

Date: April 28, 2021

Re: Testimony to the Joint Committee on Finance on 2021-23 State Biennial Budget

To: Representative Mark Born and Senator Howard Marklein, Co-Chairs, and Members of the Wisconsin Joint Committee on Finance

From: Lea Kitz, Executive Director, Disability Rights Wisconsin

Thank you for the opportunity for Disability Rights Wisconsin to provide input and context to the biennial budget. We know that weighing competing needs is difficult and we appreciate your effort to take input from many corners.

As the state's designated Protection and Advocacy (P&A) system, Disability Rights Wisconsin (DRW) is charged with protecting and enforcing the legal rights of people with disabilities. We are concerned with issues faced by people with any disability, including mental illness. Our work focuses on protecting individuals from abuse and neglect and challenging systems that fail to protect them; promoting the right of individuals to live and receive services in the most integrated setting possible, ensuring access to a Free and Appropriate Public Education, ensuring access to supports and services, protecting health and safety, and safeguarding the right to vote. Given the breadth of DRW's mandate, we are providing input on the state's budget that we believe is critical, as it sets the priorities that directly affect all Wisconsinites with disabilities.

Mental Health

Regional Crisis Centers are needed. Individuals with mental illness can recover and manage their condition successfully. To accomplish this, they need access to a community-based, recovery-oriented, trauma-informed system of care which integrates mental health, substance use and primary care to ensure early identification and intervention. Wisconsin's mental health crisis system lacks local resources to evaluate and support a person in crisis.

Investing in regional crisis centers will allow people in crisis to be supported closer to home and thus closer to their natural supports, avoiding a costly and traumatic transport to Winnebago Mental Health Institute. Developing regional capacity will result in better outcomes for those in crisis and will reduce involvement of law enforcement in responding to psychiatric crises.

Peer Run Warmlines need resources. Peer run warmlines can be an effective way to provide support and help to prevent a crisis. Peer specialists bring their own lived experience to help support others who are experiencing mental challenges. Wisconsin's peer-run respite centers provide warmline support; however, staff often have to choose between answering the phone and helping residents of the center.

By adding at least two new positions at each of the respite centers, staff will be able to both serve residents and support callers (individuals and/or their family members) in non-emergency situations. Warmlines also play an important role in referring callers with significant concerns to local crisis services, averting devolving situations.

Behavioral Health Services for Deaf, Hard of Hearing and Deaf Blind. Wisconsin must address the lack of equitable access to mental health services for people with hearing loss. The state has a serious lack of mental health and substance abuse (MH/SU) disorder service providers who can offer accessible services that address the experiential and linguistic needs for the wide range of persons with hearing loss. There are less than ten individuals in the entire state who have the skills and experience for direct communication.

To address this disparity, advocates from the deaf community have proposed creating and funding a statewide office with responsibility for coordinating, training, and supporting MH/SU disorder service delivery for people with hearing loss in all state and county settings (outpatient, inpatient, crisis and emergency detention settings, schools, prisons).

The program will support access to direct treatment from a provider fluent in American Sign Language and educated on the culturally unique challenges faced by the deaf, hard of hearing, and deaf-blind community. The proposed program provides Wisconsin with the opportunity to address this alarming disparity and increase access to culturally and linguistically appropriate mental health services.

Expand the Child Psychiatry Consultation Program. Wisconsin, like many states, is experiencing a severe shortage of child psychiatrists; incredibly, 49 of Wisconsin's 72 counties have no child psychiatrists at all. Wisconsin can help meet the needs of children dealing with mental health issues by expanding the Child Psychiatry Consultation Program (CPCP) statewide; it is now in 57 counties. CPCP provides primary care providers with consultations with a psychiatrist and psychologist on issues such as diagnosis and medication management, as well as referrals to other mental health resources.

Caregiving Workforce

Adopt Recommendations from the Governor's Task Force on Caregiving. Without workers, people with disabilities are at great risk of harm. Wisconsin has been seeing a severe decline in the workforce for years and it has reached a severely low capacity. After long and careful consideration of the many issues involved with the caregiving workforce crisis, the Task Force issued a comprehensive set of recommendations. We propose that at a minimum, the budget include the following.

