

Juvenile Justice in Wisconsin

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Chapter 938 of the Wisconsin statutes is entitled the “Juvenile Justice Code.” Statute 938.01 of the chapter states that it is legislative intent to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability for violations of law, and equip juvenile offenders with competencies to live responsibly and productively.

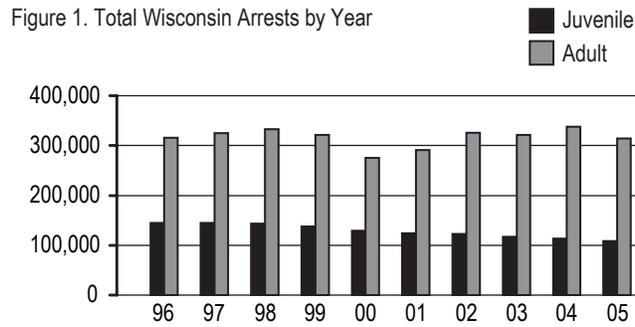
The sections below highlight the following areas related to juvenile justice issues: (a) juvenile arrest statistics; (b) original adult court jurisdiction and waiver to adult court of juveniles; (c) juvenile correctional placements and programs; (d) statutory daily rates for juvenile correctional services; and (e) youth aids funding provided to counties for juvenile delinquency-related services.

Wisconsin Juvenile Arrest Statistics

Under Wisconsin law, a “juvenile” is defined as any person under the age of 18 years, except that for purposes of investigating or prosecuting violations of state or federal criminal law, a “juvenile” does not include a person who has attained 17 years of age. Prior to 1996, 17-year-old offenders were treated as juveniles.

The national Uniform Crime Reporting (UCR) system collects data on adult and juvenile arrests. The information provided below is from the UCR system, which records 17-year-olds under the juvenile arrest category. As a result, the number of juvenile arrests likely includes individuals that Wisconsin treats as adults for criminal prosecution.

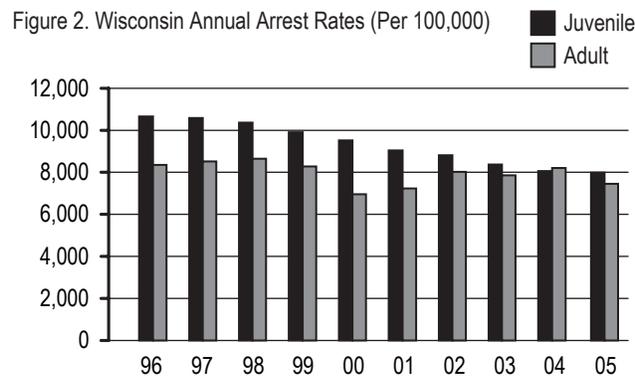
Over the 10-year period of 1996 to 2005 (the latest information available), the total number of juvenile arrests decreased by 24.9%, from 144,708 in 1996 to 108,685 in 2005. In comparison, over the same period, adult arrests have fluctuated year to year, with a high of 332,940 arrests in 1998 and low of 275,446 in 2000 (adult arrests in 2005 totaled 314,173). Figure 1 shows the total number of juvenile and adult arrests statewide for the years 1996 through 2005. In 2005, juvenile arrests comprised approximately 25.7% of all arrests in Wisconsin, while the juvenile population in 2005 comprised approximately 24.4% of the total state population. It should be noted that, while the number of juveniles arrested decreased by 24.9% from 1996 to 2005, the juvenile populations in those years were relatively similar (1,357,935 juveniles in 1996 and 1,361,705 juveniles in 2005).



The 108,685 juvenile arrests in Wisconsin in 2005 were distributed among four, broad categories of offenses: (a) 1.5% were for violent offenses (murder, forcible rape, robbery and aggravated assault); (b) 14.6% were for property offenses (burglary, theft, motor vehicle theft and arson); (c) 21.1% were for status offenses (offenses which would not be crimes were they committed by an adult, such as liquor law violations, curfew violations and runaways); and (d) 62.8% were for other offenses (primarily disorderly conduct, drug-related violations, weapons violations, simple assault, and vandalism).

