



Reallocating Inmate Data for Redistricting

Introduction

States redistrict their legislative and congressional districts once every 10 years using data from the decennial census conducted by the U.S. Census Bureau.

The bureau's longstanding practice is to count persons incarcerated in state and federal correctional facilities as residents of the district where they are confined. By far the majority of states use the population and residence data reported in the census, as is.

A handful of states have changed their procedures for allocating inmate data for redistricting purposes. In these states, when possible, they reallocate data on inmates in the redistricting data file from where they are incarcerated to their residence prior to incarceration.

The rationale behind this policy is that including incarcerated persons in the population count for the district in which their facility is located alters representational proportions and, as a result, the voting power of residents. Without reallocation, the total population of prison districts will contain fewer eligible voters (because prisoners can't vote in most states), and thus the elected representatives for those districts represent fewer voters than their colleagues in parts of the state whose districts don't contain prisons.

Implementing this policy often requires a significant amount of work and collaboration between agencies and authorities at the state and local level. For all affected incarcerated persons, accurate information on their residences immediately prior to their incarceration must be collected and recorded for later use by the appropriate redistricting authorities. The state's census blocks as reported by the U.S. Census Bureau must also be updated based on this new data in order to reflect the correct populations pursuant to the state's new apportionment procedures.

To date, 12 states have passed laws or adopted guidance modifying how incarcerated persons are counted and allocated during the redistricting process, although Illinois' law goes into effect for the 2030 cycle. States vary in their reallocation treatment of state and federal inmates and in their specific procedures for identifying and reporting incarcerated persons' last known residences for redistricting purposes. **Please note: While news reports have indicated Montana has adopted a policy of inmate data reallocation, that decision is not yet final; the state's commission will decide the issue at a hearing in September 2021.**

The table below provides a list of states that have passed laws modifying their redistricting procedures for incarcerated persons. It includes statute citations, the years enacted and implemented, whether the policy affect only legislative or congressional districts or both, and the specific treatment of both state and federal inmates.

<https://www.ncsl.org/research/redistricting/reallocating-incarcerated-persons-for-redistricting.aspx>



Reallocation Statutes	Year Enacted	Year Implemented	Legislative, Congressional, or Both	State Inmates	Federal Inmates
California Cal. Elec. Code § 21003	2012	2020	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	Excluded from all district populations
Colorado House Bill 20-1010 (to be added to CRS § 2-2-901 and 2-2-902)	2020	2020	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: the prisoners are counted for purposes of redistricting in the correctional facility.	Not addressed
Connecticut Public Act No. 21-13	2021	2021	Legislative	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: counted for purposes of redistricting as generic residents of the state, as overseas residents and military personnel are counted. ** Persons serving life sentences without possibility of parole are counted as residents of the facility in which they are incarcerated **	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: counted for purposes of redistricting as generic residents of the state, as overseas residents and military personnel are counted. ** Persons serving life sentences without possibility of parole are counted as residents of the facility in which they are incarcerated **



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Delaware 29 Del. Code tit. 29, § 804A	2010	2020	Legislative (note Delaware has just one congressional district)	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations
Illinois Public Act 0652 (2021) (to be added to Illinois code)	2021	2025 (first used 2030)	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations
Maryland MD State Gov't Art. § 2-2A-01 (legislative) MD Elec. Law Art. § 8-701 (congressional)	2010	2010	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations
Nevada Ass. Bill No. 450 (to be added to Nev. Rev. Stat. § 360)	2019	2020	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: Not Addressed	Not Addressed



Reallocation Statutes	Year Enacted	Year Implemented	Legislative, Congressional, or Both	State Inmates	Federal Inmates
New Jersey S 758 (to be added to N.J.S.A.) A 698 (to be added to N.J.S.A.)	2020 (Legislative) 2021 (Congressional)	2020 (Legislative) 2021 (Congressional)	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations
New York N.Y. Legis. Law § 83-m(13)	2010	2010	Legislative	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations	Excluded from all district populations
Pennsylvania Reapportionment Commission Resolution 4A (2021)	2021	2021	Legislative	If in-state resident prior to incarceration: counted in last known residence's district population; if unknown, counted as resident of incarceration facility. If out-of-state resident prior to incarceration, or unknown: excluded from all district populations ** Persons serving life sentences without possibility of parole are counted as residents of the facility in which they are incarcerated **	Not addressed



Reallocation Statutes	Year Enacted	Year Implemented	Legislative, Congressional, or Both	State Inmates	Federal Inmates
Virginia VA Code Ann. § 24-2-314	2020	2020	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: the prisoners are counted for purposes of redistricting in the correctional facility.	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: the prisoners are counted for purposes of redistricting in the correctional facility.
Washington WA S.B. 5287 (to be added to Wash. Rev. Code § 44.05)	2019	2020	Both	If in-state resident prior to incarceration: counted in last known residence's district population If out-of-state resident prior to incarceration, or unknown: excluded from all district populations ** Also applies to incarcerated juveniles and involuntarily committed behavioral health patients **	Not Addressed

