

2020 -- H 7140

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO ELECTIONS - RESIDENCE OF THOSE IN GOVERNMENT CUSTODY
ACT

Introduced By: Representatives Williams, Almeida, Caldwell, Alzate, and McEntee

Date Introduced: January 16, 2020

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.**

6 This chapter shall be known and may be cited as the "Residence of Those in Government
7 Custody Act."

8 **17-30-2. Legislative declaration and findings.**

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

18 **17-30-3. Electronic record.**

1 The department of corrections shall collect and maintain an electronic record of the legal
2 residence, presumptively outside of the facility, and other demographic data, for any person
3 entering its custody after January 1, 2021. At a minimum, this record shall contain the last known
4 complete street address prior to incarceration, the person's race, whether the person is of Hispanic
5 or Latino origin, and whether the person is over the age of eighteen (18).

6 **17-30-4. Reports to the secretary of state.**

7 (a) In each year in which the federal decennial census is taken but in which the United
8 States Bureau of the Census allocates incarcerated persons as residents of correctional facilities,
9 the department of corrections shall, by May 1 of that same year, deliver to the secretary of state:

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

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

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

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

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

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

25 **17-30-5. Federal facilities.**

26 The secretary of state shall request each agency that operates a federal facility in this state
27 that incarcerates persons convicted of a criminal offense to provide the secretary of state with a
28 report including the information listed in § 17-30-4.

29 **17-30-6. Requiring use of data in redistricting.**

30 The secretary of state shall prepare redistricting population data to reflect incarcerated
31 persons at their residential address, pursuant to § 17-30-5. The data prepared by the secretary of
32 state pursuant to § 17-30-5 shall be the basis of state house of representative districts, state senate
33 districts, and all local government districts that are based on population. Incarcerated populations
34 residing at unknown geographic locations within the state, as determined under § 17-30-5, shall

1 not be used to determine the ideal population of any set of districts, wards, or precincts.

2 **17-30-7. Determinations and data publication by the secretary of state.**

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

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

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

12 (2) Ensure that any population counts reported by the secretary of state reflect the
13 person's residential address as reported pursuant to this chapter.

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

17 (1) Ensure that the person is not represented in any population counts reported by the
18 secretary of state for the geographic units that include the facility at which the person was
19 incarcerated; and

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

23 (d) The data prepared by the secretary of state pursuant to this section shall be completed
24 and published no later than thirty (30) days from the date that federal decennial data as provided
25 for in chapter 171 of the Pub L. of 1994 is published for the state of Rhode Island or forty-five
26 (45) days after passage of this act, whichever is later.

27 **17-30-8. Use in aid.**

28 The data prepared by the secretary of state as required by § 17-30-5 shall not be used in
29 the distribution of any state or federal aid.

30 **17-30-9. Severability.**

31 If any provision of this act or the application of any provision of this act to any person or
32 circumstance is held invalid, the invalidity shall not affect other provisions or applications of the
33 act that can be given effect without the invalid provision or application, and for this purpose the
34 provisions of this act are severable.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require that the state use the actual residences of persons in government
2 custody for census and redistricting purposes. Such information would be determined by the
3 department of corrections and the secretary of state, and forwarded to the United States census
4 bureau.

5 This act would take effect upon passage.

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