



TO: The Honorable Tim Nangle
The Honorable Holly Stover, Co-Chairs
Members of the Joint Standing Committee on State and Local Government

DATE: May 2, 2023

RE: LD 1704 - An Act Regarding Incarcerated Individuals and Legislative Apportionment

Good afternoon Senator Nangle, Representative Stover, and members of the Committee on State and Local Government.

My name is Will Hayward. I'm a resident of Portland. I am the Advocacy Program Coordinator for the League of Women Voters of Maine. I am testifying in support of LD 1704, An Act Regarding Incarcerated Individuals and Legislative Apportionment.

The League of Women Voters of Maine is a nonpartisan political organization that has been working for over 100 years to encourage informed and active participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy. We never support or oppose any political party or candidate.

LD 1704 addresses an issue with how the Census counts incarcerated populations. It corrects our redistricting counts, so Maine's incarcerated population is correctly counted in home communities for redistricting. This policy is known in different places as "prisoner reallocation", "inmate data reallocation", or "prison gerrymandering reform", and it is a policy that 13 states adopted for the 2020 redistricting cycle, with several more currently considering it for the 2030 cycle.¹

The issue with how our incarcerated population is counted for redistricting is as follows: incarcerated people are counted by the Census at the location where they are confined, not their actual home community. Meanwhile, incarcerated voters are only eligible to vote by absentee ballot in their home community, *not* at the correctional facility address. This creates a problem: districts with correctional facilities end up with an extremely large number of people being counted there for redistricting who are only eligible to vote elsewhere, creating an effect where these districts have far fewer voters than other districts. These districts, particularly at the State House level, end up not being representative of where people in the state call home.

LD 1704 solves this issue by fixing where incarcerated voters are counted. It directs the Department of Corrections to collect the data necessary to reallocate incarcerated voters, which is simply their previous address (but also includes race and whether they are Hispanic). Then, when the Census releases its decennial data that forms the basis for redistricting, the DOC data is processed and integrated into the

¹ On April 25th, Montana governor Greg Gianforte signed a bill implementing this policy into law: https://www.prisonersofthecensus.org/news/2023/04/25/montana_ends_prisongerrymandering/

Census data, to reallocate those in correctional facilities back to their previous districts. That data is then given to the Apportionment Commission, which will then draw districts using this full data set. This process is easier than it seems: while the Census counts incarcerated populations at correctional facilities, it specifically publishes data on how many people are in correctional facilities, in part to facilitate states doing this reallocation. Once this reallocation has happened, our legislative districts, particular at the House level, will be more representative of our state. When people are counted where they call home, and not where they are involuntarily confined, everyone benefits.

This is a timely issue for the Legislature to consider, despite the next redistricting process being scheduled to follow the 2030 Census. Last month the National Conference of State Legislatures published a lengthy report on the experiences of states implementing prisoner reallocation policies in 2020. In evaluating the experiences of different states, they noted: “the key differentiator in how states prepared to complete inmate data reallocation was time: The more notice states had, the more they prepared.”² Among their conclusions, they stated: “if policymakers are interested in adopting new policies for the 2030 cycle, they should do so now.” Now is a responsible time to implement this policy. Doing so will position Maine well to draw the most representative districts we can after the 2030 Census.

By counting incarcerated people for redistricting in their actual home communities, and not where they are involuntarily confined, we can ensure that our legislative districts best reflect the communities across the state. It’s time for Maine to join the growing number of states making this simple but important fix to our redistricting process, and pass LD 1704.

Thank you for the opportunity to testify. I would be happy to answer any questions from the Committee.

² National Conference of State Legislatures: “Inmate Data Reallocation in the 2020 Redistricting Cycle”
<https://www.ncsl.org/redistricting-and-census/inmate-data-reallocation-in-the-2020-redistricting-cycle>