

MDAC #1 -- Prisoner data bill -- revised based on September 17, 2021, directions from commissioners

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO REDISTRICTING
6 DATA; REQUIRING THE DEPARTMENT OF CORRECTIONS TO COLLECT CERTAIN ADDRESS DATA FOR
7 INCARCERATED INDIVIDUALS; REQUIRING THE STATE CENSUS AND ECONOMIC INFORMATION
8 CENTER TO REVISE FEDERAL DECENNIAL CENSUS POPULATION DATA TO REALLOCATE
9 INCARCERATED INDIVIDUALS; REQUIRING LOCAL GOVERNMENTS TO USE THE ADJUSTED DATA TO
10 REVISE POLITICAL BOUNDARIES THAT ARE BASED ON POPULATION; PROVIDING DEFINITIONS;
11 AMENDING SECTION 90-1-109, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
12 DATE."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15

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 with the
21 United States government to incarcerate individuals convicted of a criminal offense.

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

25 (5) "State prison" means a facility listed in 53-30-101(1), (2), or (4).
26

27 NEW SECTION. Section 2. Electronic record. (1) Within 6 months of [the effective date of this act],
28 the department shall collect and maintain an electronic record of the last known address and other

1 demographic data for an individual entering the department's custody. The record must include but is not limited
2 to:

- 3 (a) the individual's last known address;
- 4 (b) the individual's race and if the person is of Hispanic or Latino origin; and
- 5 (c) whether the individual is 18 years of age or older.

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

9
10 **NEW SECTION. Section 3. Report to state census and economic information center.** (1) By May
11 1 of each year in which the federal decennial census is taken and in which the United States Census Bureau
12 allocates incarcerated individuals as residents of a state prison, the department shall deliver to the center:

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

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

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

- 23 (a) include the incarcerated individual's name or other information that may allow the individual to be
24 identified except by the department; or
- 25 (b) be disclosed by the department or the center except as redistricting data aggregated by census
26 block for the purposes described in [section 5].

27
28 **NEW SECTION. Section 4. Federal facilities.** The center shall request from each federal

1 correctional facility located in Montana a report that includes the information listed in [section 3(1)].

2

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

6 (2) The districting and apportionment commission may use the data to form congressional, state house,
7 or state senate districts.

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

12

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

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

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

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

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

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

3 (5) The center shall notify local governments that [section 5] requires local governments to use the data
4 prepared as required in [sections 1 through 6] for redistricting purposes.

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

7

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

9 **"90-1-109. State census and economic information center.** The department of commerce shall, in
10 cooperation with other state, federal, and local agencies, establish and maintain a central depository of
11 information, including computer-retrievable files, concerning the significant characteristics of the state, its
12 people, economy, land, and physical characteristics. The department shall:

13 (1) analyze and disseminate ~~such~~ this information to state, federal, and local agencies and to the
14 general public; and

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

17

18 **NEW SECTION. Section 8. {standard} Severability.** If a part of [this act] is invalid, all valid parts that
19 are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
20 applications, the part remains in effect in all valid applications that are severable from the invalid applications.

21

22 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2023.

23

24 **NEW SECTION. Section 10. Applicability.** [This act] applies to local districts based on population
25 whose boundaries are created or altered on or after the date when the redistricting data for the 2030 Census is
26 available.

27

- END -