- **Reform the way providers are paid** within Wisconsin's long-term care system to reimburse them for actual costs of direct care with a rate that reflects the dignity and importance of the work and allows people with disabilities to not only compete with other employers for qualified candidates, but to be able to pay workers a living wage.

- **Continue the Family Care Direct Care Workforce Fund**, which provides bonuses to direct support professionals. We need to recognize and reward good work.
- **Implement a Statewide Direct Support Professional Training**, creating a career ladder leading to a CNA certification.
- **Create a Public Assistance Earnings Disregard**, which will allow direct support professionals to take on more hours without losing access to healthcare and other essential benefits. A large cohort of our direct care workforce consists of people who are themselves public assistance recipients trying to raise themselves from poverty. We need to remove all disincentives to adding work hours for people who want to do this work. No direct care worker should be worse off, in terms of access to healthcare or other benefits, simply because they want to work harder.
- **Increase funding to ADRCs** to expand caregiver support services to caregivers of adults with disabilities, designate a caregiver coordinator, and expand the tribal disability benefit specialist program. Unpaid and paid family members make up a huge part of the direct care workforce. We need to recognize this contribution and support it to prevent its collapse.

Education

Just over 14% of Wisconsin's public school students, numbering over 120,000 statewide, have a disability and qualify for special education services. Children with disabilities have experienced an erosion of quality special education services due to relatively flat state funding for special education categorical aid over the last decade while costs have increased significantly. The school building closures due to the COVID-19 pandemic have exacerbated the problems of inadequate special education funding and increased the need for both special education and school mental health-related services.

Special education categorical aid. Wisconsin's last state budget included the first increase for special education in over a decade, but the state still only reimburses local costs up to 28% while costs have continued to rise. To provide the quality education that students with disabilities need, and to improve their success in the community and workforce, DRW recommends an increase in special education funding to cover 50% of local costs.

Transition readiness. To better prepare students with disabilities for community employment and independence after high school, DRW recommends increasing Wisconsin's transition readiness grant to provide \$5 million annually.

Student mental health. Student mental health concerns were already a pressing issue before the pandemic and have been increasing in the face of inequity-related social unrest and the challenges of the pandemic. DRW recommends increasing the funding for the Collaborative School-Based Mental Health Services Grant program by \$3.25 million in order to support more school districts in connecting youth to needed mental health services. Wisconsin's schools are also understaffed in the area of pupil services, where many student mental health needs can be addressed. DRW recommends increasing the pupil services categorical aid and simultaneously expanding the scope of the program. In addition to social workers, pupil services should include professionals such as nurses, school psychologists and counselors.

Family Support

Regional Family Disability Resource Centers. It is impossible to overstate how confusing it is for families to understand and navigate the array of services, potential diagnoses, eligibilities and resources potentially available to children with disabilities. For parents trying to manage their jobs and do everything they can for their children, it is overwhelming. Wisconsin needs a resource center system for children and their families that is equivalent to the Aging and Disability Resource Center system that has been so successful for adults. Over 10,000 kids are now enrolled in the CLTS waiver and 12,000 are enrolled in Katie Beckett Medicaid. At least 40,000 additional children are potentially eligible for these programs.

A system of regional family disability resource centers, proposed and supported by a coalition of counties, families, advocacy groups and the Children's Long Term Supports Council, merits inclusion in this budget. It will provide families of kids with disabilities access to information about programs, treatments and services, and it would help them navigate this complex network of programming. It will have the capacity to provide children's benefit specialist services and advocacy services. It will connect families with outside resources when in-house resources are unavailable. In short, it will do for children with disabilities and their families what we already do for vulnerable adults and elders. This was not included in the Governor's budget proposal—it represents an opportunity for the legislature to demonstrate leadership on an issue critical to families of children with disabilities.

Justice Reform

Individuals with mental illness are overrepresented in our criminal justice systems. Conservative estimates suggest that over 50% of the prison and jail population have a history of mental illness and/or substance abuse.

Expansion of Opening Avenues to Reentry Success (OARS). Expand the OARS program to meet the need statewide. OARS assists individuals with mental illness to successfully return to their communities after release from a correctional setting. Individuals completing the OARS program have a significantly lower recidivism rate. In addition to geographical statewide coverage, individuals eligible for the OARS program return to Southeast Wisconsin and several other urban settings in far greater numbers than in most other counties. Therefore, there is a need to concentrate more capacity in those areas that receive heavy utilization.

