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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO ELECTIONS - STATE AFFAIRS AND GOVERNMENT

Introduced By: Senators Metts, Crowley, Jabour, Pichardo, and Doyle

Date Introduced: February 09, 2016

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.** – This chapter shall be known and may be cited as the "Residence of  
6 Those in Government Custody Act".

7 **17-30-2. Legislative declaration and findings.** – The purpose of this chapter is to ensure  
8 that persons in government custody within the state are counted at their actual residence for  
9 redistricting purposes. The general assembly notes that §17-1-3.1 provides in part: "A person's  
10 residence for voting purposes is their fixed and established domicile... A person can have only  
11 one domicile, and the domicile shall not be considered lost solely by reason of absence for any of  
12 the following reasons:...Confinement in a correctional facility..." Investigation has shown that,  
13 despite these provisions, the census classifies incarcerated persons as residents of their places of  
14 incarceration rather than of their home addresses. The provisions of this act are necessary to  
15 provide procedures and duties to correct this discrepancy.

16 **17-30-3. Electronic record.** – The department of corrections shall collect and maintain  
17 an electronic record of the legal residence, presumptively outside of the facility, and other  
18 demographic data, for any person entering its custody after January 1, 2017. At a minimum, this  
19 record shall contain the last known complete street address prior to incarceration, the person's

1 race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of  
2 eighteen (18).

3 **17-30-4. Reports to the secretary of state.** – (a) In each year in which the federal  
4 decennial census is taken but in which the United States Bureau of the Census allocates  
5 incarcerated persons as residents of correctional facilities, the department of corrections shall, by  
6 May 1 of that same year, deliver to the secretary of state:

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

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

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

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

14 (b) The department shall provide the information specified in § 17-30-4(a) in such form  
15 as the secretary of state deems appropriate.

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

21 **17-30-5. Federal facilities.** – The secretary of state shall request each agency that  
22 operates a federal facility in this state which incarcerates persons convicted of a criminal offense  
23 to provide the secretary of state with a report containing the information required by §17-30-4.

24 **17-30-6. Requiring use of data in redistricting.** – The secretary of state shall prepare  
25 redistricting population data to reflect incarcerated persons at their residential address, pursuant to  
26 §§17-30-4 and 17-30-5. The data prepared by the secretary of state pursuant to §§17-30-4 and 17-  
27 30-5 shall be the basis of state house of representative districts, state senate districts, and all local  
28 government districts that are based on population. Incarcerated populations residing at unknown  
29 geographic locations within the state, as determined under §§17-30-4 and 17-30-5 shall not be  
30 used to determine the ideal population of any set of districts, wards, or precincts.

31 **17-30-7. Determinations and data publication by the secretary of state.** – (a) For each  
32 person included in a report required by this chapter, the secretary of state shall determine the  
33 geographic units for which population counts are reported in the federal decennial census that  
34 contain the facility of incarceration and the legal residence as listed according to the report.

1           **(b) For each person included in this chapter's required report, if their legal residence is**  
2 **known and in this state, the secretary of state shall:**

3           **(1) Ensure that the person is not represented in any population counts reported by the**  
4 **secretary of state for the geographic units that include the facility at which the person was**  
5 **incarcerated, unless that geographic unit also includes the person's legal residence.**

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

8           **(c) For each person included in a report required by this chapter for whom a legal**  
9 **residence is unknown or not in this state, and for all persons reported in the census as residing in a**  
10 **federal correctional facility for whom a report was not provided, the secretary of state shall:**

11           **(1) Ensure that the person is not represented in any population counts reported by the**  
12 **secretary of state for the geographic units that include the facility at which the person was**  
13 **incarcerated.**

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

17           **(d) The data prepared by the secretary of state, pursuant to this section, shall be compiled**  
18 **and published no later than thirty (30) days from the date that federal decennial (Pub. L. 94-171)**  
19 **data is published for the state of Rhode Island.**

20           **17-30-8. Use in aid.** – **The data prepared by the secretary of state as required by §§17-30-**  
21 **4 and 17-30-5 shall not be used to determine the distribution of any state or federal aid.**

22           **17-30-9. Severability.** – **If any provision of this act or the application of any provision of**  
23 **this act to any person or circumstance is held invalid, the invalidity does not affect other**  
24 **provisions or applications of the act that can be given effect without the invalid provision or**  
25 **application, and for this purpose the provisions of this act are severable.**

26           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
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 as collected by the  
3 department 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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