

By: E. Johnson of Dallas

H.B. No. 104

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the inclusion of an incarcerated person in the  
3 population data used for redistricting according to the person's  
4 last residence before incarceration.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section [2058.002](#), Government Code, is amended to  
7 read as follows:

8 Sec. 2058.002. EXCEPTIONS. (a) The legislature or the  
9 Legislative Redistricting Board under Article III, Section [28](#), of  
10 the Texas Constitution may officially recognize or act on a federal  
11 decennial census as adjusted under Section [2058.003](#) before  
12 September 1 of the year after the calendar year during which the  
13 census was taken.

14 (b) A political subdivision governed by a body elected from  
15 single-member districts may recognize and act on tabulations of  
16 population of a federal decennial census as adjusted under Section  
17 [2058.003](#), for redistricting purposes, as soon as those adjusted  
18 tabulations become available [~~on or after the date the governor~~  
19 ~~receives a report of the basic tabulations of population from the~~  
20 ~~secretary of commerce under 13 U.S.C. Section 141(c)]. This  
21 subsection does not apply to a political subdivision that was not  
22 subject to a statute requiring certain political subdivisions,  
23 classified by population, to elect their governing bodies from  
24 single-member districts under the preceding federal census.~~

1 SECTION 2. Chapter 2058, Government Code, is amended by  
2 adding Sections 2058.003 and 2058.004 to read as follows:

3 Sec. 2058.003. INCLUSION OF INCARCERATED PERSONS IN CENSUS  
4 COUNTS. (a) Not later than the next May 1 following the date on  
5 which the tract-level population counts for this state from the  
6 federal decennial census are released by the director of the Bureau  
7 of the Census of the United States Department of Commerce, the  
8 comptroller shall prepare and disseminate adjusted population  
9 counts for each geographic unit included in the census counts as  
10 provided by this section.

11 (b) Not later than June 1 of the year in which the federal  
12 decennial census is conducted, each state or local governmental  
13 entity in this state that operates a facility for the incarceration  
14 of persons convicted of a criminal offense, including a mental  
15 health institution for those persons, or that places any person  
16 convicted of a criminal offense in a private facility to be  
17 incarcerated on behalf of the governmental entity, shall submit a  
18 report to the comptroller with the following information:

19 (1) a unique identifier, not including the name, for  
20 each person incarcerated in a facility operated by the governmental  
21 entity or in a private facility on behalf of the governmental entity  
22 on the date for which the census reports population who completed a  
23 census form, responded to a census inquiry, or was included in any  
24 report provided to census officials, if the form, response, or  
25 report indicated that the person resided at the facility on that  
26 date;

27 (2) the age, gender, and race of each person included

1 in the report and whether the person is of Hispanic, Latino, or  
2 Spanish origin, if known; and

3 (3) the last address at which the person resided  
4 before the person's current incarceration.

5 (c) Each governmental entity required to make a report under  
6 Subsection (b) shall ensure that the entity collects and maintains  
7 the information required to make the report. The comptroller shall  
8 prescribe procedures that a governmental entity shall use to permit  
9 each person included in the report to indicate the person's race and  
10 ethnicity for purposes of Subsection (b)(2) in a manner similar to  
11 the manner in which a person not incarcerated would indicate the  
12 person's race and ethnicity for the federal decennial census.

13 (d) The comptroller shall request each agency that operates  
14 a federal facility in this state that incarcerates persons  
15 convicted of a criminal offense to provide the comptroller with a  
16 report including the information listed in Subsection (b) for  
17 persons convicted of an offense in this state.

18 (e) For each person included in a report received under  
19 Subsection (b) or (d), the comptroller shall determine the  
20 geographic units for which population counts are reported in the  
21 federal decennial census that contain the last address at which the  
22 person resided before the person's incarceration according to the  
23 report and, if that address is in this state:

24 (1) adjust all relevant population counts reported in  
25 the census, including populations by age, gender, race, and  
26 Hispanic, Latino, or Spanish origin, as if the person resided at  
27 that address on the day for which the census reports population; and

1           (2) eliminate the person from all applicable  
2 population counts reported in the federal decennial census for the  
3 geographic units that include the facility at which the person was  
4 incarcerated on the day for which the census reports population.

5           (f) The information required to be included in a report  
6 under Subsection (b) or (d) is confidential and not subject to  
7 required disclosure under Chapter 552. This subsection does not  
8 apply to information aggregated by geographic census unit that does  
9 not disclose the address of or other information that might  
10 identify an individual.

11           Sec. 2058.004. USE OF ADJUSTED CENSUS COUNTS FOR  
12 REDISTRICTING. (a) Each political subdivision of this state that  
13 elects any members of a governmental body from election districts,  
14 wards, or precincts that are subject to the one-person, one-vote  
15 requirement of the Constitution of the United States shall ensure  
16 that after redistricting each of those election districts, wards,  
17 or precincts does not vary from the average population of those  
18 districts, wards, or precincts according to the most recent  
19 adjusted population counts prepared by the comptroller under  
20 Section 2058.003 by more than five percent.

21           (b) A state governmental body, including the legislature,  
22 the Legislative Redistricting Board, or any state court, that  
23 redistricts any election districts subject to the one-person,  
24 one-vote requirement of the Constitution of the United States shall  
25 comply with the restriction provided by Subsection (a).

26           (c) A governmental entity to which this section applies may  
27 exceed the adjusted population restrictions required by this

1 section only to the extent necessary to comply with federal law or  
2 the Texas Constitution.

3 (d) This section does not apply to any political subdivision  
4 or state governmental body before the comptroller makes the initial  
5 adjustment of census counts for the 2020 federal decennial census.  
6 This subsection expires January 1, 2022.

7 SECTION 3. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2019.