

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0173.01 Jerry Barry x4341

HOUSE BILL 20-1010

HOUSE SPONSORSHIP

Tipper and Coleman,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE "COLORADO ACCURATE RESIDENCE FOR
102 REDISTRICTING ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

For purposes of the census, the federal census bureau counts prisoners in the correctional facility in which they were housed as of April 1 of the year in which the census was taken. For redistricting purposes, the bill reassigns those persons to their last known residence in Colorado prior to incarceration. If the last known residence is outside of Colorado or the last known residence is unknown, the prisoners are not

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

counted for purposes of redistricting.

The bill requires the department of corrections (department) to begin collecting and maintaining specified information on inmates to be able to provide that information following a federal census. It directs the department to report the information to the legislative council staff and the office of legislative legal services (nonpartisan staff) and nonpartisan staff to develop a database of population to be used in all redistricting.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Colorado Accurate Residence for Redistricting Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add 2-2-902** as
5 follows:

6 **2-2-902. Accurate census data - electronic record of prisoner**
7 **home address - adjustment of census data - definitions.** (1) AS USED
8 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "DECENNIAL CENSUS DAY" MEANS APRIL 1 OF THE YEAR 2020
10 AND EVERY YEAR ENDING IN ZERO THEREAFTER.

11 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS.

12 (c) "NECESSARY CENSUS DATA" MEANS THE FEDERAL DECENNIAL
13 PUB.L. 94-171 DATA PUBLISHED FOR THE STATE BY THE UNITED STATES
14 CENSUS BUREAU AND ADJUSTED BY THE GENERAL ASSEMBLY'S
15 NONPARTISAN STAFF TO REFLECT THE CHANGES PURSUANT TO
16 SUBSECTIONS (5) AND (6) OF THIS SECTION.

17 (d) "NONPARTISAN STAFF" MEANS THE STAFF OF THE LEGISLATIVE
18 COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR ANY
19 SUCCESSOR OFFICES.

20 (2) (a) STARTING AS SOON AS PRACTICABLE AFTER THE EFFECTIVE
21 DATE OF THIS SECTION, THE DEPARTMENT SHALL COLLECT AND MAINTAIN
22 AN ELECTRONIC RECORD OF THE LEGAL RESIDENCE, PRESUMPTIVELY

1 OUTSIDE OF THE CORRECTIONAL FACILITY, AND OTHER DEMOGRAPHIC
2 DATA, FOR ANY PERSON ENTERING ITS CUSTODY. AT A MINIMUM, THIS
3 RECORD MUST CONTAIN THE LAST KNOWN COMPLETE STREET ADDRESS
4 PRIOR TO INCARCERATION, THE PERSON'S RACE, WHETHER THE PERSON IS
5 OF HISPANIC OR LATINO ORIGIN, AND WHETHER THE PERSON IS OVER
6 EIGHTEEN YEARS OF AGE. TO THE DEGREE POSSIBLE, THE DEPARTMENT
7 SHALL ALSO ALLOW THE LEGAL RESIDENCE TO BE UPDATED AS
8 APPROPRIATE.

9 (b) ON OR BEFORE MAY 1 OF EACH YEAR IN WHICH THE FEDERAL
10 DECENNIAL CENSUS IS TAKEN AND IN WHICH THE UNITED STATES CENSUS
11 BUREAU COUNTS INCARCERATED PERSONS AS RESIDENTS OF
12 CORRECTIONAL FACILITIES, THE DEPARTMENT SHALL DELIVER TO
13 NONPARTISAN STAFF A REPORT THAT INCLUDES, FOR EACH PERSON
14 INCARCERATED IN A FACILITY OPERATED BY OR UNDER CONTRACT WITH
15 THE DEPARTMENT:

16 (I) A UNIQUE IDENTIFIER, NOT INCLUDING THE NAME OF THE
17 PERSON OR THE STATE OFFENDER IDENTIFICATION NUMBER. THE UNIQUE
18 IDENTIFIER MUST ENABLE NONPARTISAN STAFF TO ADDRESS INQUIRIES
19 ABOUT SPECIFIC ADDRESS RECORDS TO THE DEPARTMENT WITHOUT
20 MAKING IT POSSIBLE FOR ANYONE OUTSIDE OF THE DEPARTMENT TO
21 IDENTIFY THE PERSON TO WHOM THE ADDRESS RECORD PERTAINS.

