

1 SENATE BILL NO. 77

2 INTRODUCED BY S. MORIGEAU

3 BY REQUEST OF THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO REDISTRICTING
6 DATA FOR INMATES; REQUIRING THE DEPARTMENT OF CORRECTIONS TO COLLECT CERTAIN
7 ADDRESS AND DEMOGRAPHIC INFORMATION FROM INCARCERATED INDIVIDUALS; REQUIRING THE
8 STATE CENSUS AND ECONOMIC INFORMATION CENTER TO REVISE FEDERAL DECENNIAL CENSUS
9 POPULATION DATA TO REALLOCATE INCARCERATED INDIVIDUALS; REQUIRING LOCAL
10 GOVERNMENTS TO USE THE ADJUSTED DATA TO REVISE ELECTION BOUNDARIES THAT ARE BASED
11 ON POPULATION; AMENDING SECTION 90-1-109, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context clearly
17 indicates otherwise, the following definitions apply:

18 (1) "Center" means the state census and economic information center established in 90-1-109.

19 (2) "Department" means the department of corrections established in 2-15-2301.

20 (3) "Federal correctional facility" means a prison or correctional facility owned by or contracting
21 with the United States government to incarcerate individuals convicted of a criminal offense.

22 (4) "Last known address" means an individual's last known complete street or physical address
23 prior to the individual's incarceration. An individual's last known address is presumed to be outside of the state
24 prison or federal correctional facility in which the individual is held.

25 (5) "Local government district" means a district based on population that is maintained by a local
26 government primarily for election purposes and that must be substantially equal in population under the 14th
27 amendment to the United States constitution.

28 (6) "State prison" means a facility listed in 53-30-101(1), (2), or (4).

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2 **NEW SECTION. Section 2. Electronic record.** (1) Within 6 months of [the effective date of this act],
3 the department shall collect and maintain an electronic record of the last known address and other
4 demographic data for an individual entering the department's custody. The record must include but is not limited
5 to:

- 6 (a) the individual's last known address;
- 7 (b) the individual's race, whether the person is an American Indian or an Alaska Native, and
8 whether the person is of Hispanic or Latino origin; and
- 9 (c) if the individual is 18 years of age or older.

10 (2) To the extent possible, the department shall collect and maintain the information required in
11 subsection (1) for individuals in state prisons who entered the department's custody prior to [the effective date
12 of this act].

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14 **NEW SECTION. Section 3. Report to state census and economic information center.** (1) By May
15 1 of each year in which the federal decennial census is taken and in which the United States census bureau
16 allocates incarcerated individuals as residents of a state prison, the department shall deliver to the center:

- 17 (a) a unique identifier not including the name or offender identification number for each
18 incarcerated individual subject to the jurisdiction of the department on the date for which the decennial census
19 reports population numbers;
- 20 (b) the street address of the prison in which the individual was incarcerated at the time of the
21 census;
- 22 (c) the last known address of the individual prior to incarceration;
- 23 (d) the individual's race, whether the individual is an American Indian or an Alaska Native, whether
24 the individual is of Hispanic or Latino origin, and if the person is 18 years of age or older; and
- 25 (e) other information the center may request.

26 (2) The department shall provide the information in subsection (1) in a format specified by the
27 center.

28 (3) The information provided as required in subsection (1) is private. It may not:

1 (a) include the incarcerated individual's name or other information that may allow the individual to
2 be identified except by the department; or

3 (b) be disclosed by the department or the center except as redistricting data aggregated by census
4 block for the purposes described in [section 5].

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6 **NEW SECTION. Section 4. Federal facilities.** The center shall request from each federal
7 correctional facility located in Montana a report that includes the information listed in [section 3(1)].

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9 **NEW SECTION. Section 5. Redistricting population data.** (1) The center shall prepare redistricting
10 population data that reflects an incarcerated individual at the individual's last known address pursuant to
11 [section 6].

12 (2) The districting and apportionment commission ~~may~~ SHALL use the data to form congressional,
13 state house, or state senate districts.

14 (3) A local government shall use the data to form local government districts that are based on
15 population. An incarcerated individual whose address prior to incarceration is unknown, as determined pursuant
16 to [section 6], may not be included in the calculation used to determine the ideal population of a local
17 government district.

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19 **NEW SECTION. Section 6. Adjustment and publication of population data -- notification to**
20 **local governments -- limitation on use for distribution of aid.** (1) For each individual included in a report
21 received under [section 3 or 4], the center shall determine the geographic units for which population counts are
22 reported in the federal decennial census that contain the state prison or federal correctional facility in which the
23 individual is or was incarcerated and the individual's last known address as listed in the report provided
24 pursuant to [section 3 or 4].

25 (2) If the individual's last known address is in Montana, the center shall:

26 (a) remove the individual from any population counts for the geographic units that include the state
27 prison unless that geographic unit also contains the individual's last known address; and

28 (b) ensure that any population counts reported by the center reflect the individual's last known

1 address.

2 (3) If the individual's last known address is not reported or is not in Montana or if an individual
3 reported in the federal decennial census resides in a federal correctional facility, the center shall remove the
4 individual from any population counts for the geographic units that include the state prison or federal
5 correctional facility at which the individual was incarcerated and allocate the individual to a state unit not tied to
6 a specific geography as other state residents with unknown state addresses are allocated, including but not
7 limited to military and federal government personnel stationed overseas.

8 (4) The center shall prepare and publish the data required under this section no later than 30 days
9 from the date that the federal decennial data is published for Montana.

10 (5) The center shall notify local governments that [section 5] requires local governments to use the
11 data prepared as required in [sections 1 through 6].

12 (6) The data prepared by the center may not be used to calculate population to determine the
13 distribution of state or federal aid.

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15 **Section 7.** Section 90-1-109, MCA, is amended to read:

16 "**90-1-109. State census and economic information center.** The department of commerce shall, in
17 cooperation with other state, federal, and local agencies, establish and maintain a central depository of
18 information, including computer-retrievable files, concerning the significant characteristics of the state, its
19 people, economy, land, and physical characteristics. The department shall:

20 (1) analyze and disseminate such this information to state, federal, and local agencies and to the
21 general public; and

22 (2) perform the duties assigned to the state census and economic information center in [sections 1
23 through 6]."

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25 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 6] are intended to be
26 codified as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections
27 1 through 6].

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1 NEW SECTION. **Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are
2 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
3 the part remains in effect in all valid applications that are severable from the invalid applications.

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5 NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 2023.

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7 NEW SECTION. **Section 11. Applicability.** [This act] applies to local election districts based on
8 population whose boundaries are created or altered on or after the date when the redistricting data for the 2030
9 census is available.

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