Juvenile and Adult Arrest Rates

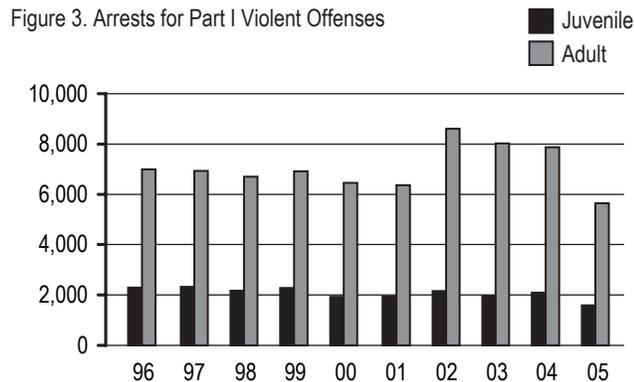
By reviewing arrest rates (the number of arrests per 100,000 individuals) as opposed to actual number of arrests, a comparison of the number of arrests over time on a uniform basis can be made without the effect of population changes. As shown in Figure 2, the overall juvenile arrest rate decreased from 10,656 arrests per 100,000 juveniles in 1996 to 7,982 arrests per 100,000 juveniles in 2005. This represents a 25.1% decrease in the overall juvenile arrest rate over the 10-year period. Figure 2 also shows that the adult arrest rate has decreased over the same 10-year period (from 8,351 to 7,447 arrests per 100,000 population), representing a 10.8% decrease. Throughout the 10-year period, the juvenile arrest rate was generally higher than the adult arrest rate.



Juvenile and Adult Arrests for Violent Offenses

Total juvenile arrests for Part I violent offenses as defined by the UCR (murder, forcible rape, robbery and aggravated assault) increased each year from 1988 through 1994 (from 1,151 to 2,674 arrests) but have remained below the 1994 peak level since that time. Juvenile arrests for violent offenses decreased from 2,293 arrests in 1996 to 1,584 in 2005, a decrease of 30.9% (although arrests for forcible rapes increased by

51.7% during the period). Adult arrests for Part I violent offenses decreased from 6,990 arrests in 1996 to 5,637 arrests in 2005 (although arrests for forcible rape increased by 13.8% during the period). Figure 3 shows the total number of juvenile and adult arrests statewide for Part I violent offenses for the years 1996 through 2005. In 2005, juvenile arrests comprised 21.9% of all arrests for Part I violent offenses in Wisconsin, less than the percentage of the juvenile population in the total state population (24.4%).



Original Adult Court Jurisdiction and Waiver to Adult Court

There is no separate juvenile court system in Wisconsin. Rather, the circuit courts exercising their jurisdiction under Chapter 48 (Children’s Code) and Chapter 938 of the statutes are termed “juvenile courts.” The juvenile court has exclusive jurisdiction over any juvenile 10 years of age or over who is alleged to have violated any state or federal criminal law, with the exception of youth who fall under the original jurisdiction of adult court or who are waived into adult court. Juveniles under the age of 10 who commit a delinquent act are considered to be juveniles in need of protection or services and are not subject to delinquency proceedings.

A juvenile alleged to be delinquent may be referred for juvenile court intake services by a law enforcement officer or others, including school officials or family members. An intake worker will determine whether or not to initiate formal delinquency proceedings.

In certain cases, current law provides for original adult court jurisdiction over certain juveniles, as well as discretionary waiver of other juveniles to adult court jurisdiction. As indicated previously, a juvenile pertains to those under the age of 17 years.

