

**Department of Legislative Services**  
 Maryland General Assembly  
 2021 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 619 (Senator Edwards, *et al.*)  
 Education, Health, and Environmental Affairs

**No Representation Without Population Act - Repeal**

This emergency bill repeals the requirement that population counts used to create State legislative and congressional districts and districts for electing local governing bodies (1) exclude incarcerated individuals who were not State residents prior to their incarceration in State or federal correctional facilities and (2) include incarcerated individuals at their last known address, if State residents prior to their incarceration. The bill also repeals related requirements that (1) the Department of Public Safety and Correctional Services (DPSCS) provide specified information to the Department of Legislative Services (DLS) and the Maryland Department of Planning (MDP) in the year of each decennial census and (2) MDP and DLS enter into a memorandum of understanding (MOU) to jointly review and certify the adjusted census data to be used for redistricting purposes. The bill must be construed to mean that MDP and DLS are not required to submit the information or take the actions required under the specified MOU.

**Fiscal Summary**

**State Effect:** No effect in FY 2021. General fund expenditures decrease by \$48,000 in FY 2022 only, as discussed below. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	(48,000)	0	0	0
Net Effect	\$0	\$48,000	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local government finances are not materially affected, as discussed below.

**Small Business Effect:** None.

## Analysis

**Current Law:** Chapters 66 and 67 of 2010 (No Representation Without Population Act) require that population counts used to create the State's legislative and congressional districting plans and legislative districts used to elect local governing bodies exclude individuals incarcerated in State or federal correctional facilities (as determined by the decennial census) who were not State residents prior to their incarceration. Individuals incarcerated in State or federal correctional facilities who were residents of the State prior to their incarceration must be counted at their last known residence.

Chapter 538 of 2020 requires DPSCS to provide to MDP and DLS specified identifiable information for each individual incarcerated in a State correctional facility on April 1 in the year of the decennial census, including each individual's last known address. The Act further requires MDP and DLS to enter into a specified MOU by August 1 in the year of the decennial census. The terms of the MOU must require MDP and DLS to work collaboratively to:

- summarize the results of specified geocoded data created by MDP;
- identify individuals incarcerated in State or federal correctional facilities in the State that will be included in the adjusted census data;
- make any necessary changes to MDP's geocoded database;
- jointly review for accuracy any changes to the census data by any software vendor or other entity; and
- jointly certify the data to be used for redistricting by March 15 in the year following the decennial census.

MDP regulations establish requirements and procedures related to the geocoding process.

**State Expenditures:** Implementation of the requirements of Chapter 66 and 67, as discussed above, involves geocoding tens of thousands of prisoner address files in coordination with DPSCS and adjusting the census data. MDP estimates that the geocoding process will take approximately three to four weeks once the State has received the necessary redistricting data from the U.S. Census Bureau. In February 2021, the U.S. Census Bureau announced that it will deliver redistricting data to the states by the end of September 2021 – a delay from the bureau's original plan to deliver the data to the states by March 31, 2021.

DLS contracts with a software vendor to adjust the census data to allocate prisoners to their last known address. Contractual costs related to this task are estimated at \$48,000. Thus, under the bill, general fund expenditures for DLS decrease by \$48,000 in fiscal 2022 due to avoided contractual costs, assuming that the State does not receive the necessary census

tract data from the U.S. Census Bureau until fiscal 2022. DLS and MDP operations are also directly affected, as the bill repeals responsibilities with respect to data adjustment.

**Local Fiscal Effect:** Assuming that, in the absence of the bill, and consistent with recent practice, local governments would meet the requirements of Chapters 66 and 67 by using the adjusted census data made available by DLS and MDP for local redistricting purposes, local government finances are not affected by the bill's repeal of these requirements. To the extent that local governments rely on census data for local redistricting purposes, local governments may be able to begin redistricting work sooner, as they no longer have to wait for adjusted population counts.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 827 (Delegate Buckel) - Rules and Executive Nominations.

**Information Source(s):** Maryland Department of Planning; Department of Public Safety and Correctional Services; U.S. Census Bureau; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2021  
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