

Minnesota bill ending prison gerrymandering

Section 1. The legislature notes that section 2 of article VII of the Minnesota constitution provides that: “no person loses residence ... while confined in any public prison.” Investigation has shown that, despite these provisions, the Census tabulates incarcerated persons as residents of their places of incarceration rather than of their home addresses. The provisions of this act are necessary to provide procedures and duties to correct this discrepancy.

Section 2. The Government Data Practices Statutes are amended by adding a new § 13.852 to read as follows:

1. The Department of Corrections shall, starting within 6 months of the effective date of this statute, collect and maintain an electronic record of the legal residence, presumptively outside of the facility, and other demographic data, for any person entering its custody. At a minimum, this record shall contain the last known complete street address prior to incarceration, the person's race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of 18. To the degree possible, the Department of Corrections shall also allow the legal residence to be updated as appropriate.

Section 3. Minnesota Statute § 204B.145 is amended by marking current text as subsection (A) and adding subsection (B) as follows:

(B)

1. Reports to the Secretary of State.

(a) In each year in which the federal decennial census is taken but in which the United States Bureau of the Census allocates incarcerated persons as residents of correctional facilities, the Department of Corrections shall by May 1st of that same year deliver to the Secretary of State:

(i) a unique identifier, not including the name, or OID (Offender Identification) number, for each incarcerated person subject to the jurisdiction of the department on the date for which the decennial census reports population. The unique identifier shall enable the Secretary of State to address inquiries about specific address records to the Department of Corrections, without making it possible for anyone outside of the Department of Corrections to identify the inmate to whom the address record pertains;

(ii) the street address of the correctional facility in which such person was incarcerated at the time of such report;

(iii) the last known address of such person prior to incarceration or other legal residence (if known);

(iv) the person's race, whether the person is of Hispanic or Latino origin, and whether the person is over the age of 18 (if known);

(v) any additional information as the Secretary of State may request pursuant to law.

(b) The department shall provide the information specified in paragraph (a) of this subdivision in such form as the Secretary of State shall specify.

(c) Notwithstanding any other provision of law, the information required to be provided to the Secretary of State pursuant to this subdivision shall not include the name of any incarcerated person and shall not allow for the identification of any such person therefrom, except to the Department of Corrections. The information shall be treated as confidential, and shall not be disclosed by the Secretary of State except as redistricting data aggregated by census block for purposes specified in subsection 3.

2. Federal facilities. The Secretary of State shall request each agency that operates a federal facility in this State that incarcerates persons convicted of a criminal offense to provide the Secretary of State with a report including the information listed in subsection (a) of subsection 1.

3. The Secretary of State shall prepare redistricting population data to reflect incarcerated persons at their residential address, pursuant to subsection 4. The data prepared by the Secretary of State pursuant to subsection 4 shall be the basis of state house of representative districts, state senate districts, and all local government districts that are based on population. Incarcerated populations residing at unknown geographic locations within the State, as determined under subsection (c)(ii) of subsection 4 shall not be used to determine the ideal population of any set of districts, wards, or precincts.

4. Determinations and data publication by the Secretary of State.

(a) For each person included in a report received under subsections 1 and 2, the Secretary of State shall determine the geographic units for which population counts are reported in the federal decennial census that contain the facility of incarceration and the legal residence as listed according to the report.

(b) For each person included in a report received under subsections 1 and 2, if the legal residence is known and in this State, the Secretary of State shall:

(i) Ensure that the person is not represented in any population counts reported by the Secretary of State for the geographic units that include the facility at which the person was incarcerated, unless that geographic unit also includes the person's legal residence.

(ii) Ensure that any population counts reported by the Secretary of State reflect the persons' residential address as reported under subsections 1 and 2.

(c) For each person included in a report received under subsections 1 and 2 for whom a legal residence is unknown or not in this State, and for all persons reported in the census as residing in a federal correctional facility for whom a report was not provided, the Secretary of State shall:

(i) Ensure that the person is not represented in any population counts reported by the Secretary of State for the geographic units that include the facility at which the person was incarcerated.

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

(d) The data prepared by the Secretary of State pursuant to this section shall be completed and published no later than 30 days from the date that federal decennial PL94-171 data is published for the state of Minnesota.

(e) The Secretary of State shall notify county and city governments that subsection 3 requires those governments to use the data prepared by the Secretary pursuant to this Section for redistricting purposes.

5. The data prepared by the Secretary of State in subsection 4 shall not be used in the distribution of any state or federal aid.

6. If any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable.

Section 4. Minnesota Statute § 205.84(1) is amended by adding subsection (c) as follows:

(c) "Population" as referenced in this section means the redistricting population data prepared Secretary of State pursuant to § 204B.145(B)(4).

Section 5. Minnesota Statute § 375.025(1) is amended by marking current Subdivision 1 as Subdivision 1 (a) and adding subsection (b) as follows:

(b) "Population" as referenced in this section means the redistricting population data prepared by the Secretary of State pursuant to § 204B.145(B)(4).