Original Jurisdiction of Adult Court

The adult court will have original jurisdiction over juveniles under the following conditions:

- a. If a juvenile is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile’s 10th birthday;
- b. If a juvenile has been adjudicated delinquent and is alleged to have committed battery or assault while placed in a juvenile correctional facility, a juvenile detention facility, a secured residential care center

for children and youth or a secured group home, or against an aftercare agent or a probation, extended supervision and parole agent.

- c. If a juvenile is alleged to have violated any state criminal law and has either been convicted of a previous violation in adult court (following waiver to adult court or under the original jurisdiction of the adult court) or has criminal proceedings pending in adult court (referred to as “once waived/always waived”).

In addition, a juvenile specified in (a) or (b), who is alleged to have attempted or committed a violation of any state criminal law in addition to the violation alleged under (a) or (b), is under the adult court’s jurisdiction for all of the alleged violations if the violations can be charged in the same complaint (“joined”).

If one of the above conditions is met, the court must determine whether to retain adult jurisdiction or to transfer jurisdiction to the juvenile court (referred to as “reverse waiver”). The adult court must retain jurisdiction unless the juvenile proves by a preponderance of the evidence all of the following:

- a. That, if convicted, the juvenile could not receive adequate treatment in the criminal justice system;
- b. That transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense; and
- c. That retaining jurisdiction is not necessary to deter the juvenile or other juveniles from committing such violations.

Notwithstanding the above, a juvenile who is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after his or her 15th birthday is not eligible for reverse waiver from the adult court to a juvenile court.

Although a juvenile prosecuted in adult court is subject to the criminal court procedures and criminal penalties for adults, the adult court may impose a disposition under the juvenile justice code under certain conditions. With the exception of certain 15- and 16-year-old juveniles, the adult court will impose a juvenile disposition, in lieu of a criminal penalty, if either of the following conditions apply:

- a. The adult court finds that the juvenile committed a lesser offense that is not any of the following: (a) an attempt to commit first-degree intentional homicide on or after the juvenile’s 10th birthday, but before the juvenile’s 15th birthday; (b) first-degree reckless homicide or second-degree intentional homicide on or after the juvenile’s 10th birthday, but before the juvenile’s 15th birthday; (c) battery or assault while placed in a juvenile correctional facility, a juvenile detention facility or a secured care center for children and youth, or against an aftercare agent or a probation, extended supervision and parole agent; or (d) an offense for which the juvenile court may waive its jurisdiction over the juvenile; or
- b. The adult court finds that the juvenile committed a lesser offense that is an offense specified in (a), (b), (c) or (d) above and the court determines, based on certain criteria, that the juvenile has proved by

clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a juvenile disposition under the juvenile justice code. The criteria used by the adult court in making this determination are identical to those used by the juvenile court in determining whether a juvenile should be waived to adult court. These criteria are described in the next section.

A separate statutory provision governs juveniles alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 15th birthday (including any additional crimes joined in the complaint). In these cases, if the juvenile is found to have committed a lesser offense that is not an offense specified in this paragraph, the court must impose a juvenile disposition, in lieu of a criminal penalty, if the court determines, after considering the criteria for waiver to adult court, that the juvenile has proved by clear and convincing evidence that it would be in the best interests of the juvenile and of the public to impose a juvenile disposition.

Waiver to Adult Court

A district attorney or a juvenile may apply to the juvenile court to waive its jurisdiction in any of the following situations:

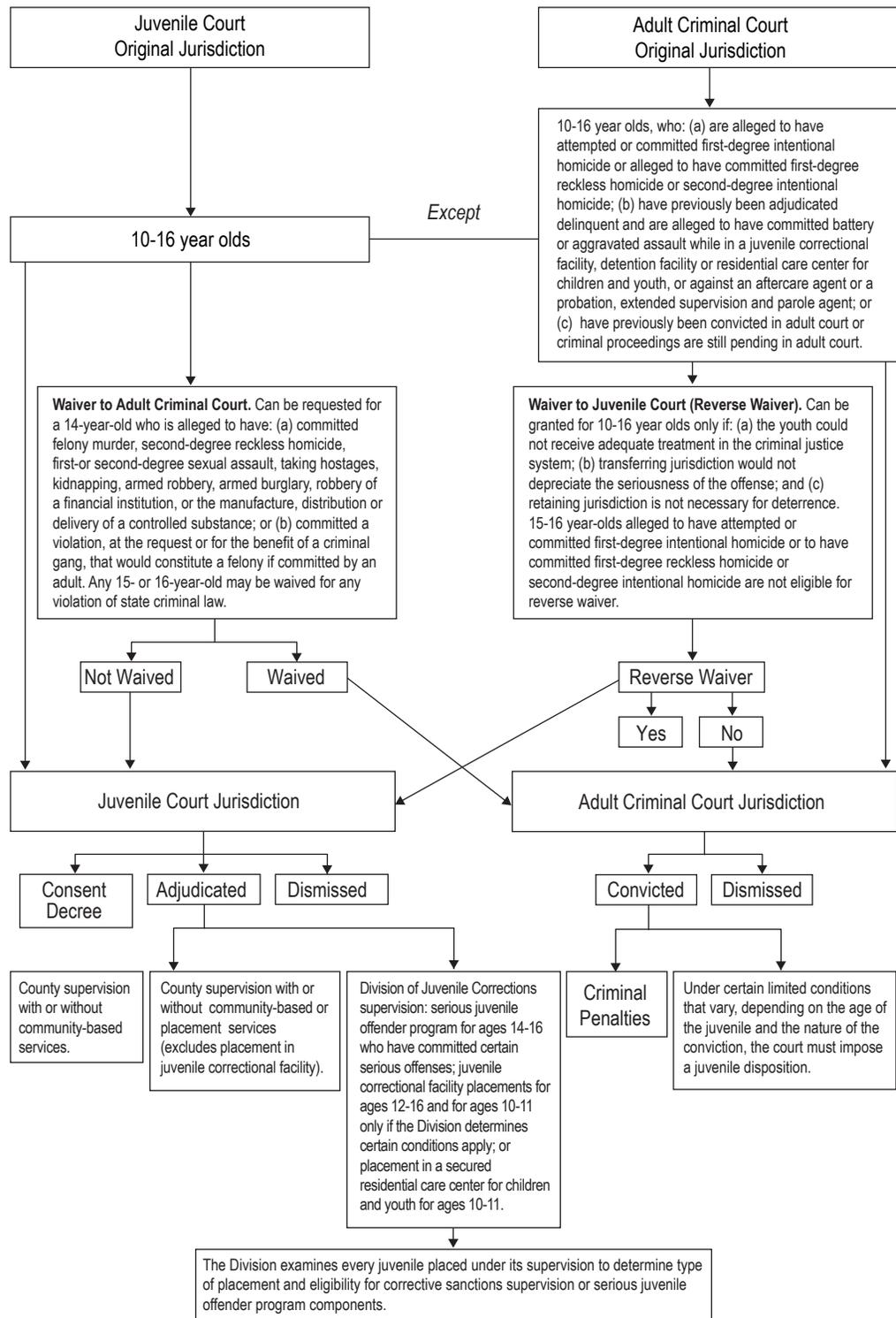
- a. If the juvenile is alleged to have committed felony murder, second-degree reckless homicide, first- or second-degree sexual assault, taking hostages, kidnapping, armed robbery, armed burglary, robbery of a financial institution, or the manufacture, distribution or delivery of a controlled substance on or after the juvenile's 14th birthday;
- b. If the juvenile is alleged to have committed, on or after the juvenile's 14th birthday, a violation at the request of or for the benefit of a criminal gang, that would constitute a felony if committed by an adult; or
- c. If the juvenile is alleged to have violated any state criminal law on or after the juvenile's 15th birthday.