22 (II) THE STREET ADDRESS OF THE CORRECTIONAL FACILITY IN
23 WHICH SUCH PERSON WAS INCARCERATED ON THE DECENNIAL CENSUS
24 DAY;

25 (III) THE LAST KNOWN ADDRESS OF SUCH PERSON PRIOR TO
26 INCARCERATION OR OTHER LEGAL RESIDENCE, IF KNOWN;

27 (IV) THE PERSON'S RACE, WHETHER THE PERSON IS OF HISPANIC OR

1 LATINO ORIGIN, AND WHETHER THE PERSON IS OVER EIGHTEEN YEARS OF
2 AGE, IF KNOWN; AND

3 (V) ANY ADDITIONAL INFORMATION NONPARTISAN STAFF MAY
4 REQUEST PURSUANT TO LAW.

5 (c) THE DEPARTMENT SHALL PROVIDE THE DATA SPECIFIED IN
6 SUBSECTION (2)(b) OF THIS SECTION IN AN ELECTRONIC FORMAT AS
7 SPECIFIED BY NONPARTISAN STAFF.

8 (d) THE INFORMATION REQUIRED TO BE PROVIDED TO
9 NONPARTISAN STAFF PURSUANT TO THIS SUBSECTION (2) MUST NOT
10 INCLUDE THE NAME OF ANY INCARCERATED PERSON AND MUST NOT
11 ALLOW FOR THE IDENTIFICATION OF ANY SUCH PERSON EXCEPT TO THE
12 DEPARTMENT. NOTWITHSTANDING THE "COLORADO OPEN RECORDS ACT",
13 PART 2 OF ARTICLE 72 OF TITLE 24, OR ANY OTHER PROVISION OF LAW, THE
14 INFORMATION IS CONFIDENTIAL AND NONPARTISAN STAFF OR ANY OTHER
15 STATE AGENCY OR LOCAL GOVERNMENT ENTITY SHALL NOT DISCLOSE ANY
16 INFORMATION FROM THE REPORT EXCEPT AS REDISTRICTING DATA
17 AGGREGATED BY CENSUS BLOCK FOR PURPOSES SPECIFIED IN SUBSECTION
18 (4) OF THIS SECTION.

19 (3) NONPARTISAN STAFF SHALL REQUEST EACH AGENCY THAT
20 OPERATES A FEDERAL FACILITY IN THIS STATE THAT INCARCERATES
21 PERSONS CONVICTED OF A CRIMINAL OFFENSE TO PROVIDE IT WITH A
22 REPORT INCLUDING THE INFORMATION LISTED IN SUBSECTION (2)(b) OF
23 THIS SECTION.

24 (4) PURSUANT TO SUBSECTION (5) OF THIS SECTION, NONPARTISAN
25 STAFF SHALL PREPARE REDISTRICTING POPULATION DATA TO REFLECT
26 INCARCERATED PERSONS AT THEIR RESIDENTIAL ADDRESSES RATHER THAN
27 THEIR PLACE OF INCARCERATION. THIS DATA PREPARED BY NONPARTISAN

1 STAFF IS THE NECESSARY CENSUS DATA PROVIDED TO AND TO BE USED BY
2 THE INDEPENDENT LEGISLATIVE AND CONGRESSIONAL REDISTRICTING
3 COMMISSIONS ESTABLISHED PURSUANT TO SECTIONS 44 AND 46 OF
4 ARTICLE V OF THE STATE CONSTITUTION. THE DATA IS THE POPULATION
5 BASIS OF CONGRESSIONAL DISTRICTS, STATE HOUSE OF REPRESENTATIVE
6 DISTRICTS, STATE SENATE DISTRICTS, AND ALL LOCAL GOVERNMENTAL
7 DISTRICTS THAT ARE BASED ON POPULATION. NONPARTISAN STAFF SHALL
8 MAKE THIS CENSUS DATA AVAILABLE TO THE INDEPENDENT LEGISLATIVE
9 AND CONGRESSIONAL REDISTRICTING COMMISSIONS AND TO MEMBERS OF
10 THE PUBLIC AND ANY COUNTY OR LOCAL GOVERNMENTAL ENTITY OF
11 COLORADO UPON REQUEST.

