# SENATE BILL 619

G1, P5

EMERGENCY BILL

1lr2256
CF HB 827

By: **Senators Edwards, Eckardt, and Corderman**
Introduced and read first time: January 29, 2021
Assigned to: Education, Health, and Environmental Affairs

## A BILL ENTITLED

1 AN ACT concerning

## No Representation Without Population Act – Repeal

3 FOR the purpose of repealing certain provisions of law governing the inclusion and
4 counting of incarcerated individuals in the population count used after each
5 decennial census for the purpose of creating congressional and certain legislative
6 districting plans; repealing certain provisions of law requiring the Department of
7 Public Safety and Correctional Services to submit certain information for certain
8 incarcerated individuals to the Maryland Department of Planning and the
9 Department of Legislative Services on or before a certain date in certain years;
10 repealing certain provisions of law requiring the Maryland Department of Planning
11 and the Department of Legislative Services to enter into certain memoranda of
12 understanding on or before a certain date in certain years; providing for the
13 construction of this Act; making this Act an emergency measure; and generally
14 relating to repealing the No Representation Without Population Act.

15 BY repealing and reenacting, with amendments,
16     Article – Election Law
17     Section 8–701
18     Annotated Code of Maryland
19     (2017 Replacement Volume and 2020 Supplement)

20 BY repealing
21     Article – State Government
22     Section 2–2A–01 and the subtitle "Subtitle 2A. Creation of the Legislative Districting
23         Plan"
24     Annotated Code of Maryland
25     (2014 Replacement Volume and 2020 Supplement)

26 BY repealing
27     Article – Local Government
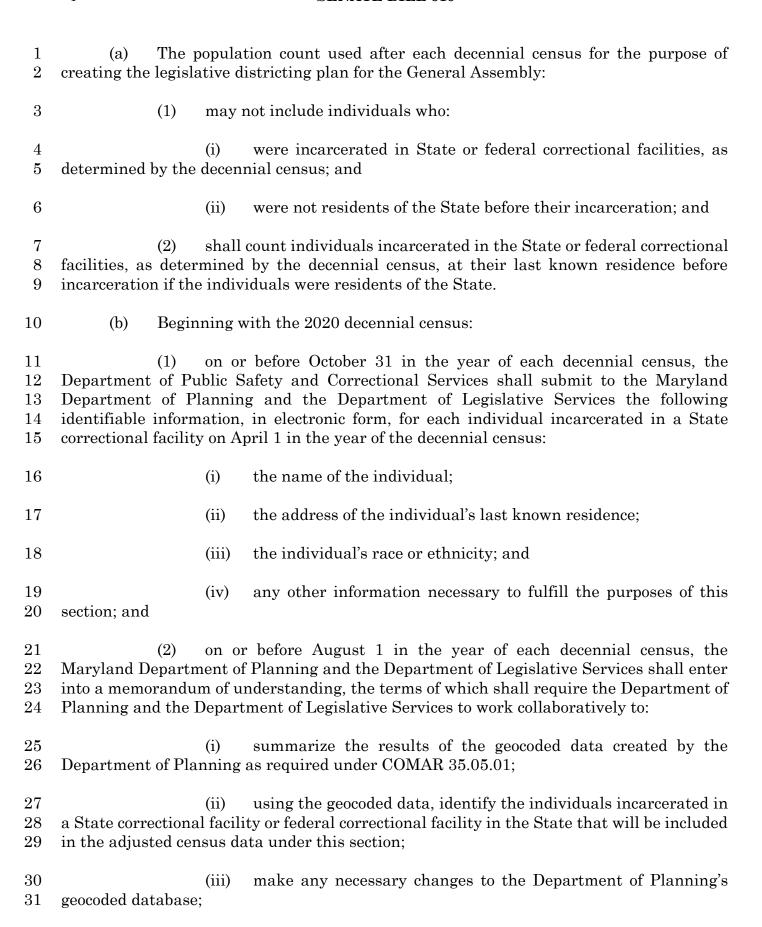28     Section 1–1307

1    Annotated Code of Maryland
2    (2013 Volume and 2020 Supplement)

3        SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4    That the Laws of Maryland read as follows:

**Article – Election Law**

6    8–701.

7        **[**(a)    (1)    The population count used after each decennial census for the purpose
8    of creating the congressional districting plan used to elect the State's Representatives in
9    Congress:

10                (i)    may not include individuals who:

11                        1.    were incarcerated in State or federal correctional facilities,
12    as determined by the decennial census; and

13                        2.    were not residents of the State before their incarceration;
14    and

15                (ii)   shall count individuals incarcerated in the State or federal
16    correctional facilities, as determined by the decennial census, at their last known residence
17    before incarceration if the individuals were residents of the State.

