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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO ELECTIONS - STATE AFFAIRS AND GOVERNMENT - RESIDENCE OF
THOSE IN GOVERNMENT CUSTODY ACT

Introduced By: Senators Metts, Nesselbush, Quezada, Cano, and Crowley

Date Introduced: January 31, 2019

Referred To: Senate 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 in part: "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, 2020. 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);

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 subsection (a) of this
18 section in such form as the secretary of state deems appropriate.

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

24 **17-30-5. Federal facilities.**

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

28 **17-30-6. Requiring use of data in redistricting.**

29 The secretary of state shall prepare redistricting population data to reflect incarcerated
30 persons at their residential address, pursuant to §§ 17-30-4 and 17-30-5. The data prepared by the
31 secretary of state pursuant to §§ 17-30-4 and 17-30-5 shall be the basis of state house of
32 representative districts, state senate districts, and all local government districts that are based on
33 population. Incarcerated populations residing at unknown geographic locations within the state,
34 as determined under §§ 17-30-4 and 17-30-5, shall not be used to determine the ideal population

1 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 required by 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 this chapter's required report, if their legal residence is
8 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.

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 required by 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.

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 compiled
24 and published no later than thirty (30) days from the date that federal decennial (Pub. L. 94-171)
25 data is published for the state of Rhode Island.

26 **17-30-8. Use in aid.**

27 The data prepared by the secretary of state as required by §§ 17-30-4 and 17-30-5 shall
28 not be used to determine the distribution of any state or federal aid.

29 **17-30-9. Severability.**

30 If any provision of this act or the application of any provision of this act to any person or
31 circumstance is held invalid, the invalidity does not affect other provisions or applications of the
32 act that can be given effect without the invalid provision or application, and for this purpose the
33 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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RELATING TO ELECTIONS - STATE AFFAIRS AND GOVERNMENT - RESIDENCE OF
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1 This act would require the state to use the actual residence of persons in government
2 custody for redistricting purposes. Their actual residences would be collected by the department
3 of corrections and forwarded to the secretary of state to be utilized for redistricting.

4 This act would take effect upon passage.

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