12 (5) (a) FOR EACH PERSON INCLUDED IN A REPORT RECEIVED
13 PURSUANT TO SUBSECTIONS (2)(b) AND (3) OF THIS SECTION,
14 NONPARTISAN STAFF SHALL DETERMINE THE GEOGRAPHIC UNITS FOR
15 WHICH POPULATION COUNTS ARE REPORTED IN THE FEDERAL DECENNIAL
16 CENSUS THAT CONTAIN THE FACILITY OF INCARCERATION AND THE LEGAL
17 RESIDENCE AS LISTED IN THE REPORT.

18 (b) FOR EACH PERSON INCLUDED IN A REPORT RECEIVED PURSUANT
19 TO SUBSECTIONS (2)(b) AND (3) OF THIS SECTION, IF THE LEGAL RESIDENCE
20 IS KNOWN AND IN THIS STATE, NONPARTISAN STAFF SHALL:

21 (I) ENSURE THAT THE PERSON IS NOT INCLUDED IN ANY
22 POPULATION COUNTS REPORTED BY NONPARTISAN STAFF FOR THE
23 GEOGRAPHIC UNITS THAT INCLUDE THE FACILITY AT WHICH THE PERSON
24 WAS INCARCERATED, UNLESS THAT GEOGRAPHIC UNIT ALSO INCLUDES THE
25 PERSON'S LEGAL RESIDENCE; AND

26 (II) ENSURE THAT ANY POPULATION COUNTS REPORTED BY
27 NONPARTISAN STAFF REFLECT THE PERSON'S RESIDENTIAL ADDRESS AS

1 REPORTED PURSUANT TO SUBSECTIONS (2)(b) AND (3) OF THIS SECTION.

2 (c) FOR EACH PERSON INCLUDED IN A REPORT RECEIVED PURSUANT
3 TO SUBSECTIONS (2)(b) AND (3) OF THIS SECTION FOR WHOM A LEGAL
4 RESIDENCE IS UNKNOWN OR IS NOT IN THIS STATE, AND FOR ALL PERSONS
5 REPORTED IN THE CENSUS AS RESIDING IN A FEDERAL CORRECTIONAL
6 FACILITY FOR WHOM A REPORT WAS NOT PROVIDED, NONPARTISAN STAFF
7 SHALL ENSURE THAT THE PERSON IS NOT INCLUDED IN ANY POPULATION
8 COUNTS REPORTED BY NONPARTISAN STAFF FOR THE GEOGRAPHIC UNITS
9 THAT INCLUDE THE FACILITY AT WHICH THE PERSON WAS INCARCERATED.

10 (6) THE DATA PREPARED BY NONPARTISAN STAFF PURSUANT TO
11 THIS SECTION MUST BE COMPLETED AND PUBLISHED NO LATER THAN
12 THIRTY DAYS AFTER THE DATE THAT FEDERAL DECENNIAL PUB.L. 94-171
13 DATA FOR THE STATE IS DELIVERED TO THE STATE.

14 (7) NONPARTISAN STAFF SHALL NOTIFY LOCAL GOVERNMENTS
15 THAT SUBSECTION (5) OF THIS SECTION REQUIRES LOCAL GOVERNMENTS
16 TO USE THE DATA PREPARED BY THEM PURSUANT TO THIS SECTION FOR
17 REDISTRICTING PURPOSES.

18 (8) THE DATA PREPARED BY NONPARTISAN STAFF PURSUANT TO
19 THIS SECTION SHALL NOT BE USED IN THE DISTRIBUTION OF ANY STATE OR
20 FEDERAL AID.

21 **SECTION 3.** In Colorado Revised Statutes, **amend 2-2-901** as
22 follows:

23 **2-2-901. Population data for redistricting.** ~~(1) The general~~
24 ~~assembly hereby finds and declares that:~~

25 ~~(a) Section 44 of article V of the state constitution requires the~~
26 ~~general assembly to divide the state into congressional districts after each~~
27 ~~new apportionment of seats in the United States house of representatives,~~

1 and a new apportionment occurs after each federal decennial census;

2 (b) Section 48 of article V of the state constitution requires that a
3 reapportionment commission be appointed after each federal census to
4 establish, revise, and alter the state senatorial and representative districts;

