

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0173.01 Jerry Barry x4341

HOUSE BILL 20-1010

HOUSE SPONSORSHIP

Tipper and Coleman,

SENATE SPONSORSHIP

Gonzales and Donovan,

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.*

HOUSE
Amended 2nd Reading
February 5, 2020

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 ■ ORIGIN, AND WHETHER THE PERSON IS OVER EIGHTEEN
6 YEARS OF AGE. TO THE DEGREE POSSIBLE, THE DEPARTMENT SHALL ALSO
7 ALLOW THE LEGAL RESIDENCE TO BE UPDATED AS APPROPRIATE.

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

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 ■

1 ORIGIN, AND WHETHER THE PERSON IS OVER EIGHTEEN YEARS OF AGE,
2 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 IN THIS STATE
27 RATHER THAN THEIR PLACE OF INCARCERATION. THIS DATA PREPARED BY

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

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

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

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

25 (II) ENSURE THAT ANY POPULATION COUNTS REPORTED BY
26 NONPARTISAN STAFF REFLECT THE PERSON'S RESIDENTIAL ADDRESS IN THIS
27 STATE AS REPORTED PURSUANT TO SUBSECTIONS (2)(b) AND (3) OF THIS

1 SECTION.

2

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

7

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

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

13 **2-2-901. Population data for redistricting.** ~~(1) The general~~
14 ~~assembly hereby finds and declares that:~~

15 ~~(a) Section 44 of article V of the state constitution requires the~~
16 ~~general assembly to divide the state into congressional districts after each~~
17 ~~new apportionment of seats in the United States house of representatives,~~
18 ~~and a new apportionment occurs after each federal decennial census;~~

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

22 ~~(c) These sections imply that the general assembly and the~~
23 ~~reapportionment commission must perform their constitutional duty to~~
24 ~~redraw the boundaries of congressional and state legislative districts using~~
25 ~~population data derived from the latest federal census, so that the equal~~
26 ~~population requirements of the federal and state constitutions can be~~
27 ~~satisfied;~~

1 ~~(d) Federal officials have proposed using statistical sampling~~
2 ~~techniques to modify the traditional headcount of the population;~~

3 ~~(e) The United States supreme court has held that the federal~~
4 ~~census act prohibits the use of statistically adjusted population data to~~
5 ~~apportion seats in the United States house of representatives among the~~
6 ~~states;~~

7 ~~(f) Many have argued that statistically adjusted population data~~
8 ~~does not satisfy the requirement of the federal constitution for an "actual~~
9 ~~enumeration" of the population;~~

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

15 ~~(h) Using different population data for redistricting would subject~~
16 ~~the state of Colorado to the risk of litigation over the appropriate~~
17 ~~population figures, which form the very foundation of any congressional~~
18 ~~or state legislative redistricting plan;~~

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

24 ~~(2) For purposes of redrawing the boundaries of congressional,~~
25 ~~state senatorial, and state representative districts after the EACH federal~~
26 ~~census, in the year 2010, the general assembly and the Colorado~~
27 ~~reapportionment commission~~ THE INDEPENDENT LEGISLATIVE AND

1 CONGRESSIONAL REDISTRICTING COMMISSIONS ESTABLISHED PURSUANT
2 TO SECTIONS 44 AND 46 OF ARTICLE V OF THE STATE CONSTITUTION shall
3 use population data supplied by the United States ~~bureau of the census~~
4 ~~that has been used to apportion the seats in the United States house of~~
5 ~~representatives among the states~~ BUREAU AS ADJUSTED BY THE
6 LEGISLATIVE COUNCIL STAFF AND OFFICE OF LEGISLATIVE LEGAL
7 SERVICES, OR ANY SUCCESSOR OFFICES, PURSUANT TO SECTION 2-2-902.

8 

9 **SECTION 4. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety.