TOPLINES

- Our justice system has put a strain on our state—both in terms of costs for corrections and lack of investment in rehabilitation, treatment, and alternatives to incarceration.
- We can’t keep throwing taxpayer dollars into a system that doesn’t help our state or our people thrive.
- We know we can keep our communities safe by holding violent offenders accountable, save money, and reform our justice system all at the same time by using science and evidence-based practices to help us make better decisions throughout the justice system.
- In order to fully bouncing back from this pandemic, we have to get our priorities straight and start investing in people, not prisons.
- Over the last two years, Governor Evers revitalized the Parole Commission and created the Pardon Advisory Board and a process for folks to apply for pardons. To date, the governor has granted almost 150 pardons.
- The Department of Corrections has expanded their successful Earned Release Program and continued to operate it during the pandemic. They’ve also made important improvements to the way they’re supervising folks when they return to their communities.
- In addition to the proactive steps that have already been put in place by the Evers Administration, the pandemic has further altered Wisconsin’s prison population trajectory. Governor Evers is proposing several initiatives in this budget to take meaningful steps towards continuing the population reduction the system has seen over the last several months.
- We continue to hear from people around the state, including during the governor’s budget listening sessions, on the importance of reforming our justice system, now.
- Reform and safety go together – the governor’s budget reforms the criminal justice system in a way that improves outcomes, reduces disparities, lessens reliance on prisons, keeps communities safe, and reduces recidivism.
- Governor Evers is calling on the legislature to join him in enacting meaningful criminal justice reform – A goal that is bipartisan in other states.
- While Governor Evers and the Department of Corrections have and will continue to make important administrative changes, this budget is an opportunity for the legislature to engage in the reform process. This is especially critical as many reforms require statutory changes that cannot happen without the legislature joining the public in supporting action on justice reform.
- The governor is recommending several changes to the way individuals are sentenced, released, revoked, and are eligible for expungement.
- This budget continues to refocus Wisconsin’s criminal justice system on evidence-based practices that result in better outcomes and make our communities safer.
- Efforts to reform Wisconsin’s criminal justice system must address the disparate impact incarceration has on communities of color.
- Not only is reform a moral imperative, but we know funding can be better spent on people.
- By connecting the dots and investing in things like housing, child care, and workforce training, we can lift communities up rather than incarcerating them.
OVERVIEW

Sentencing Reform and Diversion

Sentencing

The governor is recommending several changes to the way individuals are sentenced, released, revoked, and are eligible for expungement. This budget continues to refocus Wisconsin’s criminal justice system on evidence-based practices that result in better outcomes and make our communities safer. The governor recommends establishing a Sentencing Review Council to study and make recommendations regarding: reforming the state’s criminal code, equity in sentencing, the state’s bifurcated sentencing structure, and sentences for violations committed by those between 18 and 25 years of age. The most recent wholesale rewrite of Wisconsin’s criminal code occurred almost 20 years ago, and much more has been learned about evidence-based sentencing practices.

Additionally, the governor’s budget recommends the following items:

- Expanding the earned release program to include educational, vocational, treatment, or other qualifying training programs that are evidence-based to reduce recidivism. This will provide certain individuals an opportunity for early release upon successful completion of specific programming.
- Allowing a sentencing court to reduce the term of a person’s extended supervision if certain conditions apply. Too many individuals are kept under supervision for too long – We can make evidence-based decisions about who needs to continue under supervision to conserve resources and keep folks safe.
- Expanding the conditions under which an individual may have his or her criminal record expunged of a conviction. This change will help get individuals back into the workforce.
- Eliminating the felony penalty for bail jumping and allowing for a misdemeanor penalty regardless of the original charge.
- Requiring a diversion and restitution alternative for certain misdemeanor offenses.
- Modifying the process by which DOC may revoke the extended supervision, probation, or parole of a person and modify the sanctions procedure for certain rule violations. This will build upon the work DOC has already undertaken in this arena to improve community corrections and reduce revocations for minor rule violations.
- Allowing, at the discretion of the county sheriff, for a person being held in jail on an extended supervision hold to be eligible for Huber (work) release privileges.
- Creating an earned compliance credit for certain eligible individuals. The earned compliance credit would equal the amount of time served on extended supervision or parole without violating any conditions or rules of extended supervision or parole.
- Clarifying that the earned release program can reduce a term of confinement below a mandatory minimum period of confinement. Current law presents a barrier for certain individuals with a mandatory minimum participating in ERP in a timely fashion.

The governor’s budget requires DOC to identify the cost savings incurred by the modifications to the earned release and extended supervision processes. The department must utilize the savings identified for training programs, recidivism reduction services, and community supervision.

