specify that inmates sentenced to the intensive sanctions program are excluded.

[Act 28 Sections: 3378r, 3381, 9311(4), and 9411(2u)]

## 10. SENTENCING GUIDELINES AND EXPLANATION OF SENTENCES

**Joint Finance/Legislature:** Delete the statutory requirement that the sentencing court "orally" explain the bifurcated sentence to a person being sentenced. Further, delete statutory language requiring that, when a court makes a sentencing decision for felony offenses committed on or after February 1, 2003, the court must consider the sentencing guidelines adopted by the Sentencing Commission, or if the Sentencing Commission has not adopted a guideline for the offense, any applicable temporary sentencing guidelines adopted by the 1997 Criminal Penalties Study Committee.

Delete statutory provisions specifying that the requirement that the court consider sentencing guidelines does not require the court to make a sentencing decision within the guideline range, and there is no right to appeal a court's sentencing decision based on the court's decision to depart from any guideline.

Under prior law, when a court imposes a bifurcated sentence, the court must explain, orally and in writing, all of the following: (a) the total length of sentence; (b) the amount of time the person will serve in prison; (c) the amount of time the person will spend on extended supervision, assuming the person does not commit any act resulting in extension of the prison term; (d) that the amount of time the person must actually serve in prison may be extended, and as a result, the person could serve the entire sentence in prison; and (e) that the person will be subject to certain conditions while on release to extended supervision and that violation of those conditions may result in a return to prison. The provision would delete "orally" from the above provision.

Previously, when a court made a sentencing decision for felony offenses committed on or after February 1, 2003, the court had to consider all the following: (a) the sentencing guidelines adopted by the Sentencing Commission, or if the Sentencing Commission has not adopted a guideline for the offense, any applicable temporary sentencing guidelines adopted by the 1997 Criminal Penalties Study Committee; (b) the protection of the public; (c) the gravity of the offense; (d) the defendant's rehabilitative needs; and (e) any applicable mitigating and/or aggravating factors. The requirement that the court consider the sentencing guidelines did not require the court to make a sentencing decision within the guideline ranges, and there was no right to appeal a court's sentencing decision based on the court's decision to depart in any way from a guideline. The Sentencing Commission sunset on July 1, 2007.

The Act 28 provision deletes the requirement that the court consider paragraph (a) above related to sentencing guidelines. As a result of deleting this requirement, language was also deleted specifying that the court is not required to make a sentencing decision within the guideline ranges, and there is no right to appeal based on such a decision.

[Act 28 Sections: 3381m, 3386m, and 3387m]

## Adult Institutions

### 1. ADULT CORRECTIONAL FACILITY POPULATIONS [LFB Paper 285]

**Governor:** Estimate an average daily population in adult correctional facilities (correctional institutions and centers) and contract beds of 22,767 in 2009-10 and 22,654 in 2010-11. The following table identifies the estimated distribution of this population.

	February 27, 2009	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2009-10</u>	<u>2010-11</u>
<b>Males</b>			
Institutions	18,421	18,031	18,031
Centers	1,690	1,820	1,838
Wisconsin Resource Center	307	344	344
Contract Beds*	880	1,264	1,229
<b>Females</b>			
Women's Correctional System	1,298	1,308	1,167
Wisconsin Resource Center	<u>n/a</u>	<u>--</u>	<u>45</u>
<b>Total Population</b>	<b>22,596</b>	<b>22,767</b>	<b>22,654</b>

\*Contract bed populations include inmates held in federal facilities and in Wisconsin county jails.

**Joint Finance/Legislature:** Decrease the estimated average daily population in adult correctional facilities and contract beds by 178 in 2009-10 and 14 in 2010-11:

	<u>Average Daily Population</u>	
	<u>2009-10</u>	<u>2010-11</u>
<b>Males</b>		
Institutions	18,031	18,031
Centers	1,820	1,838
Wisconsin Resource Center	344	344
Contract Beds	1,095	1,128
<b>Females</b>		
Women's Correctional System	1,299	1,254
Wisconsin Resource Center	---	45
<b>Total Population</b>	<b>22,589</b>	<b>22,640</b>

**2. POPULATION AND INFLATIONARY COST INCREASES [LFB Paper 285]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$16,043,300	- \$1,254,700	\$14,788,600

**Governor:** Provide \$6,447,200 in 2009-10 and \$9,596,100 in 2010-11 to reflect population-related cost adjustments for prisoners in facilities operated by the Division of Adult Institutions, as follows: (a) \$2,046,700 in 2009-10 and \$2,392,600 in 2010-11 for food costs; (b) \$110,700 in 2009-10 and \$100,200 in 2010-11 for variable non-food costs, such as clothing, laundry, inmate wages, and other supplies; and (c) \$4,289,800 in 2009-10 and \$7,103,300 in 2010-11 for inmate health care. The recommendation for inmate health services assumes that per capita annual inmate costs will increase from an estimated \$2,490 in 2008-09 to \$2,542 in 2009-10 and to \$2,670 in 2010-11. 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, and other community hospitals.

**Joint Finance/Legislature:** Decrease funding, as a result of lowered population projections, by: (a) \$176,500 in 2009-10 and \$164,000 in 2010-11 for food; (b) \$127,900 in 2009-10 and \$117,400 in 2010-11 for variable non-food costs; and (c) \$340,600 in 2009-10 and \$328,300 in 2010-11 for variable non-food health.

**3. PRISON CONTRACT BED FUNDING [LFB Paper 285]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$12,149,100	- \$6,184,900	\$5,964,200

**Governor:** Provide \$6,070,000 in 2009-10 and \$6,079,100 in 2010-11 related to contract beds. The Department projects a need for 1,236 contract prison beds in 2009-10 and in 2010-11 (a daily average of 1,200 prison beds, six beds in federal facilities, five in state juvenile

correctional facilities, and 25 temporary lock-up beds). As of February 27, 2009, there were 880 inmates in Wisconsin county jails and federal prisons.

