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New York's Census Adjustment Act

The problem

The Census Bureau counts incarcerated people as residents of the communities where prisons are based, as opposed to their home addresses. Even though the New York State Constitution states that incarceration does not change a person's residence, New York uses the Census' figures, including the miscount of incarcerated people, for redistricting purposes. Most of the state's prisoners (66%) are New York City residents, but the vast majority of them (91%) are counted as residents of upstate prisons. Counting incarcerated people as if they were residents of upstate prison towns distorts democracy at both the state and local levels.

The solution

Senator Eric T. Schneiderman and Assembly member Jeffries have introduced legislation in the New York State Senate and Assembly (S.6725A/A.9834A) that will address this critical issue. The legislation would require New York State to adjust the Census figures and draw districts based on people in prison being counted in their home communities.

Who do the bills benefit?

- Residents of urban communities will get the representation they deserve in the state legislature.
- Residents in rural towns that do not have prisons will benefit because the adjacent districts with prisons will no longer have enhanced representation in county government.
- Residents in state districts without prisons will benefit in the state legislature because the people who live in prison districts will no longer have enhanced representation.
- County legislators in counties with prisons will benefit, because the bill will remove the controversy about whether counties should continue to adjust the Census on their own; and the state will assume the difficult technical task of making the adjustments that 13 counties do individually.

Bill Summary

The law would require the state to collect and maintain home address data for each incarcerated person. The state would then use this information to adjust the Census data, and provide the corrected data to state and local redistricting bodies. This corrected data from the state will be used to draw state and local districts.

New York State should join the leaders of Census reform

Most of New York's rural counties with large prisons already reject the Census and fairly apportion political power within the county on the basis of actual — not prison — populations. Adjusting the census to comply with a state constitutional definition of residence has precedent at the state level as well. The Kansas State Constitution defines residence for people in the military and at college differently than the Census Bureau, so Kansas does a special census of those populations and adjusts the federal Census so that the state can draw districts based on data that comply with the state constitution. New York has the same residence requirements for prisoners, and can adjust its data the same way to make its legislative districts comply with its own constitutional mandate regarding residency.

New York State should follow its counties in providing an easy fix to a serious problem.