18            (2)    Beginning with the 2020 decennial census:

19                (i)    on or before October 31 in the year of each decennial census, the
20    Department of Public Safety and Correctional Services shall submit to the Maryland
21    Department of Planning and the Department of Legislative Services the following
22    identifiable information, in electronic form, for each individual incarcerated in a State
23    correctional facility on April 1 in the year of the decennial census:

24                        1.    the name of the individual;

25                        2.    the address of the individual's last known residence;

26                        3.    the individual's race or ethnicity; and

27                        4.    any other information necessary to fulfill the purposes of
28    this section; and

29                (ii)   on or before August 1 in the year of each decennial census, the
30    Maryland Department of Planning and the Department of Legislative Services shall enter
31    into a memorandum of understanding, the terms of which shall require the Department of
32    Planning and the Department of Legislative Services to work collaboratively to:

1             1.    summarize the results of the geocoded data created by the
2 Department of Planning as required under COMAR 35.05.01;

3             2.    using the geocoded data, identify the individuals
4 incarcerated in a State correctional facility or federal correctional facility in the State that
5 will be included in the adjusted census data under this section;

6             3.    make any necessary changes to the Department of
7 Planning's geocoded database;

8             4.    jointly review for accuracy any changes to the census data
9 by any software vendor or other entity; and

10            5.    jointly certify, on or before March 15 in the year following
11 each decennial census, the adjusted census data to be used for redistricting under this
12 section.**]**

13    **[**(b)**] (A)**    The State is divided into eight districts for the election of the State's
14 Representatives in Congress.

15    **[**(c)**] (B)**    (1)    The descriptions of congressional districts in this subtitle include
16 the references indicated.

17        (2)    (i)    The references to:

18            1.    election districts and wards are to the geographical
19 boundaries of the election districts and wards as they existed on April 1, 2010; and

20            2.    precincts are to the geographical boundaries of the
21 precincts as reviewed and certified by the local boards or their designees, before they were
22 reported to the U.S. Bureau of the Census as part of the 2010 census redistricting data
23 program and as those precinct lines are specifically indicated in the P.L. 94–171 data or
24 shown on the P.L. 94–171 census block maps provided by the U.S. Bureau of the Census
25 and as reviewed and corrected by the Maryland Department of Planning.

26        (ii)    Where precincts are split between congressional districts, census
27 tract and block numbers, as indicated in P.L. 94–171 data or shown on the P.L. 94–171
28 census block maps provided by the U.S. Bureau of the Census and referred to in this
29 subtitle, are used to define the boundaries of congressional districts.

30                **Article – State Government**

31        **[**Subtitle 2A. Creation of the Legislative Districting Plan.**]**

32 **[**2–2A–01.

1       (a)      The population count used after each decennial census for the purpose of
2  creating the legislative districting plan for the General Assembly:

3              (1)      may not include individuals who:

4                    (i)      were incarcerated in State or federal correctional facilities, as
5  determined by the decennial census; and

6                    (ii)     were not residents of the State before their incarceration; and

7              (2)      shall count individuals incarcerated in the State or federal correctional
8  facilities, as determined by the decennial census, at their last known residence before
9  incarceration if the individuals were residents of the State.

10      (b)      Beginning with the 2020 decennial census:

11              (1)      on or before October 31 in the year of each decennial census, the
12 Department of Public Safety and Correctional Services shall submit to the Maryland
13 Department of Planning and the Department of Legislative Services the following
14 identifiable information, in electronic form, for each individual incarcerated in a State
15 correctional facility on April 1 in the year of the decennial census:

16                   (i)      the name of the individual;

17                   (ii)     the address of the individual's last known residence;

18                   (iii)    the individual's race or ethnicity; and

19                   (iv)     any other information necessary to fulfill the purposes of this
20 section; and

21              (2)      on or before August 1 in the year of each decennial census, the
22 Maryland Department of Planning and the Department of Legislative Services shall enter
23 into a memorandum of understanding, the terms of which shall require the Department of
24 Planning and the Department of Legislative Services to work collaboratively to:

25                   (i)      summarize the results of the geocoded data created by the
26 Department of Planning as required under COMAR 35.05.01;

27                   (ii)     using the geocoded data, identify the individuals incarcerated in
28 a State correctional facility or federal correctional facility in the State that will be included
29 in the adjusted census data under this section;

30                   (iii)    make any necessary changes to the Department of Planning's
31 geocoded database;

1          (iv)    jointly review for accuracy any changes to the census data by any
2  software vendor or other entity; and

3          (v)    jointly certify, on or before March 15 in the year following each
4  decennial census, the adjusted census data to be used for redistricting under this section.**]**

## Article – Local Government

6  **[**1–1307.

7          The population count used after each decennial census to create the legislative
8  districts that are used to elect the governing body of a county or a municipality:

9          (1)    may not include individuals who:

10          (i)    were incarcerated in State or federal correctional facilities, as
11  determined by the decennial census; and

12          (ii)    were not residents of the State before their incarceration; and

13          (2)    shall include individuals incarcerated in State or federal correctional
14  facilities, as determined by the decennial census, at their last known residence before
15  incarceration if the individuals were residents of the State.**]**

16          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
17  mean that the Maryland Department of Planning and the Department of Legislative
18  Services are not required to submit the information or take the actions required under the
19  memorandum of understanding required to be entered into under § 8–701(a)(2)(ii) of the
20  Election Law Article and § 2–2A–01(b)(2) of the State Government Article that are repealed
21  under Section 1 of this Act.

22          SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
23  measure, is necessary for the immediate preservation of the public health or safety, has
24  been passed by a yea and nay vote supported by three–fifths of all the members elected to
25  each of the two Houses of the General Assembly, and shall take effect from the date it is
26  enacted.