Total contract bed funding under the bill would be as follows:

	<u>2009-10</u>	<u>2010-11</u>
Base Funding	\$17,832,300	\$17,832,300
1% Across-the-Board Reduction	-178,300	-178,300
Opening Drug Abuse Correctional Center	0	-340,900
Contract Bed Funding Increase	<u>6,070,000</u>	<u>6,079,100</u>
Total	\$23,724,000	\$23,392,200

Estimated average daily populations (ADP) for contract beds (identified under Item #1 above) do not correspond with the estimated number of contract beds for which funding is needed, for primarily two reasons: (a) the estimated correctional facility ADP for contract beds includes Wisconsin inmates that are housed in federal facilities in exchange for federal inmates who are housed in Wisconsin (approximately 24 inmates annually); and (b) the estimated correctional facility ADP does not incorporate the estimated number of beds needed for placements in state juvenile correctional facilities (approximately five beds annually) and temporary lock-up beds (approximately 25 beds annually) purchased from contract bed funding.

**Joint Finance/Legislature:** Decrease funding by \$3,100,800 in 2009-10 and \$3,084,100 in 2010-11 as a result of: (a) revised prison populations (-\$3,100,800 in 2009-10 and -\$2,478,100 in 2010-11); and (b) the creation of the Wisconsin American Indian Tribal Community Reintegration Program (-\$606,000 in 2010-11). [See "Administration -- Office of Justice Assistance" for information on the reintegration program.]

Total contract bed funding under the bill would be as follows:

	<u>2009-10</u>	<u>2010-11</u>
Base Funding	\$17,832,300	\$17,832,300
1% Across-the-Board Reduction	-178,300	-178,300
Contract Bed Funding Increase	2,969,200	3,601,000
WI Tribal Community Reintegration	<u>0</u>	<u>-606,000</u>
Total	\$20,623,200	\$20,649,000

#### 4. FUEL AND UTILITIES REESTIMATES

GPR	\$6,984,500
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**Governor/Legislature:** Provide \$2,940,000 in 2009-10 and \$4,044,500 in 2010-11 for estimated fuel and utilities costs in the Division of Adult Institutions. Current base funding for fuel and utilities is \$29,532,700 GPR.

5. POSITIONS TO REPLACE OVERTIME FUNDING [LFB Paper 270]

Funding Positions		
GPR	\$5,673,300	65.00

**Joint Finance/Legislature:** Provide \$2,418,900 in 2009-10 and \$3,254,400 in 2010-11 and 65.0 correctional officer positions annually to reduce the utilization of overtime in the Division of Adult Institutions. Further, specify that costs reported by the Department under s. 301.03(6t) identify overtime costs by each institution combined with the reason for the overtime.

[Act 28 Section: 2666m]

6. STAFFING FOR THE DRUG ABUSE CORRECTIONAL CENTER [LFB Paper 286]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$920,500	11.60	-\$920,500	- 11.60	\$0	0.00

**Governor:** Provide \$920,500 and 11.6 positions in 2010-11 for the operation of the new 300-bed Drug Abuse Correctional Center (Winnebago), which will replace the existing 282-bed facility. The new facility is estimated to open in August, 2010. Staffing provided under the bill includes: 1.75 correctional sergeants, 1.0 supervising officer, 2.0 social workers, 0.6 physician, 1.0 nurse supervisor, 4.25 nurse clinicians, and 1.0 medical program assistant. Current staffing at the facility is 65.5 positions, with 2007-08 expenditures of \$9,416,200.

**Joint Finance/Legislature:** Delete provision.

7. FUNDING AND POSITIONS FOR TREATMENT STAFF AT THE ROBERT E. ELLSWORTH AND DRUG ABUSE CORRECTIONAL CENTERS [LFB Paper 287]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$771,200	7.00	-\$771,200	- 7.00	\$0	0.00
PR	<u>0</u>	<u>0.00</u>	<u>771,200</u>	<u>7.00</u>	<u>771,200</u>	<u>7.00</u>
Total	\$771,200	7.00	\$0	0.00	\$771,200	7.00

**Governor:** Provide \$338,900 GPR in 2009-10 and \$432,300 GPR in 2010-11 and 7.0 GPR positions annually for treatment staffing at the Robert E. Ellsworth Correctional Center and the Drug Abuse Correctional Center. The following new staffing would support: (a) the expanded earned release program at the Robert E. Ellsworth Correctional Center, 1.0 correctional sergeant, 1.0 social worker, 1.0 treatment specialist, and 1.0 office operations associate; and (b) the operating while intoxicated program at the Drug Abuse Correctional Center, 1.0 social worker, 1.0 treatment specialist, and 1.0 office operations associate.

**Joint Finance/Legislature:** Delete provision. Instead, provide \$338,900 PR in 2009-10 and \$432,300 PR in 2010-11 and 7.0 PR positions annually, utilizing one-time Byrne Justice Assistance Grant funds.

[Act 28 Section: 9101(6q)]

**8. FULL FUNDING OF NON-SALARY COSTS FOR HEALTH CARE POSITIONS**

GPR	\$91,000
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**Governor/Legislature:** Provide \$45,500 annually to fully fund non-salary costs associated with 11.75 health care positions, which were created in 2007 Act 20. Act 20 created 25.25 positions in 2007-08 and 38.0 positions in 2008-09 associated with prison health care. Because 11.75 additional positions were created for fewer than 12 months in 2008-09, non-salary (supplies and services) costs for these positions are not in the Department's base budget.

**9. FEMALE MENTAL HEALTH INITIATIVE [LFB Paper 288]**

	<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	\$3,347,600	40.80	\$2,224,900	10.20	\$5,572,500	51.00

**Governor:** Provide \$1,420,400 and 25.75 positions in 2009-10, and \$1,927,200 and 40.80 positions in 2010-11 to support enhanced mental health services for female inmates at the Taycheedah Correctional Institution. The positions would include: (a) mental health special management and segregation units, 1.5 recreation therapists, 1.5 clinical social worker; and 1.0 occupational therapist; (b) programs for the general population, 3.0 clinical social workers, 3.5 psychological associates, and 1.0 office operations associate; and (c) increased security staffing required to support the enhanced mental health services for the mental health unit, segregation unit, the health services unit, the institution gatehouse, and to reduce utilization of overtime costs, 29.3 correctional officers.

