

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
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5 **MDAC#1 – DRAFT FOR CONSIDERATION AT THE COMMISSION'S SEPTEMBER 17, 2021, MEETING:**

6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO REDISTRICTING
7 DATA; REQUIRING THE DEPARTMENT OF CORRECTIONS TO COLLECT CERTAIN RESIDENCE DATA
8 FOR INCARCERATED INDIVIDUALS; REQUIRING THE STATE CENSUS AND ECONOMIC INFORMATION
9 CENTER TO REVISE FEDERAL DECENNIAL CENSUS POPULATION DATA TO REALLOCATE
10 INCARCERATED INDIVIDUALS; REQUIRING LOCAL GOVERNMENT DISTRICTS BASED ON
11 POPULATION TO USE THE DATA; PROVIDING DEFINITIONS; AMENDING SECTION 90-1-109, MCA; AND
12 PROVIDING AN EFFECTIVE DATE AND AN 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 with the
21 United States government to incarcerate individuals convicted of a criminal offense.
- 22 (4) "State prison" means a facility listed in 53-30-101(3)(c)(i) through (c)(iii) and (3)(c)(v).

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24 NEW SECTION. Section 2. Electronic record. (1) Within 6 months of [the effective date of this act],
25 the department shall collect and maintain an electronic record of the legal residence and other demographic
26 data for an individual entering the department's custody. An individual's legal residence is presumed to be
27 outside of the state prison in which an individual is held. The record must include but is not limited to:

- 28 (a) the last known complete street address prior to the individual's incarceration;

- 1 (b) the individual's race and if the person is of Hispanic or Latino origin; and
- 2 (c) whether the individual is 18 years of age or older.

3 (2) To the extent possible the department shall allow an individual to update the individual's legal
4 residence to be updated as appropriate.

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6 **NEW SECTION. Section 3. Report to state census and economic information center.** (1) By May

7 1 of each year in which the federal decennial census is taken and in which the U.S. Census Bureau allocates
8 incarcerated individuals as residents of a state prison, the department shall deliver to the center:

9 (a) a unique identifier not including the name or offender identification number for each incarcerated
10 individual subject the jurisdiction of the department on the date for which the decennial census reports
11 population numbers;

12 (b) the street address of the prison in which the individual was incarcerated at the time of the census;

13 (c) the last known street address of the individual prior to incarceration or other legal residence;

14 (d) the individual's race, whether the individual is of Hispanic or Latino origin, and if the person is 18
15 years of age or older; and

16 (e) other information the center may request.

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

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

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

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

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

26
27 **NEW SECTION. Section 5. Redistricting population data.** (1) The center shall prepare redistricting
28 population data that reflects an incarcerated individual at the individual's residential address pursuant to

1 [section 6].

2 (2) The districting and apportionment commission may use the data from the congressional, state
3 house, or state senate districts.

4 (3) The data must be used to form local government districts that are based on population. An
5 incarcerated individual whose residence is unknown, as determined pursuant to [section 6], may not be
6 included in the calculation used to determine the ideal population of a local government district, ward, or
7 precinct.

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9 **NEW SECTION. Section 6. Residence determination -- data publication -- notification --**

10 **limitation on use for distribution of aid.** (1) For each individual included in a report received under [section 3
11 or 4], the center shall determine the geographic units for which population counts are reported in the federal
12 decennial census that contain the state prison or federal correctional facility in which the individual is or was
13 incarcerated and the individual's legal residence as listed in the report.

14 (2) If the individual's legal residence is known and in Montana, the center shall remove the individual
15 from any population counts for the geographic units that include the state prison or federal facility unless that
16 geographic unit also contains the individual's legal residence and ensure that any population counts reported by
17 the center reflect the individual's residential address as reported under [section 3 or 4].

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

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

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

28 (6) The data prepared by the center may not be used to calculate population to determine the

1 distribution of state or federal aid.

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

4 **"90-1-109. State census and economic information center.** The department of commerce shall, in
5 cooperation with other state, federal, and local agencies, establish and maintain a central depository of
6 information, including computer-retrievable files, concerning the significant characteristics of the state, its
7 people, economy, land, and physical characteristics. The department shall:

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

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

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

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

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

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