

HOUSE BILL REPORT

2SSB 5287

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to ensuring accurate redistricting by counting individuals in state custody as residents of their last known place of residence.

Brief Description: Ensuring accurate redistricting.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Darneille and Hunt).

Brief History:

Committee Activity:

State Government & Tribal Relations: 3/26/19, 4/3/19 [DPA].

Brief Summary of Second Substitute Bill (As Amended by Committee)

- Requires the Redistricting Commission to deem each person incarcerated in a state adult correctional facility, placed in a juvenile justice facility, or committed to receive involuntary behavioral health treatment as residing at his or her last known place of residence, rather than at the institution of confinement.
- Requires the Commission to draw district boundaries so that each district has a population as nearly equal as is practicable using census data as adjusted by that process.
- Requires the departments of Corrections, Social and Health Services, and Children, Youth, and Families to provide information about the last known place of residence of each inmate or resident to the Commission by July 1 of each year ending in "0."

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass as amended. Signed by 6 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan, Hudgins and Smith.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Mosbrucker.

Staff: Jason Zolle (786-7124).

Background:

In response to years of litigation over redistricting plans established by the Legislature or by initiative, the state enacted legislation in 1982 to create a six-member Redistricting Commission (Commission) to draw congressional and state legislative districts "as nearly equal as is practicable." A 1983 constitutional amendment reduced the Commission to five members: one appointed by each of the legislative leaders of the two largest caucuses in each of the two houses, and one nonvoting chair chosen by those four appointed members. When drawing districts, the Commission may seek advice from experts, consultants, and support staff, including attorneys not employed by the Attorney General. If three members cannot agree on a plan by the deadline, the Washington Supreme Court must adopt a plan. The Legislature can amend a redistricting plan only by a two-thirds majority vote in each chamber within 30 days after the plan is submitted by the Commission.

The Commission's redistricting plan must draw 10 congressional and 49 state legislative districts such that each district has a population "as nearly equal as is practicable" based on data from the federal census, excluding nonresident military personnel. To the extent possible, district lines in the plan must:

- coincide with boundaries of local political subdivisions and areas recognized as "communities of interest"; and
- be composed of convenient, contiguous, and compact territory. Land connected by a ferry, bridge, or tunnel is considered contiguous.

The Commission's lines must provide fair and effective representation and encourage electoral competition. The Commission cannot draw lines that purposely favor or discriminate against any political party or group.

Along with the redistricting plan, the Commission must publish a report that includes:

- the population of each district and the percentage it deviates from the average district population, along with a justification for each deviation;
- an explanation of the criteria used in developing the plan;
- a map of all the districts; and
- the estimated cost incurred by the counties for adjusting precinct boundaries.

The federal census conducted every 10 years counts people at their usual residence, which is defined as the place where they live and sleep most of the time. The Census Bureau rules specify that certain people in custody on Census Day are counted as follows:

- people in federal and state prisons are counted at the facility;
- people in local jails and other municipal confinement facilities are counted at the facility;
- people in federal detention centers (such as Immigration and Customs Enforcement detention centers) are counted at the facility;
- people in correctional residential facilities (such as halfway houses) are counted at the facility;

- people in noncorrectional residential treatment centers for adults are counted at the residence where they live and sleep most of the time;
 - juveniles in correctional facilities for juveniles are counted at the facility; and
 - juveniles in noncorrectional residential treatment centers for juveniles are counted at the residence where they live and sleep most of the time.
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Summary of Amended Bill:

The Redistricting Commission (Commission) must deem each person incarcerated in a state adult correctional facility, placed in a juvenile justice facility, or committed to receive involuntary behavioral health treatment as residing at his or her last known place of residence, rather than at the institution of confinement. This includes people who are transferred to a facility outside of Washington. The last known place of residence is the address at which the inmate was last domiciled prior to the current term of incarceration, as reported by the inmate or resident. An inmate or resident in state custody in Washington whose last known place of residence was either outside of Washington or cannot be determined must be deemed to live at the location of the facility in which the inmate or resident is incarcerated, placed, or committed.

The Commission must draw district boundaries so that each district has a population as nearly equal as is practicable using census data as adjusted by the process described above.

The departments of Corrections, Social and Health Services (DSHS), and Children, Youth, and Families (CYF) must provide information about the last known place of residence for each inmate or resident to the Commission after April 1 and by July 1 of each year ending in "0." The departments must assign each inmate or resident with a unique identifier that is not their identification number. The departments must not provide information about inmates or residents whose last known place of residence is outside of Washington or cannot be determined.

The Commission may not publish information about a specific inmate's or resident's last known place of residence. The Commission must adjust race and ethnicity data in districts, wards, and precincts so that inmates and residents are included in the population count of the district, ward, or precinct of their last known place of residence.

Amended Bill Compared to Second Substitute Bill:

The amended bill permits the Commission to draw district lines based on the census data as adjusted by the prior residence data for people in certain custodial settings. It requires the Commission to use the last known place of residence for minors in juvenile justice or involuntary behavioral health treatment facilities, and it accordingly requires the CYF and the DSHS to provide the Commission with prior residence information about those minors. The amended bill further requires the Commission to use the location of the facility in which inmates or residents are incarcerated, placed, or committed when determining the residence of inmates or residents whose last known place of residence was either outside of Washington or cannot be determined.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2019.

Staff Summary of Public Testimony:

(In support) The practice of counting inmates as located in their prison for districting purposes distorts the political process and raises concerns about equity and fairness. People in prison are likely to turn to their former representative if they have an issue, rather than the representative of the place where they are incarcerated. Inmates are transferred between prisons, and many will not remain in a facility for the full 10 years until the next census. This bill would allow inmates to be counted where they call home, where their children reside.

(Opposed) None.

(Other) There are questions about how the bill will be implemented. Cities get money on a per capita basis. Will this affect money distributed from state revenues? Will this affect crime rate reports, which are also reported on a per capita basis?

Persons Testifying: (In support) Senator Darneille, prime sponsor; Alison McCaffree, League of Women Voters of Washington; Lila Whitefoot; and Patricia Whitefoot.

(Other) Deborah Knight, City of Monroe.

Persons Signed In To Testify But Not Testifying: None.