**Joint Finance/Legislature:** Modify the provision by -\$23,400 and -0.25 position in 2009-10 and -\$36,300 and -0.30 position in 2010-11 associated with removing turnover and adjustments associated with the staffing of correctional officer posts. Further, provide \$1,174,300 in 2009-10 and \$1,110,300 in 2010-11 and 10.5 nurse clinicians annually to allow the Department to implement the April 24, 2009, court order related to the distribution of controlled medications by trained medical personnel and the processing and administration of prescribed medications to inmates at Taycheedah.

**10. SECURITY STAFFING FOR FEMALE INMATE UNIT AT THE WISCONSIN RESOURCE CENTER**

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (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	\$881,500	15.10	-\$448,600	0.00	\$432,900	15.10

**Governor:** Provide \$881,500 and 15.1 security positions in 2010-11 for the creation of a female inmate unit at the Department of Health Services' Wisconsin Resource Center. Staffing would include 1.0 supervising officer, 5.3 correctional sergeants, and 8.8 correctional officers. The Wisconsin Resource Center is a specialized mental health facility operated by the Department of Health Services, which currently provides treatment for approximately 345 male inmates. The new facility for females is scheduled to open in February, 2011, and will provide 45 beds for mentally ill inmates transferred from the Department of Corrections.

**Joint Finance/Legislature:** Reduce funding by \$448,600 as a result of delaying the opening of the female inmate unit at the Wisconsin Resource Center until June 1, 2011.

**11. GPR FUNDING AND POSITIONS FOR MICA PROGRAM AT OSHKOSH CORRECTIONAL INSTITUTION [LFB Paper 289]**

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (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	\$890,100	6.50	-\$890,100	- 6.50	\$0	0.00
PR	<u>- 890,100</u>	<u>- 6.50</u>	<u>890,100</u>	<u>6.50</u>	<u>0</u>	<u>0.00</u>
Total	\$0	0.00	\$0	0.00	\$0	0.00

**Governor:** Provide \$381,400 GPR in 2009-10 and \$508,700 GPR in 2010-11 and 6.5 GPR positions annually, and delete PR funding and positions in corresponding amounts, to replace grant-funded positions for the Oshkosh Correctional Institution's Mental Illness Chemical Abuse (MICA) treatment program. The MICA program provides residential treatment and transitional services to male offenders with mental illness and substance abuse issues. Staffing includes: 1.0 correctional sergeant, 1.0 nurse clinician, 1.0 psychological associate, 1.0 social worker, 2.0 treatment specialists, and 0.5 office operations associate.

**Joint Finance/Legislature:** Delete provision.

**12. INMATE TRANSPORTATION BUSES**

GPR	\$309,400
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**Governor/Legislature:** Provide \$154,700 annually for master lease costs associated with purchasing two buses for the Dodge Correctional Institution's transportation unit. The Department indicates that the cost for each bus is \$437,000 for a seven-year master lease, with a 6% interest rate. Total costs at the end of seven years would be \$1,082,900.

### 13. PENALTY SURCHARGE REDUCTIONS [LFB Paper 516]

PR	- \$267,200
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**Governor:** Reduce expenditure authority by \$133,600 annually, as follows: (a) -\$119,000 under the correctional officer training appropriation; and (b) -\$14,600 under the victim services and programs appropriation. The reduction represents a 5% reduction to the appropriation after standard budget adjustments. Require all unencumbered balances in the appropriation at the end of each fiscal year to revert to the "criminal justice program support" appropriation under the Department of Justice.

**Joint Finance/Legislature:** Delete the requirement that all unencumbered balances in the appropriation at the end of each fiscal year revert to the "criminal justice program support" appropriation under the Department of Justice.

### 14. FEASIBILITY STUDIES AND COST ANALYSES

**Joint Finance/Legislature:** Require the Department, by January 4, 2010, to submit to the Cochairpersons of the Joint Committee on Finance the following reports:

a. *Staff Training.* A feasibility study and cost analysis for providing all correctional officers with a minimum of 16 hours of training in managing mentally ill inmates that is based on the Crisis Intervention Team Model best practices for correctional officer intervention with persons who may have a mental illness.

b. *Screening Inmates for Developmental Disabilities.* A feasibility study and cost analysis for implementing, consistent with National Commission on Correctional Health Care standards, screening tools to identify current inmates with developmental disabilities, implementing tests to further evaluate inmates who are identified as potentially developmentally disabled, and integrate appropriate screening tools for developmental disabilities into the prisoner intake and transfer processes.

c. *Institutional Services and Separate Housing for Inmates with Developmental Disabilities.* A feasibility study and cost analysis for providing appropriate services, support and rehabilitation for inmates with developmental disabilities, including the costs of providing those services in existing facilities/housing units for those inmates whose levels of functioning permits such placement and the costs of creating a separate, special housing unit for those inmates whose needs require such placement within an existing correctional facility or facilities.

d. *Administration of Medications.* A feasibility study and cost analysis for a plan where all controlled medications at all Department facilities be distributed by trained medical personnel with credentials equal to or greater than those of licensed practical nurses.

[Act 28 Section: 9111(2d)]

**15. REPORT ON INMATES RECEIVING DONATED BOOKS**

**Joint Finance/Legislature:** Direct the Department to report to the Joint Committee on Finance 60 days after enactment of the bill on eliminating the Department's prohibition of inmates receiving donated books.

**Veto by Governor [A-4]:** Delete provision.

[Act 28 Vetoed Section: 9111(3x)]

**16. DESIGNATION OF FELMERS CHANEY CORRECTIONAL CENTER AS A PRE-RELEASE FACILITY**

**Joint Finance/Legislature:** Specify that the Felmers Chaney Correctional Center in the City of Milwaukee be designated as a pre-release transition facility for inmates who are within 12 months, but not less than five months, of their release to extended supervision or parole. The pre-release facility must provide re-integration programming with an emphasis on obtaining birth certificates, state identification, social security cards, driver's licenses; job preparation; job transportation; basic education; and accessing the community and its resources.

**Veto by Governor [A-4]:** Delete provision.

[Act 28 Vetoed Section: 2671m]

**17. CONVERSION OF UNIT SUPERVISOR POSITIONS**

**Senate/Legislature:** Require the Director of the Office of State Employee Relations to reclassify unit supervisor positions to teach positions after receiving notice from the Department of Corrections that a unit supervisor position in the Division of Adult Institutions has become vacant.