5 (c) These sections imply that the general assembly and the
6 reapportionment commission must perform their constitutional duty to
7 redraw the boundaries of congressional and state legislative districts using
8 population data derived from the latest federal census, so that the equal
9 population requirements of the federal and state constitutions can be
10 satisfied;

11 (d) Federal officials have proposed using statistical sampling
12 techniques to modify the traditional headcount of the population;

13 (e) The United States supreme court has held that the federal
14 census act prohibits the use of statistically adjusted population data to
15 apportion seats in the United States house of representatives among the
16 states;

17 (f) Many have argued that statistically adjusted population data
18 does not satisfy the requirement of the federal constitution for an "actual
19 enumeration" of the population;

20 (g) There is no reason for congress to use one set of population
21 data for apportionment of seats in congress and for state redistricting
22 authorities to use a different set of data to redraw congressional and state
23 legislative district boundaries, and the federal government would incur
24 additional costs by furnishing two sets of data to the states;

25 (h) Using different population data for redistricting would subject
26 the state of Colorado to the risk of litigation over the appropriate
27 population figures, which form the very foundation of any congressional

1 or state legislative redistricting plan;

2 (i) ~~It is therefore necessary to establish the intent of the general~~
3 ~~assembly that the same population data be used in the congressional and~~
4 ~~state legislative redistricting processes as is used for purposes of~~
5 ~~apportioning seats in the United States house of representatives among~~
6 ~~the states.~~

7 (2) For purposes of redrawing the boundaries of congressional,
8 state senatorial, and state representative districts after ~~the~~ EACH federal
9 census, ~~in the year 2010, the general assembly and the Colorado~~
10 ~~reapportionment commission~~ THE INDEPENDENT LEGISLATIVE AND
11 CONGRESSIONAL REDISTRICTING COMMISSIONS ESTABLISHED PURSUANT
12 TO SECTIONS 44 AND 46 OF ARTICLE V OF THE STATE CONSTITUTION shall
13 use population data supplied by the United States ~~bureau of the census~~
14 ~~that has been used to apportion the seats in the United States house of~~
15 ~~representatives among the states~~ BUREAU AS ADJUSTED BY THE
16 LEGISLATIVE COUNCIL STAFF AND OFFICE OF LEGISLATIVE LEGAL
17 SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO SECTION 2-2-902.

18 **SECTION 4.** In Colorado Revised Statutes, 30-10-306, **amend**
19 (1), (2), and (4) as follows:

20 **30-10-306. Commissioners' districts - vacancies.** (1) THE
21 BOARD OF COUNTY COMMISSIONERS SHALL DIVIDE each county ~~shall be~~
22 ~~divided~~ into three compact districts. ~~by the board of county~~
23 ~~commissioners.~~ Each district ~~shall~~ MUST be as nearly equal in population
24 as possible based on the most recent federal census of the United States
25 ~~minus the number of persons serving a sentence of detention or~~
26 ~~confinement in any correctional facility in the county as indicated in the~~
27 ~~statistical report of the department of corrections for the most recent fiscal~~

1 ~~year~~ AS ADJUSTED BY THE LEGISLATIVE COUNCIL STAFF AND OFFICE OF
2 LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO
3 SECTION 2-2-902. Each district ~~shall~~ MUST be numbered consecutively and
4 ~~shall~~ IS not be subject to alteration more often than once every two years.
5 THE VOTERS OF THE WHOLE COUNTY SHALL ELECT one commissioner ~~shall~~
6 ~~be elected~~ from each of such districts. ~~by the voters of the whole county.~~
7 If any commissioner, during ~~his or her~~ THE COMMISSIONER'S term of
8 office, moves from the district in which ~~he or she~~ THE COMMISSIONER
9 resided when elected, ~~his or her~~ THE office ~~shall thereupon become~~
10 BECOMES vacant. All proceedings by the board of county commissioners
11 in formation of such districts not inconsistent with this section are
12 confirmed and validated.