Treatment and Diversion Programs - $15 Million

Wisconsin’s Treatment and Diversion (TAD) program reduces recidivism and costs by sidestepping the traditional criminal justice system in a supportive, encouraging environment designed to accommodate specific needs. The 2019-21 budget as signed by the governor provided the highest ever funding level for TAD. In this budget, the governor is proposing to more than double the TAD funding level over the biennium by providing an additional $15 million to greatly expand the program.
The governor also recommends making statutory language changes related to the TAD program to improve administration, encourage the adoption of programs, expand eligibility, and increase the types of programs. Specifically, the governor is proposing to reduce the match requirement from 25% to 10% and specifying that a program funded by a TAD grant need not focus solely on alcohol and other drug treatment, but must employ evidence-based practices targeted to the population served by the program. This will allow programs such as veterans courts, mental health courts, and other diversion programs to be funded through the TAD program.

The TAD program currently funds a total of 57 treatment courts and 29 diversion programs in 53 counties and three tribal nations. A Wisconsin DOJ Bureau of Justice Information and Analysis report analyzed the period from 2014-2018. The report estimates that for every dollar in state TAD funding spent on treatment courts the Wisconsin criminal justice system saves $4.17, and $8.68 for every dollar in state TAD funding spent on diversion programs.

**Improving & Expanding Community Supports**

**Opening Avenues to Reentry Success Expansion - $5.26 million**

Opening Avenues to Reentry Success (OARS) is a voluntary program that supports the prison to community transition of inmates living with a serious and persistent mental health illness who are medium to high risk of reoffending. DOC partners with DHS to provide services to OARS participants in order to capitalize on the strengths of the two agencies. DHS contracted providers act as case managers and work with the treatment team to provide individualized services to each participant. Participants receive services for six months up to two years in the community. There is not enough funding in the 51 counties where OARS currently operates for every individual who is eligible and willing to participate in the program to do so, and this new funding will help provide additional opportunities for individuals to participate. Importantly, recidivism rates of OARS participants are substantially lower than nonparticipants.

**Windows to Work (WTW) Expansion - $500,000**

WTW is a pre- and post-release program designed to address criminogenic needs that can lead to recidivism. WTW aims to assist adults in custody with job-readiness so they can be employed in jobs with family-supporting wages upon release. Eligible participants enroll in WTW prior to release and work toward self-sufficiency when returning to the community through the development of constructive skills and the modification of thought processes related to criminal behavior. This additional funding will allow more individuals to participate.

**Expansion of Options for Alternatives for Revocation - $3.12 million**

An Alternative to Revocation (ATR) is a formal response to an offender’s violation of the rules and/or conditions of supervision. An ATR is instituted after revocation proceedings have been initiated and is intended to correct and enable the offender to demonstrate behavioral changes that show they are suitable to return to community supervision status. The governor’s proposed additional funding would expand the number of community, as opposed to institution, ATR beds that are available.

**Improving & Expanding DOC Programming**

**Expansion of Adult Institutions Treatment Capacity - $3.448 million**

The Earned Release Program (ERP) is a primary treatment program that addresses criminal thinking and substance use disorders. To be eligible for ERP, an individual must have a substance use disorder need and be convicted of a felony that was not certain violent crimes, domestic violence, a sexual assault, or a crime against a child. Individuals in ERP must complete a high intensity, evidence-based, residential alcohol and drug treatment program.

DOC recently made changes to its suitability criteria for ERP to expand opportunities to more individuals. This additional funding will help support DOC’s policy changes. The expansion of the ERP program allows Wisconsin’s
prison population to be safely reduced in a way that ensures individuals in the care of the DOC receive the skills and treatment they need and maintains public safety.

Historical ERP release data is as follows:

- 2017: 1,734
- 2018: 1,831
- 2019: 1,917
- 2020: 2,122

**Medication Assisted Treatment (MAT) Program Expansion - $1.6 Million**
The MAT program uses medication in combination with counseling and behavioral therapies to treat individuals with opioid addictions. The increased funding allows the program to be offered to individuals in more areas of the state.

**Educational Initiatives in DAI - $4.75 Million**
This funding will expand enrollment opportunities for individuals who are on waitlists for Adult Basic Education (ABE) or Career/Technical Education (CTE) programs. Increasing access to education and training opportunities within our correctional facilities will better prepare individuals to be successful upon release.

**Racine Youthful Offender Correctional Facility Behavior Modification Housing Unit - $919,500**
Research has shown that placement in room confinement or restrictive housing can have negative effects on individuals as they return to the community. To address the behavioral needs of the young adults at the Racine Youthful Offender Correctional Facility (RYOCF), the governor is proposing creating a Behavior Modification Housing Unit (BMU). The BMU will provide 30 beds for individuals who have demonstrated consistent rule-breaking behaviors, struggle with impulsivity, or who are frequently placed in restrictive housing. The intent of the BMU is to give a space for individuals to foster their development of regulatory, self-soothing and planning skills. They will receive more individualized attention in this setting. Overall, the BMU will provide a structured environment in which these individuals will have access to a more regulated schedule, regular behavioral and mental health programming, and opportunities to practice new skills.