**Veto by Governor [A-5]:** Delete provision.

[Act 28 Vetoed Sections: 2482m and 2666r]

## Adult Community Corrections

### 1. SEX OFFENDER MANAGEMENT [LFB Paper 295]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance</u> <u>(Chg. to Gov)</u>		<u>Legislature</u> <u>(Chg. to JFC)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$8,418,500	92.00	-\$5,044,900	- 56.75	\$106,800	0.00	\$3,480,400	35.25
PR	<u>47,100</u>	<u>0.00</u>	<u>- 43,300</u>	<u>0.00</u>	<u>5,500</u>	<u>0.00</u>	<u>9,300</u>	<u>0.00</u>
Total	\$8,465,600	92.00	-\$5,088,200	- 56.75	\$112,300	0.00	\$3,489,700	35.25

**Governor:** Provide \$2,192,600 GPR and 44.5 GPR positions \$9,700 PR in 2009-10, and \$6,225,900 GPR and 92.0 GPR positions and \$37,400 PR in 2010-11 to manage the Department's sex offender population. The total estimated populations of offenders on GPS would increase from 252 on June 30, 2009, to 500 on June 30, 2010, and 748 on June 30, 2011. Further, the number of individuals on the sex offender registry are estimated to increase from 21,165 on June 30, 2009, to 22,020 on June 30, 2010, and 22,875 on June 30, 2011. The new staffing in 2010-11 would include: (a) Monitoring Center Staff (a unit to track offenders on electronic monitoring equipment), 35.75 corrections communications operators and 2.25 supervisors; (b) community corrections staffing, 29.0 probation and parole agents, 3.0 supervisors, 10.0 office operations staff, and 1.0 business office financial specialist; (c) sex offender registry staff, 4.0 corrections program specialists for sex offender registration and 1.0 for program administrator, 1.0 supervisor and 2.0 office operations staff; and (d) presentence investigations evaluators required under 2007 Act 80 related to risk assessment for certain sex offenders, 3.0 psychologists.

In addition, the bill would allow the Department to use passive positioning system tracking instead of active GPS tracking for persons described below under paragraphs d. and e., if the Department determines that passive positioning tracking is appropriate for the person and if the person has been subject to active GPS tracking for at least 12 months. Under current law, the Department may only use passive positioning system tracking for individuals: (a) who have completed their sentence, including any probation, parole, or extended supervision; or (b) who are monitored with GPS tracking at the Department's discretion, but for whom GPS tracking is not required by statute.

Under current law, the Department of Corrections is required to provide for lifetime GPS tracking for certain child sex offenders, as follows:

- a. Persons placed on supervised release (Chapter 980) or conditional release (Chapter 971), or discharged under Chapters 980 and 971 of the statutes, for a serious child sex offense on or after the effective date of the provisions;
- b. Persons placed on lifetime supervision under s. 939.615 of the statutes for a serious child sex offense on or after the effective date of the provisions;
- c. Persons for whom a special bulletin notification is issued on or after the effective

date of the provision. Special bulletin notifications are issued when an offender is released to the community, who was convicted, or found not guilty or not responsible by reason of mental disease or defect, on two or more separate occasions of a sex offense;

d. Persons released from prison, or to extended supervision or parole, on or after the effective date of the provisions, for one of the following serious child sex offenses: (a) sexual contact or intercourse with a person who has not attained the age of 13 years and causes great bodily harm, if the person is not a relative; and (b) sexual intercourse with a person who has not attained the age of 12 years, if the person is not a relative; and

e. Persons convicted, on or after the effective date of the provisions, who are released from prison, or to extended supervision or parole, for one of the following serious child sex offenses: (a) sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence, if the person is not a relative; and (b) sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence, if the person is not a relative.

Base funding for the current program is \$4,454,400 GPR and \$315,700 PR and 71.10 GPR positions.

**Joint Finance:** Modify funding by -\$1,425,500 GPR and -\$12,100 PR and -34.50 GPR positions in 2009-10 and -\$3,619,400 GPR and -\$31,200 PR and -56.75 GPR positions in 2010-11, as a result of lowered tracking population projections. Staffing in 2010-11 would include: (a) monitoring center, 9.5 corrections communications operators and 0.75 supervisor; (b) community corrections staffing, 10.0 probation and parole agents, 0.5 supervisor, 2.5 office operations staff, and 1.0 business office financial specialist; (c) sex offender registry staff, 4.0 corrections program specialists, 1.0 program administrator; 1.0 supervisor, and 2.0 office operations staff; and (d) presentence investigations evaluations, 3.0 psychologists.

**Conference Committee/Legislature:** Delete the passive positioning system provisions and maintain current law related to active GPS tracking. Provide \$46,500 GPR and \$2,400 PR in 2009-10 and \$60,300 GPR and \$3,100 PR in 2010-11 to fund active tracking.

[Act 28 Sections: 2693 thru 2699]

**2. FULL FUNDING FOR GLOBAL POSITIONING SYSTEM TRACKING COSTS**

GPR	\$1,182,400
PR	44,600
Total	\$1,227,000

**Governor/Legislature:** Provide \$591,200 GPR and \$22,300 PR annually to fully fund non-salary costs associated with global positioning system (GPS) tracking for certain sex offenders. Under 2005 Act 431, the Department of Corrections is required to provide for lifetime (GPS) tracking for certain child sex offenders. The 2007-09 biennial budget provided funding and positions to implement the GPS tracking, but some supplies and services funding (including GPS tracking equipment) in the second year of the biennium was not provided for a full 12 months.

**3. IMPLEMENTATION OF REGISTRATION REQUIREMENTS OF ADAM WALSH CHILD PROTECTION AND SAFETY ACT**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$543,700	-\$543,700	\$0

**Governor:** Provide \$247,200 in 2009-10 and \$296,500 in 2010-11 for database upgrades to the Department's sex offender registry to comply with the federal Sex Offender Registration Notification Act (\$247,200 in each year for one-time funding, and \$49,200 in 2010-11 for supplies and services). Costs for database upgrades include developing applications to add and update required data elements, creating database tables, developing interfaces to internal and external systems, developing additional search capacities, interfacing to an electronic content management system, and project management. The changes required by the federal act include adding foreign convictions to the registry, incorporating the federal tier system of classifying offenses, providing more detailed information on the registry, in-person registration verification, and expanding public access to registry information.

