



OLR RESEARCH REPORT

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COUNTING PRISONERS AT THEIR LAST-KNOWN ADDRESS FOR REDISTRICTING PURPOSES

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You asked (1) whether states have passed legislation to count prisoners for redistricting purposes at their last-known address before incarceration; (2) if so, the arguments proponents and opponents made for and against this practice; and (3) whether other states are considering similar legislation.

SUMMARY

In February 2010, the U.S. Census Bureau announced that it would identify the census blocks containing group quarters such as correctional facilities, leaving it to states to decide how to use this data when drawing legislative districts. Thus, the ultimate decision for states is whether to count prison inmates as a part of the town where the prison is located or at their last-known residence before incarceration.

Shortly after the Census Bureau's announcement, three states, Delaware (HB 384), Maryland (HB 496), and New York (AB 9710-D), enacted legislation to redraw districts by counting prisoners at their last-known residence instead of in the towns where the prisons are located. Generally, the arguments for and against the legislation were the same in all three states.

Proponents argued that the legislation is necessary to stop the practice of inmate-based gerrymandering that fundamentally undermines the principle of one person, one vote by reallocating political power from one area (e.g. inner cities) to another area (e.g. rural communities).

Opponents argued that prisoners should be counted in the area where the prisons are located because: (1) prisoners use community resources such as law enforcement, water, and sewer; (2) it is not clear that prisoners return to the area where they lived before incarceration; and (3) prisoners' families often move near the prisons.

Proponents in the three states were civil rights advocates, legislators representing inner cities, and community service or citizen action groups (e.g., Prison Policy Initiative and Common Cause). Opponents were legislators representing rural areas.

At least 12 other states are considering legislation under which prisoners would be counted for redistricting purposes at their last-known address before incarceration. In most of these states, the legislation is pending in committee or in one chamber. Two states, Arkansas and Rhode Island, recommended the legislation for further study. In Virginia, the House passed the legislation and it is pending in the Senate.

CURRENT LEGISLATION IN OTHER STATES

Table 1 lists the 12 states that are considering legislation to count prisoners at their last-known address. It summarizes the legislation and shows its status.

Table 1: Current Legislation in Other States

State	Bill	Status
Arkansas	HR1024 urges the U.S. Census Bureau to provide redistricting data that counts prisoners in a manner consistent with the principles of "one person, one vote."	Pending in committee
	HB1996 requires incarcerated individuals to be counted for redistricting purposes at their last known address prior to incarceration.	Committee recommended issue for interim study
	HB2102 requires incarcerated individuals to be counted for redistricting purposes at their last known address prior to incarceration if they were state residents at that time.	Committee recommended issue for interim study
California	ACR 21 urges the California Redistricting Commission to deem each incarcerated person as residing at his or her last known address prior to incarceration.	Pending in Assembly
	AB 869 requires the Department of Corrections and Rehabilitation to provide the California Redistricting Commission with the pre-incarceration addresses of people under its jurisdiction.	Pending in Assembly
Georgia	HB 163 requires incarcerated individuals to be counted for	Pending in committee

Table 1: Continued

State	Bill	Status
	redistricting purposes at their last known address prior to incarceration if they were state residents at that time.	
Illinois	HB 94 requires state and local governmental bodies to use census figures adjusted to reflect the pre-incarceration addresses of persons imprisoned in state or federal facilities and the secretary of state to make the adjustments based upon information reported by state and local governmental entities that operate or place persons in facilities.	Pending on in House
Indiana	HB 1459 requires incarcerated individuals to be counted for redistricting purposes at their last known address prior to incarceration.	Pending in committee
Kentucky	HB 484 requires the Department of Correction to create and maintain a database with information on incarcerated individuals, including their last know address prior to incarceration, and the General Assembly to use this information for redistricting.	Pending in committee
New Jersey	AB 2551 requires incarcerated individuals to be counted as residents of their previous address, not prison, for redistricting purposes.	Pending in committee
Oklahoma	SB 932 requires incarcerated individuals to be counted for redistricting purposes at their last known address prior to incarceration if they were state residents at that time.	Pending in committee
Oregon	SB 720 requires (1) the Department of Corrections to determine the last-known address of inmates in its custody; (2) the secretary of the state to adjust population data that the U.S. Census Bureau reports to reflect these pre-incarceration residences; and (3) reapportionment to use the adjusted population data.	Pending in committee
Rhode Island	SB 340 makes the domicile of an incarcerated individual for voting purposes the last address he or she furnished to a government agency prior to incarceration.	Committee recommended measure be held for further study
Texas	HB 1227 requires incarcerated individuals to be counted for redistricting purposes at their last known address prior to incarceration.	Pending in committee
Virginia	HB 2073 authorizes a local governing body to exclude from its calculations in drawing local districts for decennial redistricting the population of certain correctional facilities. The bill includes federal and regional, as well as state, correctional facilities and allows the exclusion of the facility population if it exceeds 12% of the ideal population of an election district of the locality.	Passed full House and a Senate committee

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