

SUPPORT THE COLORADO ACCURATE RESIDENCE FOR REDISTRICTING ACT

Sponsors: Reps. Tipper & Coleman / HB20-1010

Roughly 19,000 incarcerated individuals in state prisons are redistricted as if their prison cell is their residence. This system, known as “prison gerrymandering,” is unconstitutional, unfair, and inaccurate. Instead, they should be counted in their home communities so that they maintain their constitutional representation. By reallocating incarcerated individuals in state prisons back to their last home residence if known—“counting” them *for redistricting reasons only at home instead of in prison*—we will make our state’s once-a-decade redistricting process fairer.

Currently, the federal census bureau is the only government agency that considers a prison a residence, even though 99.97% of tens of thousands of public comments to the bureau in 2018 are against this policy. Because the way incarcerated individuals are counted in the decennial census, they are redistricted into the area where they are arbitrarily imprisoned, which is usually far from their home community. This directly conflicts with the Colorado Constitution: Art. VII, § 4 reads that “no person shall be deemed to have gained a residence . . . while confined in public prison.” Without the Colorado Accurate Residence for Redistricting Act, prison gerrymandering will distort state and local democracy for the next decade—meaning the communities that are harmed the most by our criminal justice system won’t be properly represented.

What HB20-1010 Accomplishes:

- Makes our state’s representational system more accurate by adjusting the census count so that incarcerated individuals are represented at their real home instead of a temporary prison cell.
- Ends representational dilution that primarily hurts communities of color given disparities in our criminal justice system: a small handful of districts from BOTH parties will no longer have gained power at the expense of all others.
- Fulfills our state constitutional requirements that a prison is not a usual residence.
- Incarcerated adults would regain the protection and representation in our government. Right now, individuals in prisons rarely come from the surrounding community where they are incarcerated and cannot vote in that area either while imprisoned.
- Corrects an unintended consequence of the criminal justice system, which arbitrarily penalizes the home communities of incarcerated people and awards others.

The following organizations support the Colorado Accurate Residence for Redistricting Act:



For more information, contact Patrick Potyondy, policy manager, ppotyondy@commoncause.org.



Additional information on ending prison gerrymandering:

- The average state prison sentence is only about 3 years, while redistricting shapes political representation for an entire decade. And within those 3 years, an individual might be moved from one prison to another.
- The Supreme Court of the United States has ruled, in *Fletcher v. Lamone* (2012), that ending prison gerrymandering is legal.
- Current redistricting practices conflict with the Colorado Constitution. The Colorado Accurate Residence for Redistricting Act is in line with our state constitution. It explicitly states that a prison will *not* determine someone's residence: "for the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence... while confined in public prison" (Colorado Constitution, Article VII, §4).
- The Colorado Department of Corrections already collects, has, and can provide the necessary data or can, which includes anonymous residential and race/ethnicity information for each individual.
- This legislation will NOT impact how federal or state funding is allocated in any way. And, it does NOT conflict with Amendments Y and Z.
- The public overwhelmingly supports counting people at home. From the Federal Register comments from the public on the 2020 Census: "Of the 77,887 comments pertaining to [where] prisoners [are to be counted], 77,863 suggested that prisoners should be counted at their home or pre-incarceration address" (2018). That's 99.97% in favor of counting prisoners at their last known residence.
- Other states: Maryland, New York, Delaware, California, and, most recently, Washington state have passed legislation addressing the problem of prison-based gerrymandering.
- If there is no known last address for an individual, or if their last known address is out-of-state, they are redistricted using the address of the incarceration facility.

