

**Written Testimony of Aleks Kajstura,
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**Elections Committee
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Support SF 3878

Thank you, Senate Elections Chair, Sen. Carlson and members of the Senate Elections Committee for the opportunity to provide written testimony. My name is Aleks Kajstura and I am the Legal Director of the Massachusetts-based non-profit, non-partisan Prison Policy Initiative. I have over a decade of experience working with states and local governments crafting solutions to the "prison gerrymandering" problem created by the Census Bureau counting incarcerated people in the wrong spot.

This bill will bring Minnesota one step closer to enacting the constitutional ideals of equal representation by counting incarcerated people in their home district rather than at the location of the prison. This bill aligns the state's redistricting data with its residence laws, ensuring everyone is counted in the right district.

In passing this legislation the state would join over a dozen others in addressing prison gerrymandering to ensure equal representation for its residents. “Blue” states like New York, “purple” states like Maine, and “red” states like Montana — where prison gerrymandering-reform legislation received wide bipartisan support — have all passed legislation to address this problem.

The Problem

Each decade, Minnesota redraws its state and local legislative districts on the basis of population to ensure that each district contains the same population. In this way, the state attempts to give all residents the same access to representation and government.

But the Census Bureau's rule for counting prison populations is in conflict with the Minnesota constitution, which explicitly says that people retain their home residence even while incarcerated elsewhere:

“no person loses residence... while confined in any public prison.”
(Article VII, § 2.)

As a result, Minnesota has been relying on redistricting data that does not comply with its own residence laws.

People incarcerated in the state's prisons come from all over Minnesota, but they are counted by the Census Bureau as if they were residents of just 9 Census blocks in the state¹:

270030502292000 & 270030502295014 (Lino Lakes)
270251102011016 (Rush City)
271159502002050 (Willow River)
271310707011027 (Faribault)
271390805002007 (Shakopee)
271410315001017 (St. Cloud)
271630708011000 (Stillwater)
271630708021000 (Oak Park Heights)

Additionally, there are 4 blocks that contain populations of federal correctional facilities, where people from all over the country are counted as if they were local constituents:

271090002002006 (FMC Rochester)
271159504023034 (FCI Sandstone)
271370003021032 (FPC Duluth)
271617905002041 (FCI Waseca)

¹ The Census Bureau appears not to have reported the correctional population for the Moose Lake facility.

As a result, every Minnesotan who lives in a district that doesn't contain one of these 13 blocks has their representation diluted in the state legislature.

This is particularly galling for Minnesota, which drew its districts with some of the lowest deviations in the country, which ought to have ensured representational equality. But by using unadjusted Census data, the state counted incarcerated people in the district with the prison, instead of in their home district. This thwarted the state's efforts at achieving representational equality.

SF 3878 gives residents of prison-hosting towns equal representation in their city and county government

Prison gerrymandering not only distorts representation in the state house, it also impacts local government districts.

Rural residents who live in the same community as a prison, but not in its district, have their representation on the City Council or County Board severely diluted. In a small county such as Waseca, for example, the population of a single prison can account for over 20% of a County Board of Commissioner's district.

Such distortions are why local governments started adjusting their redistricting data long before any state created a state-wide solution. Now, over 200 local governments across the country have taken the initiative to correct the problem themselves by manually correcting flawed Census data even when their states fail to help.

This bill would give Minnesota cities and counties that contain prisons the data they need to ensure their residents get equal representation in local government.

Now is the best time to pass legislation to prepare for 2030

The 2030 Census and the next round of redistricting may seem far off right now, but in fact, now is the perfect time to pass this legislation. If this bill passes, Minnesota will be joining over a dozen other states² in adjusting their redistricting data to count incarcerated people at their home addresses. The last two decades of experience among these states have clearly shown that the states who start the process early in the decade get the best result with the least effort.

SF 3878 reflects best practices

With this bill, Minnesota would be following in the footsteps of over a dozen other states that have addressed prison gerrymandering. In doing so, the state can take advantage of lessons learned over the last two decades.

After the 2020 redistricting cycle, the National Conference of State Legislatures (NCSL) conducted extensive research into the implementation of prison gerrymandering reforms in 13 states. The resulting report³ flagged several areas for improvement.

While many of the recommendations proposed by NCSL are out of states' hands, this bill addresses potential pitfalls of implementing such reforms and sets the state up for a successful reallocation process in 2030.

At its most basic level, this bill adjusts the state's redistricting data to count incarcerated people at home so that they can be included in their home districts. This process – reallocation – can be broken down into two main parts: 1) mapping home address data and 2) adjusting the redistricting data files. The 2nd step is fairly a straightforward technical process; the results are largely reflect the success of step 1.

² California, Connecticut, Colorado, Delaware, Maine, Maryland, Montana, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and Washington State. Additionally, Illinois has legislation in place already, first effective for the 2030 redistricting cycle.

³ *Inmate Data Reallocation in the 2020 Redistricting Cycle*, available at <https://www.ncsl.org/redistricting-and-census/inmate-data-reallocation-in-the-2020-redistricting-cycle>

The key innovation⁴ proposed in the bill is an improvement to the address data collection. In most states, the Department of Corrections does not have complete address data for people in its custody. This bill proposes to collect that data on intake as well as backfill missing data. This would ensure that the data is ready by the time the reallocation process needs to be done in preparation for the 2030 redistricting cycle.

The bill also provides guidance on how the home addresses in the Department of Corrections data should be matched to addresses on a map. Several departments doing similar work in other states have indicated they would have found such guidance from the legislature helpful.

That said, the guidance proposed in this bill – limiting the address results to "rooftop" matches is unnecessarily limiting and ties the Director's hands. A "rooftop" match is not necessary for the level of accuracy needed to draw representative districts.

Instead, allowing "range_interpolated" or "geometric_center" matches, particularly for polylines would allow for an address to be mapped and reallocated despite minor typographical errors in an address entry, or where street number ranges in the mapping software are out of date or incomplete. The chances of a range_interpolated or even polygon geometric_center match crossing district lines is very low, and a reasonable level of imprecision when balanced against only counting that person as part of the statewide total.

No impact on federal or state aid formulas

Lastly, I want to address a common misconception I've seen come up with similar bills in other states – correcting this redistricting data issue has no impact on state or federal funding formulas.

Legislators are often concerned about the impact this type of bill might have on the distribution of government funds. Please note that SF 3878

⁴ The bill's differences from other states' legislation also include several small tweaks to the timing of the reallocation process. Every state has a slightly different redistricting timeline so these days will vary by state.

adjusts address data that is only used for redistricting purposes; the data is not reported back to the Census Bureau, and any agency that uses any population data will draw their figures directly from the Census Bureau's publications or their own special sources. Therefore, this bill would not affect any federal or state aid or grants because there are no funding formulas that rely on redistricting data.

Conclusion

The basic principle of our democracy is that representation is distributed on the basis of population. Crediting incarcerated people to the wrong location has the unfortunate and undemocratic result of creating a system of representation without population.

Roughly half of U.S. residents now live in a city, county, or state that has taken action to end prison gerrymandering; Minnesota residents deserve the same access to equal representation.

Thank you for your time and consideration. I'm happy to answer any questions and share the experience of other states implementing similar legislation. I can be reached at akajstura@prisonpolicy.org.


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