Treatment Alternatives and Diversion (TAD). Expand the TAD program. This program offers treatment as an alternative to incarceration and significantly reduces both recidivism and costs. Currently, individuals must have a substance use disorder to qualify for the program. Eligibility for TAD should be expanded to include people who have a mental health diagnosis but no underlying substance use disorder. This will allow programs such as veterans courts, mental health courts, and other diversion programs to be funded through the TAD program.

Youth Justice

Raise the Age: 17→18. Over 70 percent of youth involved in the justice system have mental health needs and a majority require special educational services. The adult correctional system is not equipped to serve them. These youth do not get much-needed mental health and educational services and are at a higher risk for suicide and recidivism. Raising the age of adult court jurisdiction from 17 to 18 is also a serious equity issue. In Wisconsin, there are significant disparities in the overall incarceration rate between racial and ethnic groups as Black, Latino and Native American citizens are all overrepresented in our justice system when compared to white citizens.

Wisconsin is now one of only three in the country that still practices this harmful form of injustice. We urge support for this change in the budget, along with an allocation for counties to serve our youth in a manner that is consistent with their level of development. A small investment for counties to meet the needs of these youth now, ensuring they will receive educational and mental health services that can stabilize their lives, will save money later.

Raise the Age: 10→12. In addition to raising the age to 18 for adult jurisdiction, Wisconsin should raise the age at which a child can be considered delinquent from 10 to 12 years old. Youth under 12 should be treated as the children they are. They are best served in other systems, with supportive family and school-based services.

Youth Justice Reform. It is time to reform the youth justice system in Wisconsin and support the other budget proposals that do this. These include resources for community-based services grants, increases to Youth Aids for counties, and eliminating the Serious Juvenile Offender Program, which is no longer the best way to serve youth. Additionally, we must close Lincoln Hills and Copper Lake, a move which has had bi-partisan support for several years now. Instead, Wisconsin should create smaller secure residential treatment facilities that will finally eliminate the outdated model of sending all youth to one larger place—a practice that has not proven to develop healthy, productive, educated adults.

Employment

Employment and the resulting income is as important to people with disabilities as it is for all members of our society. However, people with disabilities have continued to have significantly lower rates of employment than people without. Efforts to increase the employment of people with disabilities must be supported.

Project SEARCH. Disability Rights Wisconsin supports increased funding for Project SEARCH which has proven to be a successful stepping stone for employment for people with significant disabilities. Project SEARCH is a business-led collaboration that enables young adults with disabilities to gain and maintain meaningful employment through training and career exploration. In the 2017-2018 school year 69% of Wisconsin Project SEARCH graduates were employed upon completion of the program. That same year 186 more students completed Project SEARCH programs held at 27 host sites throughout the state.

Work Opportunity Tax Credit. We support the Work Opportunity Tax Credit to encourage employers to hire people with disabilities among other groups.

Make Social Security Disability Insurance Unemployment Compensation available. People with disabilities who are recipients of SSDI often work (and are encouraged to do so). These jobs are usually part time and provide a small income supplement; they help pay for important basic life needs, such as rent, utilities, or food. If these individuals lose their jobs through no fault of their own (they are often the first people laid off) or if they need time off to deal with disability related medical needs, the resulting job loss can cause a devastating loss of an important piece of their income. Wisconsin has an unfair statutory provision that excludes SSDI recipients from receiving Unemployment Compensation. [see: Wis. Stats. 108.04 (2)(h); 108.04(12)(f)] That statute should be repealed—SSDI should not be an offset for unemployment benefits.

Expand the Wisconsin Family Medical Leave Act. People with disabilities sometimes need to take time off of work to deal with health-related issues. Wisconsin's FMLA should be a requirement for employers of 25 or more (currently the requirement is for employers of 50 or more). Doing this will help ensure that people with disabilities maintain their employment even if they must be off work for a short period of time, and their ability to safeguard their jobs will be less reliant on the size of their employer.