**Joint Finance/Legislature:** Place the funding in the Joint Finance Committee's supplemental appropriation for the Department to request under s. 13.10 of the statutes after state legislation is enacted to bring Wisconsin into compliance with federal legislation. [See also "Program Supplements."]

**4. COMMUNITY REENTRY FUNDING [LFB Paper 296]**

	<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	\$5,684,900	11.00	-\$5,684,900	- 11.00	\$0	0.00

**Governor:** Provide \$2,487,600 in 2009-10 and \$3,197,300 in 2010-11 and 11.0 positions annually for a community reentry program. According to the Governor's Executive Budget, the program would "enable the department to purchase tools for offender risk assessment, better manage purchase of services dollars, research and measure programs, and maintain dual-diagnosis rehabilitation programming." Funding would include: (a) \$1,110,100 in 2009-10 and \$989,800 in 2010-11 for costs associated with conducting risk assessments on all offenders under the Department's supervision; (b) \$495,100 in 2009-10 and \$638,400 for increased costs and expansion of emergency housing for offenders; (c) \$194,400 in 2009-10 and \$770,100 in 2010-11 for increased costs associated with halfway house beds and temporary living placements; and (d) \$688,000 in 2009-10 and \$799,000 in 2010-11 for reentry staffing including: 6.0 corrections program specialists, 2.0 research analysts, 2.0 integrated systems business automation positions, and 1.0 staff development director.

**Joint Finance/Legislature:** Delete provision.

5. ADMINISTRATIVE LAW JUDGE AND SAFE FUNDING [LFB Paper 297]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$984,000	- \$240,000	\$744,000

**Governor:** Provide \$492,000 annually for payments to the Department of Administration for: (a) limited-term employees assigned to the Office of Justice Assistance (OJA) for the Sex Offender Apprehension and Felony Enforcement (SAFE) Initiative (\$252,000 annually); and (b) the Department of Administration's Division of Hearing and Appeals (DHA) for administrative law judge services (\$240,000 annually).

Under the SAFE Initiative, OJA coordinates with local, state, and federal agencies to track down offenders who do not comply with the sex offender registry requirements. Under 2007 Act 20, program revenue funding and positions were created in DHA to hear cases for Corrections, funded from assessments to the Department. No corresponding funding was provided to the Department in the 2007-09 biennium for those assessments.

**Joint Finance/Legislature:** Reduce funding for administrative law judge services by \$120,000 annually.

6. COUNCIL ON OFFENDER REENTRY

**Joint Finance/Legislature:** Create a Council on Offender Reentry attached to the Department of Corrections. The Council would be required do all the following:

- a. Inform the public as to the time and place of council meetings and, for at least one meeting per year, encourage public participation and receive public input in a means determined by the chairperson;
- b. Coordinate reentry initiatives across the state, and research federal grant opportunities to ensure initiatives comply with eligibility requirements for federal grants;
- c. Identify methods to improve collaboration and coordination of offender transition services, including training across agencies and sharing information that will improve the lives of the offenders and the families of offenders;
- d. Establish a means to share data, research, and measurement resources that relate to reentry initiatives;
- e. Identify funding opportunities that should be coordinated across agencies to maximize the use of state and community-based services as the services relate to reentry;
- f. Identify areas in which improved collaboration and coordination of activities and programs would increase effectiveness or efficiency of services;
- g. Promote research and program evaluation that can be coordinated across agencies

with an emphasis on research and evaluation practices that are based on evidence of success in treatment and intervention programs;

h. Identify and review existing reentry policies, programs, and procedures to ensure that each policy, program, and procedure is based on evidence of success in allowing an offender to reenter the community, improves the chances of successful offender reentry into the community, promotes public safety, and reduces recidivism;

i. Promote collaboration and communication between the department and community organizations that work in offender reentry;

j. Work to include victims in the reentry process; facilitate dialogue between a victim and an offender if the victim requests; and promote services for victims, including payments of any restitution and fines by the offenders, safety training, and support and counseling, while the offenders are incarcerated and after the offenders are released;

k. Annually submit a report to the Governor, any relevant state agencies, as identified by the Council, and to the Chief Clerk of each house of the Legislature for distribution to the Legislature that provides information on all of the following: (1) the progress of the Council's work; (2) any impact the Council's work has had on recidivism; (3) the effectiveness of agency coordination and communication; (4) the implementation of a reentry strategic plan; and (5) recommendations on legislative initiatives and policy initiatives that are consistent with the duties of the Council.

Specify that the Council consist of 22 members, including the Secretary of the Department of Corrections (or designee), Secretary of the Department of Workforce Development (or designee), Secretary of the Department of Health Services (or designee), Secretary of the Department of Children and Families (or designee), Secretary of Department of Commerce (or designee), Secretary of the Department of Transportation (or designee), Attorney General (or designee), the Parole Commission Chairperson (or designee), the State Superintendent of Public Instruction, the Corrections' reentry director, a current or former judge appointed by the Director of State Courts, and an individual previously convicted of and incarcerated for a crime in Wisconsin, as appointed by Corrections. In addition, the Council must include the following persons, appointed by the Governor:

- a. A law enforcement officer;
- b. A representative of a crime victim rights or crime victim services organization;
- c. A representative of a faith-based organization that is involved with the reintegration of offender into the community;
- d. A representative of a county department of human services;
- e. A representative of a federally-recognized American Indian tribe or band in Wisconsin;
- f. A representative of a nonprofit organization that is involved with the reintegration

of offenders into the community and that is not a faith-based organization;

- g. A district attorney;
- h. A representative of the office of the State Public Defender;
- i. An academic professional in the field of criminal justice; and
- j. A representative of the Wisconsin Technical College System.

**Veto by Governor [A-3]:** Delete language "facilitate dialogue between a victim and an offender if the victim requests" (described in j. above related to working with victims). Also, veto the specified items required for the annual report, except for progress on the Council's work ((2) through (5) described in k. above).

