

By: Crockett

H.B. No. 146

A BILL TO BE ENTITLED

AN ACT

relating to determining the residence of incarcerated persons.

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

SECTION 1. Article 16.21, Code of Criminal Procedure, is amended to read as follows:

Art. 16.21. DUTY OF SHERIFF AS TO PRISONERS. (a) Every sheriff shall keep safely a person committed to the sheriff's ~~his~~ custody. The sheriff ~~He~~ shall use no cruel or unusual means to secure this end, but shall adopt all necessary measures to prevent the escape of a prisoner. The sheriff ~~He~~ may summon a guard of sufficient number, in case it becomes necessary to prevent an escape from jail, or the rescue of a prisoner.

(b) A sheriff shall take all practical measures to obtain and record the following information from a person committed to the sheriff's custody:

(1) the age, gender, and race of each person and whether the person is of Hispanic, Latino, or Spanish origin, if known; and

(2) the current address or location at which the person resides.

(c) If a sheriff is unable to obtain the information described by Subsection (b), the sheriff shall make a record of that fact.

(d) Information described by Subsections (b) and (c) is

1 confidential and not subject to required disclosure under Chapter
2 552, Government Code.

3 SECTION 2. Section 1.015(e), Election Code, is amended to
4 read as follows:

5 (e) A person [~~who is an inmate in a penal institution or~~] who
6 is an involuntary inmate in a health care, detention, [hospital] or
7 eleemosynary institution, including a hospital, rehabilitation
8 center, substance abuse treatment center, psychiatric facility,
9 prison, jail, or detention center, does not, solely because the
10 person is [while] an inmate, acquire residence at the place where
11 the institution is located. Notwithstanding any other law, a
12 person described by this subsection retains residency at the
13 location of the person's residence before becoming an inmate and
14 may register to vote or remain registered to vote at that location
15 if the person is otherwise eligible to vote in the jurisdiction of
16 the person's residence. A person who is an inmate and who does not
17 have a residence outside of the institution at which the person is
18 held may, notwithstanding any other law, register to vote at the
19 institution provided that the person is otherwise eligible to vote
20 in the jurisdiction in which the institution is located. A person
21 who registers to vote at an institution in the manner provided by
22 this subsection loses residence at that institution once the person
23 is released from the institution and acquires a new residence.

24 SECTION 3. Sections 2058.002(a) and (b), Government Code,
25 are amended to read as follows:

26 (a) The legislature or the Legislative Redistricting Board
27 under Article III, Section 28, of the Texas Constitution may

1 officially recognize or act on a federal decennial census as
2 adjusted under Section 2058.003 before September 1 of the year
3 after the calendar year during which the census was taken.

4 (b) A political subdivision governed by a body elected from
5 single-member districts may recognize and act on tabulations of
6 population of a federal decennial census as adjusted under Section
7 2058.003, for redistricting purposes, as soon as those adjusted
8 tabulations become available [~~on or after the date the governor~~
9 ~~receives a report of the basic tabulations of population from the~~
10 ~~secretary of commerce under 13 U.S.C. Section 141(c)~~]. This
11 subsection does not apply to a political subdivision that was not
12 subject to a statute requiring certain political subdivisions,
13 classified by population, to elect their governing bodies from
14 single-member districts under the preceding federal census.

15 SECTION 4. Chapter 2058, