

2023 -- H 5613

LC001260

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO ELECTIONS -- RESIDENCE OF INDIVIDUALS IN GOVERNMENT
CUSTODY ACT

Introduced By: Representatives Cruz, Potter, Slater, Stewart, Kazarian, Batista, Morales,
J. Lombardi, Cotter, and McNamara

Date Introduced: February 15, 2023

Referred To: House State Government & Elections

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 INDIVIDUALS IN GOVERNMENT CUSTODY ACT

5 **17-30-1. Short title.**

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

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

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

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

18 The department of corrections shall collect and maintain an electronic record of the legal

1 residence, presumptively outside of the facility, and other demographic data, for any person
2 entering its custody after January 1, 2024. At a minimum, this record shall contain the last known
3 complete street address prior to incarceration, the person's race, whether the person is of Hispanic
4 or Latino origin, and whether the person is over the age of eighteen (18) years.

5 **17-30-4. Reports to the secretary of state.**

6 (a) By May 1 of each year, the department of corrections shall deliver to the secretary of
7 state:

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

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

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

14 (4) For any person who entered the department's custody prior to January 1, 2024, the
15 department shall provide all information specified in subsections (a)(1) through (a)(3) of this
16 section that exists in its records; and

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

18 (b) The department shall provide the information specified in subsection (a) of this section
19 in such form as the secretary of state shall specify.

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

26 **17-30-5. Federal facilities.**

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

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

31 The secretary of state shall prepare redistricting population data to reflect incarcerated
32 persons at their residential address, pursuant to § 17-30-4. The data prepared by the secretary of
33 state pursuant to § 17-30-4 shall be the basis of state house of representative districts, state senate
34 districts, and all local government districts that are based on population. Incarcerated populations

1 residing at unknown geographic locations within the state, as determined under § 17-30-4, shall not
2 be used to determine the ideal population of any set of districts, wards, or precincts.

3 **17-30-7. Redistricting data publication by the secretary of state.**

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

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

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

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

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

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

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

24 (d) The data prepared by the secretary of state pursuant to this section shall be completed
25 and published no later than thirty (30) days from the date that federal decennial data is published
26 for the State of Rhode Island or forty-five (45) days after the effective date of this chapter,
27 whichever is later.

28 **17-30-8. Annual reports by the secretary of state.**

29 For each report received from the department or federal agency under this chapter, the
30 secretary of state shall analyze the data submitted for its completeness and publish its findings,
31 including, but not limited to:

32 (1) The number of records that were missing data;

33 (2) The number of records that could not be geocoded; and

34 (3) For any records that could not be geocoded, a determination of which information was

1 missing or otherwise made the record unable to be geocoded.

2 **17-30-9. Use in aid.**

3 The data prepared by the secretary of state as required by § 17-30-4 shall not be used in the
4 distribution of any state or federal aid.

5 **17-30-10. Severability.**

6 If any provision of this chapter or the application of any provision of this chapter to any
7 person or circumstance is held invalid, the invalidity shall not affect other provisions or applications
8 of the chapter that can be given effect without the invalid provision or application, and for this
9 purpose the provisions of this chapter are severable.

10 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 INDIVIDUALS IN GOVERNMENT
CUSTODY ACT

1 This act would require that the state use the actual residences of persons in government
2 custody for redistricting purposes. Such information would be collected by the department of
3 corrections and forwarded to the secretary of state to be utilized for redistricting. The secretary of
4 state would be required to file annual reports.

5 This act would take effect upon passage.

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