[Act 28 Sections: 33r, 34g, 2669k, 9111(12f), and 9411(1f)]

[Act 28 Vetoed Section: 2669k]

## 7. HOME DETENTION PROGRAMS

**Joint Finance/Legislature:** Delete statutory language that a sheriff or superintendent of a jail may place in a home detention program only individuals who have been arrested for, charged with, convicted of or sentenced for a crime. Further, delete the requirement that a prisoner in jail and the Department of Corrections agree on placement in a home detention program, and instead provide that the sheriff or superintendent may place a prisoner in a home detention program if he or she determines that home detention is appropriate for the prisoner. Provide that individuals who are held in jail pending disposition of parole, extended supervision or probation proceedings are excluded.

[Act 28 Sections: 2740c thru 2740w]

## Juvenile Corrections

### 1. JUVENILE POPULATIONS ESTIMATES [LFB Paper 300]

**Governor:** Estimate the juvenile correctional facility average daily population (ADP) to be 605 in 2009-10 and 610 in 2010-11 as shown in the table below. On February 27, 2009, 551 juveniles were under state supervision in a secured correctional facility. The population projections include juveniles funded under the serious juvenile offender (SJO) program. Under the bill, the population projections in the table are used in the calculation of daily rates for each type of care.

### Average Daily Population

	February 27, 2009 <u>Actual Population*</u>	<u>Projected ADP</u>	
		<u>2009-10</u>	<u>2010-11</u>
Juvenile Detention Facilities	551	605	610
Other Placements			
Corrective Sanctions	150	136	136
Aftercare Services	<u>79</u>	<u>75</u>	<u>75</u>
Subtotal -- Other	229	211	211
Total ADP	780	816	821
Alternate Care	69	56	56

\*Alternate care reflects actual ADP through December, 2008.

The juvenile detention facilities include Ethan Allen School, Lincoln Hills School, Southern Oaks Girls School, the SPRITE Program, and the Mendota Juvenile Treatment Center.

Under the corrective sanctions program, juveniles are placed in the community, following a period in a secured correctional facility, and are provided with intensive surveillance. In addition, for each corrective sanctions slot, an average of not more than \$3,000 annually is provided to purchase community-based treatment services.

Aftercare services include juveniles under state supervision following release from a juvenile correctional facility. Placement may be in an alternate care setting, a relative's home, or the juvenile's own home.

Alternate care includes residential care centers for children and youth, group homes, foster homes, and treatment foster homes. The average daily population for alternate care is a subset of aftercare services.

**Joint Finance/Legislature:** Reestimate the juvenile correctional facility average daily population to be 587 annually (-18 in 2009-10 and -23 in 2010-11), as shown in the below table.

	<u>Projected ADP</u>	
	<u>2009-10</u>	<u>2010-11</u>
Juvenile Correctional Facilities	587	587
Other Placements		
Corrective Sanctions	136	136
Aftercare Services	<u>75</u>	<u>75</u>
Subtotal -- Other	211	211
Total ADP	798	798
Alternate Care	56	56

**2. STATUTORY DAILY RATES [LFB Paper 300]**

**Governor:** Under current law, daily rates for juvenile care in a given biennium are specified in statute by fiscal year for juvenile detention facilities, state aftercare supervision, and for each type of alternate care setting, including residential care centers for children and youth, group homes, treatment foster homes and foster homes.

Under the bill, the following statutory daily rates would be established for juvenile correctional services provided or purchased by the Department that would be charged to counties and paid by counties, or paid by the state through the serious juvenile offender appropriation.

	Statutory Rates		Governor
	7-1-08 thru <u>6-30-09</u>	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>
Juvenile Detention Facilities*	\$268	\$270	\$275
Corrective Sanctions	101	101	103
Aftercare Supervision	37	40	41
Residential Care Centers	296	294	309
Group Homes	172	190	200
Treatment Foster Homes	145	126	132
Regular Foster Homes	74	72	75

\*Including transfers from a juvenile detention facility to the Mendota Juvenile Treatment Center.

The proposed daily rates for juvenile facilities, corrective sanctions, and aftercare supervision are calculated on the basis of budgeted funding levels, anticipated average daily populations, and the number of days in the year. Daily rates for alternate care settings (residential care centers, group homes, regular foster homes, and treatment foster homes) are determined by applying percentage adjustments to prior daily rates for each type of care (see the "Alternate Care" entry below).

**Joint Finance/Legislature:** Modify the statutory daily rates as follows (see also Item #6 on Alternative Care):

	<u>JFC Daily Rates</u>		<u>Difference from Governor</u>	
	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>
Juvenile Correctional Facilities	\$270	\$275	--	--
Corrective Sanctions	101	103	--	--
Aftercare Supervision	40	41	--	--
Residential Care Centers	298	313	\$4	\$4
Group Homes	190	200	--	--
Treatment Foster Homes	124	130	2	2
Regular Foster Homes	72	75	--	--

[Act 28 Sections: 2675 and 2677]

### 3. POPULATION-RELATED COST ADJUSTMENTS [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$2,462,500	-\$4,100,300	-\$1,637,800

**Governor:** Provide \$1,064,700 in 2009-10 and \$1,397,800 in 2010-11 to reflect population-related cost adjustments as follows: (a) \$191,100 in 2009-10 and \$211,000 in 2010-11 for food costs at juvenile correctional institutions; (b) \$24,200 in 2009-10 and \$29,700 in 2010-11 for variable non-food costs (such as laundry, clothing, and personal items) for institutionalized juveniles; and (c) \$849,400 in 2009-10 and \$1,157,100 in 2010-11 to reflect juvenile health costs.

**Joint Finance/Legislature:** In addition, delete \$1,846,100 in 2009-10 and \$2,254,200 in 2010-11 associated with: (a) -\$1,757,600 in 2009-10 and -\$2,131,100 in 2010-11 for salary and fringe benefits for vacant positions in the Division of Juvenile Corrections; and (b) -\$88,500 in 2009-10 and -\$123,100 in 2010-11 for additional population-related cost reductions. As a result of the additional funding reductions, the statutory daily rates for the juvenile correctional facilities would remain unchanged, although the estimated population for 2009-11 has decreased.

