

Disability Rights Wisconsin Asks Supreme Court to Intervene in Efforts to Release Vulnerable People from Correctional Settings Amid COVID-19

FOR IMMEDIATE RELEASE

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Madison – Disability Rights Wisconsin, along with state criminal defense lawyers and two incarcerated individuals with pre-existing conditions, filed a petition in the Wisconsin State Supreme Court today seeking the release of elderly and vulnerable people from state prisons in order to avoid a dangerous outbreak that would further strain the state’s health care capacity and put public health at risk.

The lawsuit filed by ACLU Wisconsin asks the court to order Governor Tony Evers and state corrections officials to reduce the prison population to a level where social distancing is possible, giving priority to the elderly and those with conditions that increase their risk of COVID-19 complications and death.

“There were some initial steps taken to deal with this health crisis in Wisconsin’s jails and prisons, but the close quarters and over-crowded conditions that exist in these facilities continue to make them potential deadly incubators for this virus,” said Kit Kerschensteiner, Disability Rights Wisconsin’s Advocacy Director. “The only solution is to drastically reduce the population in these facilities immediately. Individuals with mental illness or physical disabilities often have health issues that put them at high risk of serious complications from COVID-19, and they should be among the first individuals prioritized for release.”

There are roughly 23,000 adults in Department of Corrections facilities designed to hold just 17,815. This exceeds their capacity by more than 30%. According to the Department of Correction’s 2019-21 budget request, 41% of state inmates have mental health issues. To date, only 1.3% of this population has been released in response to this crisis, which barely scratches the surface of settings where social distancing and other mitigation measures recommended by public health experts are impossible. This poses a risk to the vulnerable people incarcerated there, and to facility staff and surrounding communities.

The lawsuit also asks the Supreme Court to direct the circuit courts to take all necessary actions to reduce the number of people being held in jails awaiting trial. The majority of individuals with mental illness are awaiting trial or serving sentences for low-level non-violent offenses. Many remain in jail simply because they cannot afford bail. “In this crisis public safety is more threatened by their incarceration than release,” said Kerschensteiner.

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Under Wisconsin law, the governor has the power to issue reprieves for sentenced persons for the duration of this health emergency after which their sentence, if appropriate, could be reinstated. The governor also has the power to grant pardons and commute sentences under the same provisions of the constitution.

Simply not enough has been done to prevent an outbreak that would strain our hospital system, endanger public health, and claim thousands of lives. State officials have the power to avert this catastrophe, and actions must be taken now to safely and rapidly reduce Wisconsin's prison populations in order to minimize the risk of severe outbreaks of COVID-19. Lives are at risk and we simply cannot afford to wait.

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