13 (2) Each county having a population of seventy thousand or more
14 ~~which~~ THAT has chosen to increase the members of the board of county
15 commissioners from three to five ~~shall~~ MUST be divided into three or five
16 districts by the board of county commissioners according to the method
17 of election described in section 30-10-306.5 (5) or (6) or ~~section~~
18 30-10-306.7. The districts ~~shall~~ MUST be as nearly equal in population as
19 possible based on the most recent federal census of the United States
20 ~~minus the number of persons serving a sentence of detention or~~
21 ~~confinement in any correctional facility in the county as indicated in the~~
22 ~~statistical report of the department of corrections for the most recent fiscal~~
23 ~~year~~ AS ADJUSTED BY THE LEGISLATIVE COUNCIL STAFF AND OFFICE OF
24 LEGISLATIVE LEGAL SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO
25 SECTION 2-2-902. Each district ~~shall~~ MUST be numbered consecutively,
26 and ~~shall~~ IS not be subject to alteration more often than once every two
27 years; except that, notwithstanding subsection (3) of this section, the

1 board may alter the districts to conform to precinct boundaries that are
2 changed in accordance with section 1-5-103 (1), ~~C.R.S.~~, based on the
3 division of the state into congressional districts or an approved plan for
4 reapportionment of the members of the general assembly when necessary
5 to ensure that no precinct is located in more than one district.
6 Commissioners ~~shall be~~ ARE elected at large or from districts according
7 to the method of election described in section 30-10-306.5 (5) or (6) or
8 ~~section~~ 30-10-306.7. If any commissioner required to be A resident in a
9 district moves during ~~his~~ THE COMMISSIONER'S term of office from the
10 district in which ~~he~~ THE COMMISSIONER resided when elected, ~~his~~ THE
11 office ~~shall thereupon become~~ BECOMES vacant. All proceedings by the
12 board of county commissioners in formation of such districts not
13 inconsistent with this section are confirmed and validated.

14 (4) Notwithstanding subsections (1) to (3) of this section, after
15 each federal census of the United States, each district ~~shall~~ MUST be
16 established, revised, or altered to assure that such districts ~~shall be~~ ARE as
17 nearly equal in population as possible based on such census ~~minus the~~
18 ~~number of persons serving a sentence of detention or confinement in any~~
19 ~~correctional facility in the county as indicated in the statistical report of~~
20 ~~the department of corrections for the most recent fiscal year~~ AS ADJUSTED
21 BY THE LEGISLATIVE COUNCIL STAFF AND OFFICE OF LEGISLATIVE LEGAL
22 SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO SECTION 2-2-902.
23 The establishment, revision, or alteration of districts required by this
24 subsection (4) ~~shall~~ MUST be completed by September 30 of the
25 odd-numbered year following such census.

26 **SECTION 5.** In Colorado Revised Statutes, 30-10-306.7, **amend**
27 (5)(a) as follows:

1 **30-10-306.7. Procedure for electing county commissioners.**

2 (5) (a) If a majority of the votes cast on the question are in favor of
3 changing the method of electing the five commissioners or providing for
4 three commissioners, as provided in ~~subparagraph (H) or subparagraph~~
5 ~~(HH) of paragraph (a) of subsection (2)~~ SUBSECTION (2)(a)(II) OR
6 (2)(a)(III) of this section, the board of county commissioners shall change
7 the boundaries of the commissioner districts so as to create three districts
8 as nearly equal in population as possible based on the most recent federal
9 census of the United States ~~minus the number of persons serving a~~
10 ~~sentence of detention or confinement in any correctional facility in the~~
11 ~~county as indicated in the statistical report of the department of~~
12 ~~corrections for the most recent fiscal year~~ AS ADJUSTED BY THE
13 LEGISLATIVE COUNCIL STAFF AND OFFICE OF LEGISLATIVE LEGAL
14 SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO SECTION 2-2-902.
15 The districts ~~shall~~ MUST be numbered consecutively and ~~shall~~ ARE not be
16 subject to alteration more often than once every two years; except that,
17 notwithstanding section 30-10-306 (3), the board may alter the districts
18 to conform to precinct boundaries that are changed in accordance with
19 section 1-5-103 (1), ~~C.R.S.~~, based on the division of the state into
20 congressional districts or an approved plan for reapportionment of the
21 members of the general assembly when necessary to ensure that no
22 precinct is located in more than one district. All other provisions of
23 sections 1-4-205 (3)(a) ~~C.R.S.~~, and 30-10-306 (2) and (3) relating to the
24 method of electing members, as provided in this ~~paragraph (a)~~, shall be
25 SUBSECTION (5)(a), ARE applicable; except that, when districts are created,
26 such changes ~~shall~~ MUST be completed by July 1 of the odd-numbered
27 year immediately preceding the general election.

1 **SECTION 6. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.