

SENATOR JAY COSTA REMARKS

PRISON GERRYMANDERING

August 24, 2021

- Good morning. I would like begin by stating my support for this resolution introduced by Leader McClinton.
- The Legislative Reapportionment Commission is a constitutionally created body that is not limited to rules governing the use of census data for the reapportionment of residents of the commonwealth for redistricting purposes.
- The Legislative Reapportionment Commission is a constitutionally created body that is not encumbered by the enactments or *lack of* enactments of the General Assembly. Its existence, authority and duties are *wholly* prescribed in Article II, Section 17 of the Pennsylvania Constitution with the review thereof by the Pennsylvania Supreme Court *alone*.
- Its existence, authority and duties are *wholly* prescribed in Article II, Section 17 of the Pennsylvania Constitution with the review thereof by the Pennsylvania Supreme Court *alone*. As Leader McClinton clearly asserts, that constitutional section provides that the use of the Decennial Census information marks the commencement of the work of the Commission. It does not limit its work or what it may consider in the crafting of districts that are “compact, contiguous and nearly equal in population as practicable.” Pa. Const. Art. II, § 16.
- The Pennsylvania Elections Code, as a clear expression of the policy of the General Assembly, stands for the proposition that incarcerated individuals do not lose their residency status or their ability to vote in the election districts of their residence not where they are incarcerated.
- Incarcerated individuals continue to be entitled to voting privileges under the Election Code, which is the only state statute cited in this debate concerning the residency of inmates of the Department of Corrections.

§ 1302. Residence of electors.

(a) General rule.--

(1) For the purpose of registration and voting, no individual shall be deemed to have gained a residence by reason of presence or lost a residence by reason of absence in any of the following circumstances:

(iii) Being in an institution at public expense. This subparagraph does not apply to a veteran who resides in a home for disabled and indigent soldiers and sailors maintained by the Commonwealth. Such a veteran may elect to utilize that residence for registration and voting or elect to vote as an absentee elector by the use of an absentee ballot. 25 Pa.C.S. § 1302.

- The LRC heard a study from Villanova professors on the impact of prisoner reallocation on State House Districts. Here is some data on State Senate Districts.
- When counted in the districts where they are housed rather than where they reside, incarcerated individuals lack meaningful representation and the representation of the areas where the individuals are housed artificially gain over-representation defeating the concept of one person, one vote.
- There are 24 PA State Correctional Facilities, which are located in 15 State Senate Districts.
 - 23 of the facilities are in 14 State Senate Districts represented by Republicans
 - 1 facility is in a State Senate District represented by a Democrat
 - 11 of the 14 Republican Senate Districts lost significant population in the past decade.
- Prison Population: 44,201 addresses were provided by the PA DOC for incarcerated individuals. Of those:
 - 33,580 were found to have home addresses in PA (76% of the list)
 - 36% of those with home addresses would be reallocated to the state's two largest cities, Philadelphia and Pittsburgh.
 - Of those who have home addresses: 10,417 (or 31%) would be reallocated to Philadelphia
 - And another 1,660 (5%) would be reallocated to Pittsburgh

- 11 States reallocate incarcerated individuals from prisons to home addresses, including 4 of the 5 Mid-Atlantic states. These 11 states encompass the population of 35% of the US, almost 118 million people. ***Pennsylvania is the only Mid-Atlantic state that does not reallocate incarcerated individuals to their home address.***
- The United States Supreme Court upheld the Maryland statute that ended prison gerrymandering in its decision in *Fletcher v. Lamone*, 133 S.Ct. 29, (2012).
- Based on the information provided by the Department of Corrections regarding inmates home addresses, PA State Data Center was able to match 78.25% of inmates to correct address, which corresponds with the experience in neighboring states that have also provided for inmate reallocation: Maryland 77.1%, New York 75.77%.
- An egregious example of how State Prison population help bolster the population in one county is Forest County.
 - The total population of Forest County is 6,973.
 - 2,653 or 38% of the ***population*** in this county are incarcerated in SCI Forest.
- The Census Bureau itself has provided guidance to the states for the reallocation of incarcerated populations to their home districts.
- If the PASDC is unable to complete this task in a timely manner, there is another option offered by the Census Bureau. They have created a portal for states to assist in the reassignment of population in Group Quarters. States have the ability to upload files up to 50,000 addresses to be geocoded by the Census and securely returned to the states with the needed information attached to each record.
- Thank you.