

Md. to count prisoners in home towns

SHIFT IN CENSUS REDISTRICTING

Baltimore stands to gain amid rural area outcry

BY CAROL MORELLO

Maryland will become the first state in the country to redraw districts by counting prisoners in their home towns instead of their cells, a change that is expected to help Baltimore avoid losing political power.

Civil rights advocates praised the No Representation Without Population Act signed Tuesday by Gov. Martin O'Malley (D). The National Urban League and the ACLU are among groups that have called for an end to "prison-based gerrymandering," and similar changes have been considered by at least seven other states.

"The vast majority will be going back to where they came from, and what this will do is count them where they live," said Hilary O. Shelton, head of the Washington office of the NAACP.

But opponents, primarily lawmakers from rural areas with prison facilities, consider the change a power grab that could cost them federal funds down the road.

"They may be originally from Baltimore," said Del. Kevin Kelly (D-Allegany), whose district has one federal and two state penitentiaries that house 4,300 prisoners. "But they're spending the next five, 10 or 30 years here."

The law was enacted in preparation for the 2010 Census, now underway, and it underscores what is at stake. Statewide census numbers determine how many congressional seats a state has, but each state has some leeway in using the data to determine the boundaries of state and local political districts. Although the new law will be used in redrawing all those lines, congressional districts are so large that any impact should be minor.

Maryland's biggest beneficiary is Baltimore, where 68 percent of the state's 25,000 prisoners were living before they were convicted. The city has lost an estimated 12,000 residents since the 2000



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Gov. Martin O'Malley is flanked by Senate President Thomas V. Mike Miller Jr., left, and House Speaker Michael Busch at a bill signing. A bill altering the counting of prisoners was among those inked Tuesday.

Census.

Del. Christopher B. Shank (R-Washington) said Baltimore could lose political clout if prisoners weren't included.

"It's a blatant power grab from the metropolitan areas of the state, particularly Baltimore city, to capture more seats and more population," said Shank, whose district has three prisons with about 8,000 inmates and who opposed the law.

Another place that probably will see a significant change is Somerset County, on the Eastern Shore. Although 40 percent of the population is black, no African American has ever been elected to countywide office there. In the 1980s, in response to a Voting Rights Act lawsuit, the county drew a majority African American district. Then a prison was built, which increased the population so much that some African Americans had to be reapportioned into other districts.

"This will allow districts to reflect the true population that actually lives there," said Del. Joseline A. Peña-Melnyk (D-Prince George's), who sponsored the legislation, though her district includes about 4,500 prisoners in

Jessup. "It will create equality and fairness."

The impetus for the law came in February, when the Census Bureau announced that in May 2011 — just in time for reapportionment — it would identify the populations of group quarters, such as prisons. The bureau takes no position on how states should act, saying its role is just to provide the data.

The Census Bureau has resisted calls for it to assign prisoners to the places where they last lived before they were convicted, saying it would be impossible to determine whether they plan to live there again.

"Ideally, the Census Bureau would count people in prison at their home town," said Peter Wagner, executive director of the Prison Policy Initiative, which has advocated changes in counting people it calls "prisoners of the census."

"But Maryland has gone ahead and decided they're going to fix this for themselves."

No case law specifically addresses how states count prisoners, though several states have grappled with similar issues in a hodgepodge of ways. In Vir-

ginia, prisoners are not counted as local residents if they exceed 12 percent of a county's population. In Kansas, members of the military and students are not counted as residents for redistricting. In New Jersey, prisoners can be excluded for apportionment of school districts.

According to Demos, a New York-based advocacy group, at least seven states have considered changes in how to count prisoners for redistricting: New York, Illinois, Florida, Wisconsin, Connecticut, Rhode Island and Oregon.

Opponents of the Maryland law were assured it would have no impact on how the state divides its share of federal funding. But some proponents of change say their ultimate aim is to get more funds for the home communities that most prisoners return to.

"The next step is to find a way to assign people based on where we expect them to go when they're released from prison, so we can also calculate the resources the census is used for," said Shelton of the NAACP. "This is a very helpful start."

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