

2013 -- H 5283

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO ELECTIONS - RESIDENCE OF THOSE IN GOVERNMENT CUSTODY
ACT

Introduced By: Representatives Williams, Lally, Guthrie, Hull, and Ajello

Date Introduced: February 06, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 17 of the General Laws entitled "ELECTIONS" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 30

4 RESIDENCE OF THOSE IN GOVERNMENT CUSTODY ACT

5 **17-30-1. Title.** – This chapter shall be known and may be cited as the "Residence of
6 those in government custody act".

7 **17-30-2. Legislative declaration and findings.** – The purpose of this chapter is to ensure
8 that persons in government custody within the state are counted at their actual residence for
9 redistricting purposes. The general assembly notes that Rhode Island general laws section 17-1-
10 3.1 provides: "A person's residence for voting purposes is his or her fixed and established
11 domicile... A person can have only one domicile, and the domicile shall not be considered lost
12 solely by reason of absence for any of the following reasons:... Confinement in a correctional
13 facility..." Investigation has shown that, despite these provisions, the census classifies
14 incarcerated persons as residents of their places of incarceration rather than of their home
15 addresses. The provisions of this act are necessary to provide procedures and duties to correct this
16 discrepancy.

17 **17-30-3. Electronic record.** – The department of corrections shall collect and maintain
18 an electronic record of the legal residence, presumptively outside of the facility, and other

1 demographic data, for any person entering its custody after January 1, 2014. At a minimum, this
2 record shall contain the last known complete street address prior to incarceration, the person's
3 race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of
4 eighteen (18).

5 **17-30-4. Reports to the secretary of state.** – (a) In each year in which the federal
6 decennial census is taken but in which the United States bureau of the census allocates
7 incarcerated persons as residents of correctional facilities, the department of corrections shall, by
8 May 1st of that same year, deliver to the secretary of state:

9 (1) The street address of the correctional facility in which such person was incarcerated at
10 the time of such report;

11 (2) The last known address of such person prior to incarceration or other legal residence
12 (if known);

13 (3) The person's race, whether the person is of Hispanic or Latino origin, and whether the
14 person is over the age of eighteen (18) (if known);

15 (4) Any additional information as the secretary of state may request pursuant to law.

16 (b) The department shall provide the information specified in subsection 17-30-4(a) in
17 such form as the secretary of state shall specify.

18 (c) Notwithstanding any other provision of the general or public laws to the contrary, the
19 information required to be provided to the secretary of state pursuant to this subdivision shall not
20 include the name of any incarcerated person and shall not allow for the identification of any such
21 person therefrom, except to the department of corrections. The information shall be treated as
22 confidential, and shall not be disclosed by the secretary of state except as redistricting data
23 aggregated by census block for purposes which they may require.

24 **17-30-5. Federal facilities.** – The secretary of state shall request each agency that
25 operates a federal facility in this state that incarcerates persons convicted of a criminal offense to
26 provide the secretary of state with a report including the information listed in section 17-30-4.

27 **17-30-6. Requiring use of data in redistricting.** – The secretary of state shall prepare
28 redistricting population data to reflect incarcerated persons at their residential address, pursuant to
29 section 17-30-5. The data prepared by the secretary of state pursuant to section 17-30-5 shall be
30 the basis of state house of representative districts, state senate districts, and all local government
31 districts that are based on population. Incarcerated populations residing at unknown geographic
32 locations within the state, as determined under section 17-30-5 shall not be used to determine the
33 ideal population of any set of districts, wards, or precincts.

34 **17-30-7. Determinations and data publication by the secretary of state.** – (a) For each

1 person included in a report received under this chapter, the secretary of state shall determine the
2 geographic units for which population counts are reported in the federal decennial census that
3 contain the facility of incarceration and the legal residence as listed according to the report.

4 (b) For each person included in a report received under this chapter, if the legal residence
5 is known and in this state, the secretary of state shall:

6 (1) Ensure that the person is not represented in any population counts reported by the
7 secretary of state for the geographic units that include the facility at which the person was
8 incarcerated, unless that geographic unit also includes the person's legal residence.

9 (2) Ensure that any population counts reported by the secretary of state reflect the
10 persons' residential address as reported pursuant to this chapter.

11 (c) For each person included in a report received under this chapter for whom a legal
12 residence is unknown or not in this state, and for all persons reported in the census as residing in a
13 federal correctional facility for whom a report was not provided, the secretary of state shall:

14 (1) Ensure that the person is not represented in any population counts reported by the
15 secretary of state for the geographic units that include the facility at which the person was
16 incarcerated.

17 (2) Allocate the person to a state unit not tied to a specific determined geography, as
18 other state residents with unknown state addresses are allocated, including, but not limited to,
19 military and federal government personnel stationed overseas.

20 (d) The data prepared by the secretary of state pursuant to this section shall be completed
21 and published no later than thirty (30) days from the date that federal decennial PL94-171 data is
22 published for the state of Rhode Island.

23 **17-30-8. Use in aid.** – The data prepared by the secretary of state in section 17-30-5 shall
24 not be used in the distribution of any state or federal aid.

25 **17-30-9. Severability.** – If any provision of this act or the application of any provision of
26 this act to any person or circumstance is held invalid, the invalidity does not affect other
27 provisions or applications of the act that can be given effect without the invalid provision or
28 application, and for this purpose the provisions of this act are severable.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO ELECTIONS - RESIDENCE OF THOSE IN GOVERNMENT CUSTODY
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1 This act would require that persons in government custody use their actual residence for
2 census and redistricting purposes. Such information shall be determined by the department of
3 corrections and the secretary of state, and forwarded to the United States census bureau.

4 This act shall take effect upon passage.

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