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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 171

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO COUNTING INCARCERATED INDIVIDUALS FOR REDISTRICTING PURPOSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 804A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 804A. ~~Determining district boundaries for incarcerated individuals; criteria.~~ Criteria for counting incarcerated individuals for redistricting purposes.

(a) The General Assembly, in determining the reapportionment and redistricting for the State, applying the criteria set forth in § 804 of this title, and using the official reporting of the federal decennial census as set forth in § 805 of this title, ~~shall~~ may not count as part of the population in a given district boundary ~~any an~~ an incarcerated individual ~~who:~~ who meets both of the following:

(1) Was incarcerated in a ~~state~~ state correctional facility in this State or federal correctional facility, as determined by the decennial ~~census;~~ and census.

(2) Was not a resident of the State before the ~~person's~~ individual's incarceration.

(b)(1) The General Assembly, in determining the reapportionment and redistricting for the State as provided in this subchapter, shall count as part of the population in a given district boundary ~~any an~~ an individual incarcerated in a ~~state~~ state correctional facility in this State or federal correctional facility, as determined by the decennial census, if the individual was a resident of the State ~~prior to~~ before incarceration.

(2) ~~Such individual shall be counted~~ The General Assembly shall count the individual for reapportionment and redistricting purposes at the individual's last known residence ~~prior to~~ before incarceration.

(c) This section ~~shall~~ does not apply to the redistricting of the State following the 2010 federal decennial census. This section ~~shall apply~~ applies to the redistricting of the State following each federal decennial census thereafter.

(d) The Department of Elections shall geocode the last known residence of an incarcerated individual that is provided by the Department of Correction or the Federal Bureau of Prisons and is required to be counted under section (b) of this section.

(1) On or before September 15 of the year of a federal decennial census, the Department of Correction shall provide to the Department of Elections information in the Department of Correction's possession regarding the last known residence of an incarcerated individual required to be counted under subsection (b) of this section.

(2) The Department of Elections shall make reasonable efforts to correct a last known residence of an incarcerated individual that is not able to be geocoded, including by doing the following:

a. Verifying and correcting zip codes against the United States Postal Service zip code locator.

b. Correcting misspellings of city and street names.

c. Correcting or adding street suffixes against the United State Postal Service zip code locator.

d. Correcting street direction using the United States Postal Service zip code locator.

e. Removing extra information from the address field.

f. Removing an apartment number.

g. Removing a decimal point.

(3) The Department of Elections may request from a state or federal agency information necessary to geocode the last known residence of an incarcerated individual required to be counted under section (b) of this section.

(4) If, after making reasonable efforts under paragraph (d)(2) of this section, the Department of Elections is not able to geocode the last known residence of an incarcerated individual, the Department shall establish the last known residence of the incarcerated individual as the State correctional facility where the individual is incarcerated.

(5) The Department of Elections shall provide to the General Assembly the geocoded last known residence data for incarcerated individuals required to be counted under subsection (b) of this section on or before January 15 of the year following a federal decennial census.

(6) The Department of Elections may adopt regulations to implement this section.

Section 2. For purposes of redistricting the State for the general election of 2022, the following applies:

(1) The Department of Correction shall, as soon as practicable after the enactment of this Act, provide to the Department of Elections information in the Department of Correction's possession regarding the last known residence of an incarcerated individual required to be counted under § 804A of Title 29 of the Delaware Code.

48 (2) The Department of Elections shall, as soon as practicable after the Department of Correction provides the
49 information under paragraph (1) of this Section, provide to the General Assembly the geocoded last known residence
50 data for incarcerated individuals as required under this Act.

SYNOPSIS

This Act provides additional procedures necessary to ensure that incarcerated individuals who were residents of Delaware immediately before their date of incarceration are counted for reapportionment and redistricting purposes at their last known residence as required by law. Specifically, this Act does the following:

1. Clarifies that this law applies to individuals incarcerated in a state correction facility in Delaware.
2. Designates the Department of Elections as the state agency in charge of geocoding the last known residence of these incarcerated individuals.
3. Requires the Department of Correction to provide last known residence information in its possession to the Department of Elections by September 15 of the year of a federal decennial census after the general election of 2022.
4. Requires the Department of Elections to make reasonable efforts to correct last known residence data that is not geocodable. If the Department is not able to geocode the last known address of an incarcerated individual, the Department shall establish the address of the incarcerated individual as the State correctional facility where the individual is incarcerated.
5. Requires the Department of Elections to provide the geocoded last known residence data to the General Assembly by January 15 of the year following a federal decennial census after the general election of 2022.

Additionally, Section 2 of this Act makes clear that, while the deadlines in the amended version of § 804A of Title 29 of the Delaware Code only apply prospectively, because the deadlines have passed for purposes of redistricting for the general election of 2022, the intent is that the amended version of § 804A of Title 29 apply for purposes of redistricting for the general election of 2022 and the Department of Correction and Department of Election provide the necessary data as soon as practicable.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

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