Voting

Automatic Voter Registration. Wisconsin is one of the few states that does not offer Automatic Voter Registration (AVR) at the Department of Motor Vehicles (DMV). AVR will allow Wisconsinites to automatically register to vote or update their registration with a name or address change when they get or renew a driver's license or state photo ID. This information would be securely transferred to the Wisconsin Elections Commission, which would verify the voter's eligibility. AVR has the potential to improve access to voting for people with disabilities and to keep voting information accurate and updated.

Medicaid

Full Funding for CLTS. Children with disabilities don't wait to grow up until the CLTS funding is ready to support them. They need specialized services at every stage of development. Over the past two budgets the state has made great strides in ending the waitlist for the CLTS Waiver—a life-changer for kids and their families. Wisconsin needs to finish the job by enacting language that ensures that every child who can benefit from, and qualifies for, the CLTS Waiver can become enrolled in it without waiting for months or years.

Medicaid Expansion. The failure by Wisconsin to expand Medicaid to cover everyone below 138% of the poverty line is incredibly frustrating and represents a tremendous lost opportunity. Accepting Medicaid Expansion would not only expand eligibility but would fund many needed services and supports for adults and children with disabilities. Wisconsin is now one of the very few states that has not taken advantage of the opportunity to improve the health status of many of its citizens by ensuring access to decent healthcare. The state has inconceivably refused to accept billions in federal dollars. The Affordable Care Act is now part of the country's healthcare landscape and the Medicaid expansion money is a mainstay of the ACA. Wisconsin needs to accept the money and expand healthcare eligibility and services so our citizens can live healthier and safer.

Impact the Caregiver Workforce with Medicaid. As noted above, the caregiver shortage is critical in this state. This budget needs to leverage Medicaid to take aggressive action to avert the already-rolling care worker crisis. We call for the state to increase direct care funding in Family Care and IRIS, Medicaid funded personal care, and Nursing Home aid care. The best way to maintain and grow a workforce is to create a work sector with a financially viable career path. People cannot be expected to do the hard work of caring for ill and disabled people while being severely underpaid. Significant increases to the hourly wages of direct care workers must be ensured through provider rate increases that are targeted at the worker wage, rather than overhead and administrative expenses.

Transportation

Increase dollars for public transportation. Because so many people with disabilities do not drive or have a vehicle, transportation services are vital to an independent life. Limited access to transportation ranks as the number one concern for many people with disabilities, and can limit their options to work, vote, worship, access basic needs, and have an independent life in their community. Importantly, these services also allow caregivers to get to work to provide care. The budget should include increases for public transit operating and capital costs, paratransit, and specialized transit.

