



For more information about Prison-Based Gerrymandering, see our website and weekly newsletter at <http://www.prisonersofthecensus.org>

## House Bill 384: Ending Prison-Based Gerrymandering in Delaware

House Bill 384 would end the practice of giving extra representation to the people who live near prisons and diluting the votes of all other Delaware residents.

Delaware bases its legislative districts on U.S. Census Bureau data that does not count incarcerated people at their residential address, instead the Census considers them residents of the census block that contains the prison. People convicted of felonies in Delaware can not vote while they are incarcerated, and those who are incarcerated for misdemeanors or awaiting trial must vote absentee in their home districts.

This longstanding flaw in the Census undermines the legislature's constitutional duty to draw legislative districts on the basis of equal population. The unfortunate result of using prison populations to pad the legislative districts that contain prisons is to enhance the weight of votes cast in that district while diluting every vote cast in a district whose population is not similarly padded with a prison.

### The solution

House Bill 384 is a simple state-based solution to a problem that should have been corrected by the federal government. Ideally, the U.S. Census Bureau would change its policy and count incarcerated people as residents of their home addresses, but it is too late for the Census Bureau to make this change for the 2010 Census.

Instead, Delaware can remove the prison populations from the Census Bureau's redistricting data and, using its own administrative records, reassign incarcerated people to their home address.

The Census Bureau has recognized the interest of states in this solution, and has agreed to speed up block-level publication of its prison populations data in order to facilitate implementing this type of legislation.

### The benefits

- Every resident in the state would have the same access to the legislature regardless of whether she lived in a district that contained a prison.
- The state would be in compliance with the Supreme Court's "One Person One Vote" rule which requires that all residents be given the same access to government regardless of where they live.
- Currently, legislators who represent districts where a disproportionate number of residents are incarcerated outside of the district are responsible for both their official district population and their incarcerated constituents. Basing districts on more accurate population data would allow these districts to be drawn more fairly.
- There would be no effect on the distribution of federal or state funds, because all funding programs have their own data sources that do not rely on redistricting data.

### Similar efforts

In April, Maryland enacted the "No Representation Without Population Act" and became the first state to pledge to collect the home addresses of incarcerated people and correct redistricting data state-wide. (HB496/SB400)

Similar legislation is pending in New York and has recently been introduced in Connecticut, Florida, Illinois, Minnesota, Oregon, Rhode Island and Wisconsin.