### 4. SERIOUS JUVENILE OFFENDER FUNDING [LFB Paper 301]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,730,100	\$1,235,400	\$3,965,500

**Governor:** Provide increased funding of \$1,416,800 in 2009-10 and \$1,313,300 in 2010-11 to reflect increased costs associated with state-funded serious juvenile offenders (SJO). The estimated average daily population (ADP) for the SJO population is 241 in 2009-10 and 234 in 2010-11. The SJO program ADP for 2008-09 through December, 2008, (the latest information available) is 245. A separate provision in the bill would reduce appropriation funding by \$168,300 annually. [See "Across-the Board 1% Reductions."]

The SJO appropriation reimburses juvenile correctional institutions, secured child caring institutions, alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred for juveniles who receive an SJO disposition. All components of the SJO disposition are state funded; counties have no financial responsibility for a juvenile placed in the SJO program. A juvenile is subject to an SJO placement for certain acts committed on or after July 1, 1996, as follows: (a) if the juvenile is 14 years of age or more and has been adjudicated delinquent for committing a delinquent act that is equivalent to certain Class A, Class B, or Class C felony offenses; or (b) the juvenile is 10 years of age or more and has been adjudicated delinquent for attempting or committing first-degree intentional homicide or for committing first-degree reckless homicide or second-degree intentional homicide. An SJO disposition may only be made for these juveniles if the judge finds that the only other disposition

that would be appropriate is placement in a secured correctional facility.

For a juvenile receiving an SJO disposition, the court is required to make the order apply for a period of five years if the adjudicated act was a Class B or Class C felony offense, or until the juvenile reaches 25 years of age if the adjudicated act was a Class A felony offense. The disposition includes the concept of Type 2 status, which allows the Department to administratively transfer a juvenile through an array of component phases, including both juvenile detention facility and community placements.

Base funding for the SJO appropriation is \$16,829,800 annually. Under the bill, the following average daily populations (ADPs) for the SJO appropriation, are projected for the 2009-11 biennium:

**Average Daily Population**

<u>Type of Care</u>	<u>As of December, 2008</u>	<u>Serious Juvenile Offenders</u>	
		<u>2009-10</u>	<u>2010-11</u>
Juvenile Detention Facilities	119	112	109
Corrective Sanctions Program	88	86	83
Aftercare Supervision	<u>38</u>	<u>43</u>	<u>42</u>
Total ADP	245	241	234
Alternate Care*	43	44	43

\*A subset of corrections sanctions and aftercare supervision programs that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

**Joint Finance/Legislature:** Modify funding by \$588,600 in 2009-10 and \$646,800 in 2010-11 to reflect increased serious juvenile offender populations, as follows:

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2009-10</u>	<u>2010-11</u>
Juvenile Correctional Facilities	114	112
Corrective Sanctions Program	90	87
Aftercare Supervision	<u>46</u>	<u>44</u>
Total ADP	250	243
Alternate Care	45	44

**5. YOUTH AIDS [LFB Paper 302]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
FED	\$0	\$11,801,000	\$11,801,000

**Governor:** Revise the calendar year allocations of community youth and family aids (youth aids) funding to reflect distributions for the 2009-11 biennium, as follows: (a) \$49,891,100 from the last six months of 2009, \$99,782,300 for 2010, and \$49,891,100 for the first six months of 2011. Total youth aids funding in 2008-09 is \$100,790,200 (all funds). Under the bill, \$94,865,200 (all funds) is provided in 2009-10 and 2010-11. The statutory allocation exceeds appropriated amounts by \$4.9 million annually. In 2009-10 and 2010-11, continue to allocate additional funding provided under previous legislative actions on the same basis. Funding adjustments to youth aids in the bill are the result of two other provisions in the bill. [See "Across-the Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations."]

In addition, provide that funding for youth aids may be utilized from a new continuing PR appropriation entitled "Federal economic stimulus funds," which includes moneys received by the state, pursuant to federal legislation enacted during the 111<sup>th</sup> Congress for the purpose of reviving the U.S. economy. No estimated expenditure level is identified in the new appropriation.

Under current law, calendar year youth aids allocations are provided for the 2007-09 biennium. Statutory provisions specify allocations for youth aids funding in the following areas: (a) youth aids funding appropriated in the biennium for distribution to counties (\$75,826,300 GPR and \$2,449,200 PR); (b) youth aids increases provided under 1999 Act 9, which are required to be distributed to counties according to a three-factor formula (\$4,000,000 GPR); (c) youth aids increases provided under 2001 Act 16, which are required to be distributed to counties according to the three-factor formula and an additional override factor (\$2,106,500 GPR); (d) youth aids funding earmarked for emergency funding and arrest supplements for small counties (\$450,000 GPR); (e) youth aids funding earmarked for counties participating in the corrective sanctions program (\$2,124,800 GPR); (f) youth aids funding earmarked for alcohol and other drug abuse treatment programs (\$1,333,400 GPR); and (g) youth aids increases provided under 2007 Act 20, which are required to be distributed based on the proportional number of juveniles in correctional facilities during the most recent three-year period.

**Joint Finance/Legislature:** Specify that the 1% reduction and 5% GPR reduction only occur in the 2009-11 biennium. Create a FED appropriation for youth aids and provide \$5,900,500 FED annually. Reduce Program Supplements by a corresponding amount. Revise statutory allocations not to exceed: (a) \$50,395,100 for the last six months of 2009; (b) \$100,790,200 for 2010; (c) \$50,395,100 for the first six months of 2011. [See "Across-the-Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations" under "Corrections -- Departmentwide."]

[Act 28 Sections: 319j, 845d, 853d, 2674d, 2681d thru 2689, and 9111(2j)]

6. ALTERNATE CARE [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	-\$249,500	\$327,600	\$78,100

**Governor:** Modify base funding by -\$256,500 in 2009-10 and \$7,000 in 2010-11 for juvenile residential aftercare (alternate care) to reflect decreasing population estimates. The residential aftercare appropriation funds the costs of care for juveniles placed in residential care centers for children and youth, foster care homes, treatment foster care homes, group homes, and certain other living arrangements. Base funding for the residential aftercare appropriation is \$5,395,300 (based on an estimated average daily population of 59.5 juveniles in 2008-09). The year-to-date ADP for alternate care (through December, 2008) is 69.0. Under the bill, the alternate care ADP is projected at 56 in both 2009-10 and 2010-11. A separate provision in the bill would reduce appropriation funding by \$54,000 annually [See "Across-the Board 1% Reductions."]