**Other Reforms & Investments**
The governor is also proposing the following changes to and investments in the criminal justice system:

- Establishing that requesting an applicant for employment to supply information regarding his or her conviction record, or otherwise considering the record, prior to selection for an interview constitutes employment discrimination. Under current law, the Division of Personnel Management may not request a person applying for a position in the civil service to conviction record information unless a particular conviction record disqualifies applicants for a certain position in the state civil service. Currently, 13 states and the District of Columbia prohibit private employers from asking applicants to identify whether they have criminal records, including Illinois and Minnesota.
- Limiting physical restraints on pregnant and postpartum people in correctional facilities and provide them certain testing, materials, services and information.
- Provide $156,000 SEG in each year to the Department of Natural Resources to contract with the Department of Corrections for persons in the Department of Corrections' care to work as LTEs in state park system properties through a work release program.
- Establishing statutory procedures for processing and storing sexual assault kits.
- Requiring, with certain exceptions, that any firearm transfers be done through federally licensed firearm dealers with background checks conducted on recipients.
- Creating an extreme risk protection injunction procedure where a court, after a hearing, may order an individual to refrain from possessing a firearm if it finds by clear and convincing evidence that he or she
is substantially likely to injure himself or herself or another by possessing a firearm. The Department of Justice would, in addition to checking for prohibitions under current law, check whether an applicant for a license to carry a concealed weapon is prohibited from possessing a firearm under an extreme risk protection injunction.

- Restoring immunity from revocation of probation, parole or extended supervision for certain controlled substance offenses. This would reinstate immunities which sunset on August 1, 2020.
- Funding an additional eight circuit court branches, providing an additional 5.9 assistant district attorney positions, and providing an additional 10 State Public Defender positions.

GOVERNOR’S 21-23 BUDGET

- **Sentencing**
  - Establishing a Sentencing Review Council to study and make recommendations regarding: reforming the state’s criminal code, equity in sentencing, the state’s bifurcated sentencing structure, and sentences for violations committed by those between 18 and 25 years of age.
  - Expanding the earned release program to include educational, vocational, treatment or other qualifying training programs that are evidence-based to reduce recidivism.
  - Allowing a sentencing court to reduce the term of a person’s extended supervision if certain conditions apply.
  - Expanding the conditions under which an individual may have his or her criminal record expunged of a conviction.
  - Eliminating the felony penalty for bail jumping and allowing for a misdemeanor penalty regardless of the original charge.
  - Requiring a diversion and restitution alternative for certain misdemeanor offenses.
  - Modifying the process by which DOC may revoke the extended supervision, probation or parole of a person and modify the sanctions procedure for certain rule violations.
  - Allowing, at the discretion of the county sheriff, for a person being held in jail on an extended supervision hold to be eligible for Huber release privileges.
  - Creating an earned compliance credit for certain eligible individuals. The earned compliance credit would equal the amount of time served on extended supervision or parole without violating any conditions or rules of extended supervision or parole.
  - Clarifying that the earned release program can reduce a term of confinement below a mandatory minimum period of confinement.
  - Requiring DOC to identify the cost savings incurred by the modifications to the earned release and extended supervision processes and utilize the savings identified for training programs, recidivism reduction services, and community supervision.

- **Treatment and Diversion Programs**
  - Investing $15 million to expand TAD programs.
  - Making statutory language changes related to the TAD program to improve administration, encourage the adoption of programs, expand eligibility, and increase the types of programs.

- **DOC Programming**
  - Opening Avenues to Reentry Success Expansion - $5.26 Million
  - Windows to Work (WTW) Expansion - $500,000
  - Medication Assisted Treatment (MAT) Program Expansion - $1.6 Million
  - Educational Initiatives in DAI - $4.75 Million
  - Racine Youthful Offender Correctional Facility Behavior Modification Housing Unit - $919,500
  - Expansion of Options for Alternatives for Revocation - $3.12 Million
  - Expansion of Adult Institutions Treatment Capacity - $3.448 Million
• **Other Reforms & Investments**
  
  - Establishing that requesting an applicant for employment to supply information regarding his or her conviction record, or otherwise considering the record, prior to selection for an interview constitutes employment discrimination.
  - Limiting physical restraints on pregnant and postpartum people in correctional facilities and provide them certain testing, materials, services and information.
  - Providing $156,000 SEG in each year to the Department of Natural Resources to contract with the Department of Corrections for persons in the Department of Corrections' care to work as LTEs in state park system properties through a work release program.
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  - Creating an extreme risk protection injunction procedure.
  - Restoring immunity from revocation of probation, parole or extended supervision for certain controlled substance offenses.
  - Funding an additional eight circuit court branches, providing an additional 5.9 assistant district attorney positions, and providing an additional 10 State Public Defender positions.