The judge may also initiate a petition for waiver in any of these situations, if the judge disqualifies himself or herself from any future proceedings on the case.

The court will determine whether to waive jurisdiction based on criteria relating to: (a) the personality, including whether the juvenile has a mental illness or developmental disability, and prior record of the juvenile; (b) the type and seriousness of the offense; (c) the adequacy and suitability of facilities, services and procedures available for treatment of the juvenile and the protection of the public in the juvenile justice system; and (d) the desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in adult court.

If the waiver is granted, the district attorney may charge the offense he or she deems appropriate and a court or jury may convict the juvenile in regard to any offense. Figure 4 below highlights the steps for original adult jurisdiction and waiver into adult court.

Figure 4. Court of Jurisdiction



Juvenile Correctional Placements and Programs

After delinquency proceedings, if the court determines that an offense or offenses have been committed, the juvenile is adjudicated delinquent. The court then issues a written dispositional order, detailing placement conditions and specific services to be provided to the juvenile. The sections below describe the juvenile placements and programs for adjudicated delinquents which are operated by the state.

Juvenile Correctional Facilities

The Division of Juvenile Corrections in the Department of Corrections is authorized to operate juvenile correctional facilities. Currently there are two facilities for males and one facility for females for juveniles adjudicated delinquent.

The two male facilities are the Ethan Allen School, located in Waukesha County, and the Lincoln Hills School, located in Lincoln County. The female facility, the Southern Oaks Girls School, is located in Racine County. Funding for the juvenile correctional facilities is \$46.4 million in 2006-07, and is supported by counties paying statutory daily rates for correctional facility care (or by the state for serious juvenile offenders), discussed in more detail below.

Also, the Department of Health and Family Services (DHFS) operates a secured mental health unit for juveniles transferred from other juvenile correctional facilities. The Mendota Juvenile Treatment Center, located at the Mendota Mental Health Institute (Dane County), provides treatment to male juvenile offenders with complex emotional and behavioral problems. Following treatment, juveniles either are placed in the community or are returned to the facility that they came from. The Department of Corrections currently utilizes 29 beds at the Center. For 2006-07, funding of \$3,769,900 was appropriated to Corrections to reimburse DHFS for the costs of the facility's operation.

Table 1 shows the funding and positions allocated to each juvenile correctional facility in 2006-07, the funding allocated to DHFS for mental health treatment, and the actual average daily population for each facility in 2005-06 (the most recent annual data available).

Table 1. Secured Juvenile Facilities

Facility	2006-07		2005-06
	Funding	Positions	Actual ADP
Ethan Allen School	\$18,867,300	272	280
Lincoln Hills School	15,426,400	219	233
SPRITE	531,500	8	8
Southern Oaks Girls School	<u>7,812,400</u>	<u>110</u>	<u>47</u>
Subtotal	\$42,637,600	609	568
Mendota Juvenile Treatment Center	\$3,769,900		29
Total	\$46,407,500		597

The most recent demographic analysis available from the Department is for juveniles who were placed at juvenile correctional facilities in 2005. During 2005, juveniles ranged from 12 years of age to over 18 years of age (due to extended juvenile court jurisdiction). The 2005 data indicates that the average age of juveniles admitted to the institutions was 16.03 years for males and 15.95 years for females. The majority of juveniles committed to the facilities came from the populous counties of southeastern and southern Wisconsin, with 35% of male juvenile offenders and 13% of female juvenile offenders coming from Milwaukee County. Minority juveniles comprised 57% of the male institutional population and 39% of the female population admitted in 2005.

Juvenile Correctional Placement

A court may place any adjudicated juvenile in one of the juvenile correctional facilities if the following conditions are met: (a) the juvenile was found delinquent for the commission of an act which, if committed by an adult, would be punishable by a sentence of six months or more; and (b) the juvenile was found to be a danger to the public and to be in need of restrictive custodial treatment.

