

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1986 (Davis) – As Amended: March 29, 2012

SUBJECT: Redistricting.

SUMMARY: Makes various modifications to a provision of existing law that requires the California Department of Corrections and Rehabilitation (CDCR) to provide information to the Citizens Redistricting Commission (CRC) regarding the last known residence of each inmate incarcerated in a state adult correctional facility. Specifically, this bill:

- 1) Requires the CDCR to provide information to the CRC regarding the census block of the last known place of residence for each inmate incarcerated in a state adult correctional facility, instead of providing information about the ZIP Code of the last known place of residence for each inmate.
- 2) Requires CDCR, when providing information to the CRC regarding the last known places of residence of inmates incarcerated in state adult correctional facilities, to exclude all inmates in state custody for whom a last known place of residence within California cannot be determined and all inmates in federal custody in a facility in California.
- 3) Requests the CRC, when using information regarding the last known place of residence for inmates that is furnished to the CRC pursuant to existing law and this bill, to do all of the following:
 - a) Refrain from publishing any information regarding a specific inmate's last known place of residence;
 - b) Deem an inmate in state custody in a facility within California for whom the last known place of residence is either outside of California or cannot be determined, or an inmate in federal custody in a facility within California, to reside at an unknown geographical location in the state and to exclude such inmates from the population count for any district, ward, or precinct; and,
 - c) Adjust race and ethnicity data in districts, wards, and precincts that contain prisons in a manner that reflects reductions in the local population as inmates are included in the population count of the district, ward, or precinct of their last known place of residence.

EXISTING LAW:

- 1) Requires the CDCR, not sooner than April 1, 2020, and not later than July 1, 2020, to furnish to the CRC information regarding the last known residence of each inmate incarcerated in a state adult correctional facility, except an inmate whose last known residence is outside California. Requires CDCR, in 2030 and in each year ending in the number zero thereafter, to provide this information to the CRC not sooner than the decennial census day and not later

than 90 days thereafter.

- 2) Requires the information furnished by the CDCR to include, for each inmate, a unique identifier, other than the inmate's name or CDCR number, and last known address information that is sufficiently specific to determine the congressional, State Senatorial, State Assembly, or Board of Equalization (BOE) district in which the inmate's last known residence is located. Provides that the information may include, but not be limited to, ZIP Code information or street address information from which a ZIP Code can be derived.
- 3) Requests the CRC to deem each incarcerated person as residing at his or her last known residence, rather than at the institution of his or her incarceration, and to use the information furnished to it by the CDCR in carrying out its redistricting responsibilities.
- 4) Specifies that an inmate's last known residence is the address at which the inmate was last domiciled prior to his or her current term of incarceration, as determined from court records of the county in which the inmate was sentenced.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Purpose of the Bill: According to the author:

This bill is a follow-up to AB 420 (Chapter 548, Statutes of 2011), which requested the California Citizens' Commission on Redistricting to count inmates, for redistricting purposes, based on their last known address (according to Courts/Corrections' records) rather than their place of incarceration. This is based on the authority in Elections Code Section 2025 pertaining to a person's domicile for voting purposes.

AB 1986 seeks to fine-tune the provisions of AB 420 by:

1. Extending the scope of AB 420 to federal prisons by requesting the Commission to remove all federal prisoners from any data collected (the rationale for this is the difficulty of obtaining data on the federal inmate population within California from the federal government);
2. Increasing precision in the inmate address data to be provided to the Commission by expressly referencing census block data, which is the standard for map-able addresses;
3. Requesting that the Commission not publish any inmate home address data to address privacy and safety concerns;
4. Requesting the Commission to adjust race and ethnicity data appropriately in the districts containing prisons.

- 2) Census Bureau Policy & Previous Legislation: According to information from the United States Census Bureau (Bureau), planners of the first decennial census in 1790 established the concept of a "usual residence" to determine where people would be counted. A person's usual residence is the place where the person lives and sleeps most of the time. Because of the "usual residence" rule, a person who is on vacation on census day (April 1 of each year ending in "0") will not be counted as living at the place where he or she is vacationing, but rather where that person usually lives. The usual residence policy has been used for every decennial census since the first census, including the 2010 census.

While it is easy to determine the "usual residence" of most people, the determination of the usual residence for people living in non-traditional living situations can be more complex. For instance, the Bureau's policy for counting US military personnel who are living on US military vessels with a US homeport is that those individuals should be counted at the US residence where they live and sleep most of the time, or at the vessel's homeport if they have no onshore US residence. US military personnel who are living on US military vessels with a homeport outside the US, on the other hand, are counted as part of the US overseas population, and are not supposed to be reported on census questionnaires.

The Bureau's policy for counting people in correctional facilities on census day is that those individuals should be counted at the facility of incarceration. This is true for adults and juveniles, and is true for people who are incarcerated in federal prisons or detention centers, state prisons, and local jails and confinement facilities.

Because the state uses population data from the Bureau for redistricting purposes, individuals who are incarcerated in California traditionally have been counted at the place of incarceration when district lines are drawn for the state Legislature, Congress, and the BOE.

Last year, the Legislature approved and the Governor signed AB 420 (Davis), Chapter 548, Statutes of 2011, which requests the CRC, when adjusting district boundaries for state Legislature, Congress, and the BOE, to deem an incarcerated person as residing at his or her last known residence, rather than the institution of his or her incarceration. AB 420 was intended to end the practice whereby incarcerated individuals are counted, for redistricting purposes, as residing at the prison in which they are incarcerated, instead of at the locations where they last resided prior to incarceration. Critics of that practice argue that it artificially inflates the political influence of districts where prisons are located, at the expense of other voters.

This bill makes a number of changes to the provisions of AB 420 in an attempt to allow for that bill to be more effectively implemented. Specifically, this bill requires CDCR to provide residence information for inmates by census blocks, instead of by ZIP Codes, since census blocks are the unit of geography that typically are used to draw district lines. Additionally, this bill seeks to provide greater guidance to the CRC about how to deal with inmates for whom reliable residence information is not available, and seeks to ensure that information provided to the CRC by the CDCR is not considered a public record.

- 3) Citizens Redistricting Commission: Proposition 11, which was approved by the voters at the 2008 statewide general election, created the CRC, and gave it the responsibility for establishing district lines for Assembly, Senate, and BOE. Proposition 11 also modified the

criteria to be used when drawing district lines. Proposition 20, which was approved by the voters at the 2010 statewide general election, gave the CRC the responsibility for establishing lines for California's congressional districts, and made other changes to the procedures and criteria to be used by the CRC.

Because Propositions 11 and 20 established the CRC in the constitution, and gave it the independent authority to draw district lines for Assembly, Senate, Congress, and BOE, it is unclear whether the Legislature can require the CRC to adjust census figures for redistricting purposes. In recognition of this fact, AB 420 did not require the CRC to adjust census figures, but rather requested that it do so. Similarly, this bill does not restrict what the CRC can do with the information that is provided to it by the CDCR, but instead requests that the CRC comply with its provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

Friends Committee on Legislation of California
Prison Policy Initiative

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094