

Evers' plan to shrink prison population faces uphill battle in GOP-controlled Legislature

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Gov. Tony Evers would like to eventually close some of Wisconsin's state prisons, after campaigning on a goal of eventually cutting the state's inmate population in half.

His budget lays out a roadmap of how he'd like to get there.

Among other things, Evers' budget includes provisions to do away with felony bail jumping, expand earned release and even end the use of arrest as a punishment for unpaid parking tickets.

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But some of Evers' criminal justice proposals are likely to run into stiff opposition from Republicans, who have argued the gov's goal of cutting the prison population in half would mean releasing violent offenders back into the community.

Assembly Speaker Robin Vos, R-Rochester, declared this week GOP lawmakers will scrap Evers' budget and "start from scratch." Beyond that, Republicans a year ago pushed through a series of bills that sought to expand the crimes that would place minors in the juvenile corrections system, prevent prosecutors from placing a felon charged with firearm possession in a deferred prosecution program, and prevent felons convicted of certain violent crimes from being eligible for parole.

Evers last year vetoed the bills, including one that would require the revocation of

supervised release if someone is charged with another crime while on probation or parole. Republicans, including freshman Sen. Julian Bradley, have reintroduced that bill this session.

The Franklin Republican said last month when he announced the bill it was mind-blowing that someone on probation isn't immediately put back in prison if charged with another crime.

"I'm in favor of second chances, but we must ensure those who have already broken our laws aren't getting opportunity after opportunity to wreak havoc on our neighborhoods," Bradley said. "The system isn't working, and we must ensure our laws put the safety of our families and communities first."

The proposals in Evers' budget come as the state's adult prison population has been trending downward for the past year.

The state's adult prison population hit 23,784 in mid-2019, and it was still above 23,000 in April 2020, just after the pandemic began to take hold in Wisconsin. Meanwhile, the Wisconsin Policy Forum in late 2018 was projecting the population would eclipse 25,000 by 2021.

But at the end of last week, Corrections reported 19,607 prisoners in adult facilities. The population initially dipped below 20,000 in January. That marked the first time it's been below that mark since 1999 as the state went through a tough-on-crime phase that included truth in sentencing, which largely did away with parole.

The recent population dip was likely driven, in part, by a court system that's been slowed by the pandemic, reducing the number of new inmates going into Wisconsin prisons.

Evers told a WisPolitics.com virtual luncheon last week he wants to continue decreasing state prison populations while improving mental health resources and programs to reduce recidivism.

"All of those things together will dramatically decrease the number of people in our system and close prisons," said Evers. Asked whether he envisions a day when an adult prison is closed, he said: "Absolutely, yes."

Still, the prison population remains nearly 11.5 percent above the system's capacity, and Evers' budget doesn't call for closing any state prisons.

Instead, the budget includes a series of provisions that would likely help lower the state's prison population further. Evers also wants to create a sentencing review council to study and make recommendations regarding the criminal code, equity in sentencing and sentences for crimes committed by those between the ages of 18 and 25.

Other budget provisions include:

- *allowing a court to reduce an offender's extended supervision in certain situations. That includes having served three years or half of the term — whichever is less — without violating conditions of their supervision; meeting financial obligations to the victim of the crime; not being required to register as a sex offender; and not having committed a crime against a child. Under current law, offenders receive a bifurcated sentence with the first portion served in prison and the second on extended supervision. Corrections currently isn't allowed to discharge someone from extended supervision until the entire term is completed.

- *limiting when a person's probation, parole or extended supervision may be revoked. Currently, the state may revoke probation, parole or extended supervision for a rules violation. The budget proposes only allowing revocation for a rules violation in certain circumstances. That includes violating a condition prohibiting contact with a specific individual; if the person is a registered sex offender; if the rule violation also included committing a crime; if person failed to report for supervision for more than 60 consecutive days; or if the person violated three or more independent rules.

- *expanding the state's earned release program that now includes successfully completing a substance abuse program to include educational, vocational, treatment or other qualifying training programs to reduce recidivism. The option would only be for inmates who committed nonviolent crimes.

- *allowing inmates' terms of confinement to be reduced below a mandatory minimum sentence if they qualify for a reduction backed on a sentence adjustment, earned release or compassionate release. A state court of appeals decision last year limited a judge's ability to reduce confinement of a bifurcated sentence if the crime carried a mandatory minimum term.

- *expanding use of Huber work release programs for those in county jails.

*reducing the maximum sentence for a class D felony to 20 years from 25 and the accompanying extended supervision to five years from 10.

*requiring prosecutors to offer deferred prosecution agreements for a first disorderly conduct violation in certain situations, including when the offender hadn't committed a felony in the previous three years.

*expanding the conditions under which an individual may have his or her criminal record expunged of a conviction.

*expanding the Treatment Alternatives and Diversion program for those with drug or alcohol issues.

*and restoring immunity for revocation of probation, parole or extended supervision for certain controlled substance offenses. Those immunities sunset Aug. 1.

Adam Plotkin, legislative liaison for the State Public Defender's Office, said proposals such as the changes to the penalties for disorderly conduct have been shown to reduce costs and often don't involve a public safety risk. They also place the emphasis more on habitual offenders than people making a one-time mistake.

"It's an effort to reduce the number of people coming into the criminal justice system because once you have that contact, it's very hard to become uninvolved later in life," Plotkin said.

Evers also wants other changes to criminal justice system, police policies

The proposals are just one portion of the sweeping overhaul that Evers is proposing to the state's criminal justice system. That includes a reworking of how the state treats juvenile offenders, including largely returning 17-year-olds to the juvenile justice system rather than adult courts.

Evers also wants to collect data from motor vehicle stops made on or after Jan. 1, 2022, to see if the occupants were racially profiled. The information, which wouldn't be subject to the state's open records law, would be forwarded to the Department of Justice for analysis.

And he wants to limit the use of restraints on pregnant and postpartum women in correctional facilities.

The budget also includes some proposals from a nine-bill package that Evers unveiled last summer in the wake of George Floyd's death at the hands of a Minneapolis police officer.

That includes requiring law enforcement agencies to develop use of force policies that prohibit the use of chokeholds.

Evers also wants:

- *to ban no-knock search warrants;

- *to require law enforcement officers to annually complete at least eight hours of training on use-of-force options;

- *to require law enforcement agencies to keep an employment file for each employee. Those files could then be reviewed by other law enforcement agencies considering hiring a candidate.

- *and to create a civil cause of action for someone who unnecessarily summons a police officer.

GOP lawmakers last year refused to take up the bills, though legislators introduced a package of their own earlier this session. Sen. Van Wanggaard, who chairs the Judiciary and Public Safety Committee, plans a public hearing on those bills, according to an aide for the Racine Republican.

Meanwhile, the Speaker's Task Force on Racial Disparities continues to meet. Assembly Majority Leader Jim Steineke, who co-chairs the task force, said he was disappointed Evers included the police policy provisions in his budget while the task force is working to build consensus.

"This task force was created to bring everyone to the table and find consensus on how we can make progress," Steineke, R-Kaukauna said. "The governor has decided yet again to move forward with his recommendations, failing to realize the importance of consensus-building."