If the court has determined that a juvenile is not appropriate for placement in the serious juvenile offender program (discussed below), the following conditions are deemed to provide sufficient evidence for a finding that the juvenile is a danger to the public and in need of restrictive custodial treatment: (a) the juvenile has committed any one of various violent acts that would be a felony if committed by an adult; (b) the juvenile possessed, used or threatened to use a firearm while committing a delinquent act that would be a felony if committed by an adult; or (c) the juvenile illegally possessed or went armed with a dangerous weapon.

Serious Juvenile Offender Program

Certain juveniles are subject to disposition under the serious juvenile offender (SJO) program. Under the program, a juvenile is subject to supervision, care, and rehabilitation that is more restrictive than ordinary supervision in the community. A juvenile is subject to SJO placement if: (a) 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 felonies; 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 be made only if the judge finds that the only other disposition that would be appropriate is placement in a juvenile correctional facility.

The SJO program provides an array of component phases, including both juvenile correctional facility and community placements, through which the juvenile may pass. The component phases are intensive, highly structured and based on both public safety considerations and the juvenile's needs. Current law provides that the Department may contract with DHFS, a county department, or any public or private agency for the purchase of goods, care and services for SJO participants. The SJO program is completely state-funded, with \$14.4 million appropriated for program costs in 2006-07. The average daily population for juveniles in the SJO program was 279 in 2005-06.

Juvenile Corrective Sanctions Program

Current law requires the Department of Corrections to provide a corrective sanctions program to serve an average daily population of 136 juveniles in not less than three counties, including Milwaukee County. Under the program, the Department evaluates juveniles in the juvenile correctional facilities and selects juveniles to be placed in the community and provided with intensive surveillance. If a juvenile violates any condition of the program, the Department may return the juvenile to facility care. Any county may request corrective sanctions services and, in September, 2006, 18 counties were being billed for corrective sanctions services. Funding for the corrective sanctions program in 2006-07 is \$3.9 million, with 46.55 positions allocated to the program.

SPRITE Program

Male juveniles placed in juvenile correctional facilities may also participate in SPRITE (Support, Pride, Respect, Initiative, Teamwork, Education), a 25-day intensive, adventure-based education program held at an off-grounds facility in Oregon, Wisconsin. The program is designed to teach juveniles problem solving, independent living skills, and responsibility through wilderness expeditions, rock climbing, problem-solving exercises, urban exploration, and community service. The program can serve 12 juveniles per month. The program also accepts juveniles directly from counties.

Girls at the Southern Oaks Girls School participate in a separate program, supervised by SPRITE staff, that currently operates one or two, eight-day sessions annually.

Recidivism of Juvenile Offenders

Effectiveness of correctional programs is often measured by examining recidivism rates. Although there are many ways to measure recidivism, reduction in the frequency and severity of offenses committed by juveniles following release is an important measure of program effectiveness. The Department calculated juvenile recidivism rates for juveniles released from 2000 through 2003 using data provided through an audit of all youth released. The Department defined recidivism as youth who were released from a juvenile correctional facility and returned to either a juvenile correctional facility with a new adjudication or sentenced to a new adult prison; or youth who were transferred to an adult prison directly from a juvenile correctional facility as a result of a new sentence.

The number of juveniles released in 2000 totaled 787 youth. As a result of new offenses, 144 of these juveniles were returned either to a juvenile correctional facility or to an adult prison (or, in some cases to both types of facilities) within a two-year period. This is a recidivism rate of 18.3%. In 2001, 833 juveniles were released from juvenile correctional facilities, with 146 returning to a juvenile or an adult facility for a new offense; a recidivism rate of 17.53%. In 2002, 756 juveniles were released from juvenile correctional facilities, with 142 returning for a new offense; a recidivism rate of 18.78%. Finally, in 2003, 672 juveniles were released from juvenile correctional facilities, with 93 returning to a juvenile or an adult facility for a new offense; a recidivism rate of 13.84%.