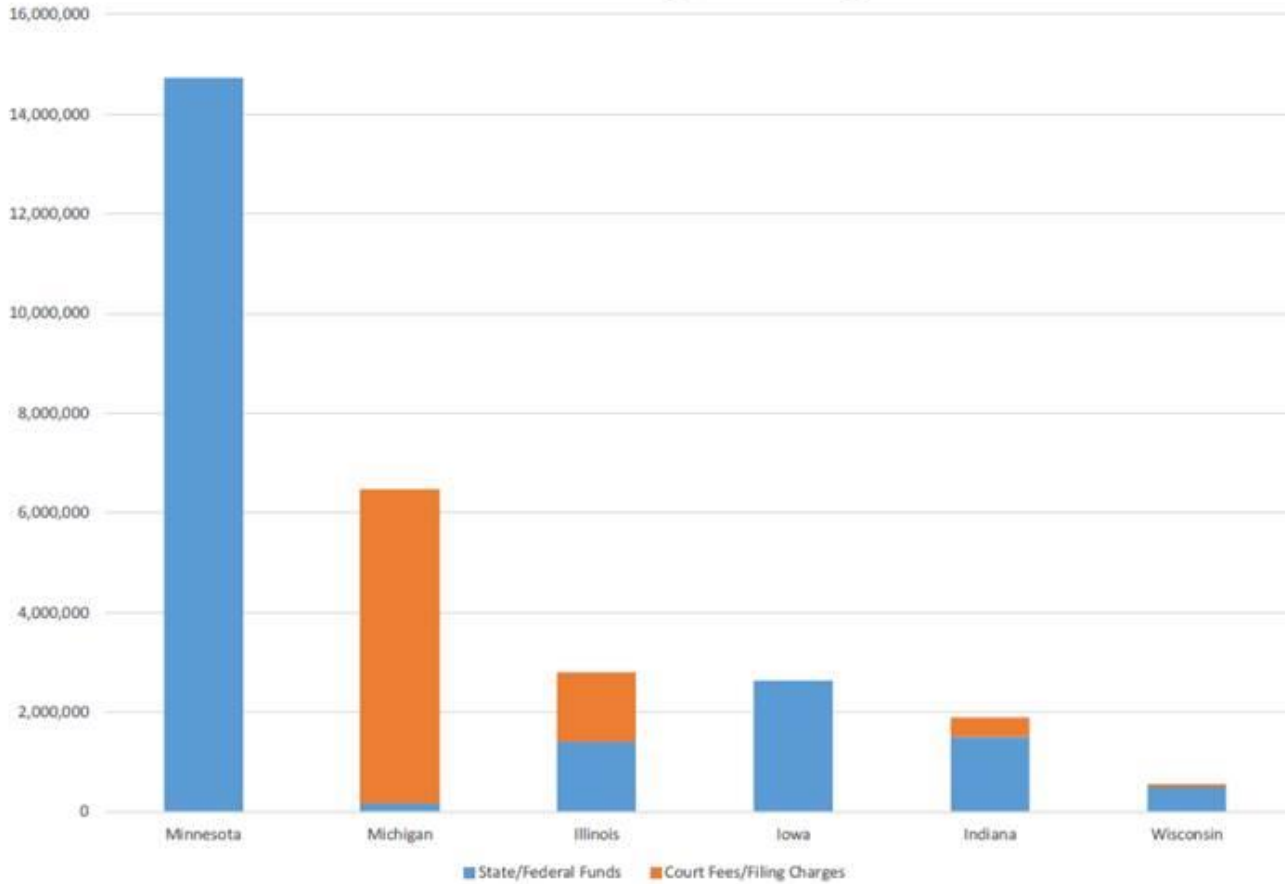
Create funding and requirements for cross-municipality options. Our transportation system needs more flexibility; people's lives do not stop at city or county lines. People who use transit options might be unable to work just across their municipality's border, and often they are unable to access health care or even maintain family relationships when they are located across those borders. This can result in ridiculous situations where a person with disabilities who lives near a municipal border cannot access a clinic 10 minutes from home but must travel over an hour to receive services within the municipality. That same person might not be able to accept a job offer 10 minutes from home. Wisconsin needs to create and fund transit that is able to traverse city and county lines.

Civil Legal Aid

GPR Funding for Civil Legal Aid. Civil legal aid (CLA) provides free or low cost legal assistance to low- and middle-income people and to people with disabilities. CLA helps people access basic necessities such as health care, housing, veterans' benefits, employment and education. A small investment in these services creates tax savings because people don't lose their jobs, are able to maintain their housing, have less traumatic health outcomes, etc. Civil legal aid helps people do exactly what they want to do—be independent, productive citizens. Providers of civil legal aid are not able to meet the full need and the State of Wisconsin does practically nothing to support these efforts. Compared to our neighboring states, Wisconsin falls well below them in its support of this important service (see graph below).

On the surface it might seem that Wisconsin does provide some CLA funding. It is important to know that most of the dollars that Wisconsin currently makes available for CLA are provided through a federal program, Temporary Assistance for Needy Families (TANF), which has tight criteria on who can be served and how they can be served. TANF funding is particularly less useful to the people served by Disability Rights Wisconsin because most of them do not have a key qualifying requirement—dependent children. A further barrier is the restrictive requirements on the types of situations for which TANF dollars can be used. For the most part the narrowly defined requirements for their use do not meet the civil legal service needs of people with disabilities. DRW needs to be able to target our assistance to address the very real civil legal challenges experience by people with disabilities that interfere with their independence and their health and safety. Funding through GPR is critical for dollars to be useful to serve Wisconsin's citizens with disabilities.

Government Funding of Civil Legal Aid in Wisconsin and Neighboring States



Graph shows funding mechanisms with available comparative data. Source: Information provided by state IOLTA programs.