Alternative care placements include placements in residential care centers for children and youth, group homes, treatment foster homes, and foster homes. Alternate care rates are estimated under the bill by taking the actual average rates paid for each type of care for the first five months in 2008, and applying annual percentage rates of increase (5% for residential care centers for children and youth, treatment foster care, and group home placements, and 4% for foster homes) to estimate 2008-09, 2009-10, and 2010-11 average rates. The estimated 2009-10 and 2010-11 average rates and projected ADP of 56 juveniles are then used to calculate the budget recommendation for alternate care.

While a single rate for each type of alternate care is established by statute, facilities providing each type of care vary in the daily rates that are charged. It is the Department's responsibility to manage these costs within the alternate care budget calculated on the basis of a single, average rate and estimated juvenile populations. The following table shows the statutory alternate care rates for 2008-09 and the average rates projected under the bill for 2009-10 and 2010-11.

	Statutory Rates 7-1-08 thru 6-30-09	Governor	
		7-1-09 thru 6-30-10	7-1-10 thru 6-30-11
Residential Care Centers	\$296	\$294	\$309
Group Homes	172	190	200
Treatment Foster Homes	145	126	132
Regular Foster Homes	74	72	75

**Joint Finance/Legislature:** Revise the daily rates for the following alternate care settings: (a) residential care centers, \$298 in 2009-10 and \$313 in 2010-11; and (b) treatment foster care, \$124 in 2009-10 and \$130 in 2010-11. Revise the projected population at residential centers to 37 juveniles (as compared to 35 annually) and for group homes to 16 juveniles (as compared to 18 annually). As a result, modify funding by \$161,000 in 2009-10 and \$166,600 in 2010-11.

	<u>AB 75</u>		<u>Modified Daily Rates</u>		<u>Difference</u>	
	7-1-09 thru	7-1-10 thru	7-1-09 thru	7-1-10 thru	7-1-09 thru	7-1-10 thru
	<u>6-30-10</u>	<u>6-30-11</u>	<u>6-30-10</u>	<u>6-30-11</u>	<u>6-30-10</u>	<u>6-30-11</u>
Residential Care Centers	294	309	298	313	\$4	\$4
Group Homes	190	200	190	200	--	--
Treatment Foster Homes	126	132	124	130	2	2
Regular Foster Homes	72	75	72	75	--	--

[Act 28 Sections: 2675 and 2677]

**7. MENDOTA JUVENILE TREATMENT CENTER**

PR	\$353,800
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**Governor/Legislature:** Modify statutory provisions to reflect increased funding of \$165,000 in 2009-10 and \$188,800 in 2010-11 in the Department’s juvenile correctional services appropriation for payments to the Department of Health Services’ (DHS) interagency and intra-agency programs appropriation, for services for juveniles placed at the Mendota Juvenile Treatment Center (MJTC). Base funding for MJTC is \$1,379,300 GPR and \$2,707,300 PR. Two separate provisions would reduce GPR funding by \$82,800 annually. [See "Across-the Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations."]

The Mendota Juvenile Treatment Center is a secure correctional facility located on the grounds of the Mendota Mental Health Institute that provides evaluation of and treatment services to male adolescents transferred from Division of Juvenile Corrections institutions. Under current law, Corrections is required to transfer certain funds specified in statute to DHS for those services. The bill adjusts these amounts for the 2009-11 biennium.

[Act 28 Section: 832]

**8. JUVENILE CORRECTIONAL SERVICES DEFICIT REDUCTION [LFB Paper 303]**

**Governor:** Provide that all available program revenue balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation on June 30, 2009.

The juvenile correctional services program appropriation funds the operations of juvenile correctional facilities and certain aftercare services provided to juveniles following release from the facilities. The program revenue credited to this appropriation derives from daily rates charged for facility care that are paid by counties or the state for certain serious juvenile offenders. Since the 2000-01 fiscal year, expenditures in the appropriation have generally exceeded revenue, resulting in year-end deficits. Under the bill, any available balances from the aftercare and corrective sanctions appropriations would be transferred to address the deficit.

**Joint Finance/Legislature:** In addition, require the Departments of Administration and Corrections to report to the Joint Committee on Finance by September 30, 2009, an alternative

statutory mechanism that would address future deficits in the appropriation.

**Veto by Governor [C-12]:** Delete Joint Finance provision.

[Act 28 Sections: 313 thru 315, 317 thru 319, 9211(1), and 9411(1)]

[Act 28 Vetoed Section: 9111(2i)]

## 9. JUVENILE CORRECTIONS COMPREHENSIVE REVIEW

**Joint Finance/Legislature:** Direct the Departments of Administration and Corrections and any other relevant state agencies to commence a comprehensive review of juvenile corrections funding and services. As part of that review, direct the Departments of Administration and Corrections and other relevant state agencies to undertake an inventory of all of the juvenile correctional services provided by counties and nonprofit organizations. As part of the review, there should be a description of mental health and AODA services available to youth offenders housed in the state schools and at the Mendota Juvenile Treatment Center. Finally, the review should include the participation of youth counselors from each of the state's three schools who work directly with teen offenders.

**Veto by Governor [C-12]:** Delete provision.

[Act 28 Vetoed Section: 9111(2k)]

## 10. JUVENILE OUT-OF-HOME PLACEMENTS

PR	\$150,000
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**Conference Committee/Legislature:** Create an Indian juvenile placements appropriation for the Department to reimburse tribes and county departments for unexpected or unusually high-cost out-of-home care placements of Indian juveniles who have been adjudicated delinquent. Provide \$75,000 to the appropriation from tribal gaming receipts. Specify that any unencumbered balances from the appropriation revert to the tribal gaming receipts appropriation on June 30th of each year. Define "unusually high-cost out-of-home care placements" as placements for which costs to a tribe or county department exceed \$50,000 a fiscal year.

[Act 28 Sections: 319e, 586v, and 3334p]