Statutory Daily Rates

Counties are financially responsible for costs of the juvenile delinquency-related services, except for: (a) the care of a juvenile who has been adjudicated as a serious juvenile offender; and (b) juveniles under the original jurisdiction of, or waived into, adult court and sentenced to state prison, but placed at a juvenile correctional facility. The state also pays for certain administrative costs under the state Department of Corrections for juvenile services.

The state bills each county for the cost of its juveniles placed in the state's juvenile correctional facilities and for subsequent community placements and programming for juveniles returning to the community following placement in a juvenile correctional facility. Charges are based on statutory daily rates established under each biennial budget. Daily rates for a given year are calculated by dividing the total budget for each type of care by the projected number of juveniles expected to receive that type of care in a year, divided by 365 days. Table 2 shows the statutory daily rates for the period July 1, 2006, through June 30, 2007. Based on the statutory rate, a one-year juvenile correctional facility placement would cost \$76,300.

Table 2. Statutory Daily Rates, July 1, 2006 - June 30, 2007

	<u>Amount</u>
Juvenile Correctional Facilities*	\$209
Residential Care Center	244
Group Homes	163
Treatment Foster Homes	97
Corrective Sanctions	82
Regular Foster Homes	50
Aftercare Supervision	33

*Includes transfers to the Mendota Juvenile Treatment Center.

Youth Aids Allocations

Although counties are financially responsible for most juvenile delinquency-related costs, the state provides funding support to counties through the community youth and family aids programs ("youth aids") for juvenile correctional services. In addition, counties may supplement their expenditures on juvenile services with funding from other sources, including community aids, other state aids to counties, county tax revenues, and special grant monies.

Statutory provisions specify allocations for youth aids funding, which currently totals \$88.3 million annually. Table 3 identifies youth aids allocation amounts and the distribution formula used to allocate them under current law.

Table 3. Youth Aids Allocation Formula

<u>Youth Aids Allocation</u>	<u>Amount</u>	<u>Allocation Formula</u>
Historical Base Allocation	\$78,275,500	Allocations are based on original 1979 formula and overriding factors, and are not subject to change under current law.
Alcohol & Other Drug Abuse Allocation	1,333,400	Allocated by annually calculating each county's youth aids spending on community services (defined as the basic community allocation less state spending) for the past three years, divided by statewide community programs balance. The resulting percentage is how much the county will receive of the \$1,333,400.
Supplemental Funding (1999 Act 9)	4,000,000	Allocated based on the following factors, each factor weighted equally: (a) each county's proportion of the statewide juvenile population, for the most recent year information is available; (b) each county's proportion of statewide Part 1 juvenile arrests reported under the uniform crime reporting system of the Office of Justice Assistance, for the most recent three-year period information is available; and (c) each county's proportion of the number of juveniles statewide placed in juvenile correctional facilities, a secured care center for children and youth, or a secured group home, for the most recent three-year period information is available.
Supplemental Funding (2001 Act 16)	2,106,500	Allocated based on the same three factors above, but with an override provision that no county receives less than 93% nor more than 115% of the amount it would have received if juvenile correctional placements (factor (c) above) were the sole factor used to determine county allocations.
Arrest Supplement for Small Counties	200,000	Allocated to counties with populations less than 50,000. Funding is prorated based on each county's share of Part I juvenile arrests for all counties under 50,000 in population for the most recent two-year period information is available.
Corrective Sanctions	2,124,800	Allocated to counties following the close of the calendar year. Funding is allocated based on the number of slots authorized for the program (currently 136), multiplied by the number of slots allocated to each county, as agreed between DOC and the county.
Emergency Funds for Small Counties	250,000	Allocated late in the calendar year. Only counties with populations less than 45,000 are eligible. Eligible counties must demonstrate unplanned, but appropriate, juvenile correctional facility placements.
Total	\$88,290,200	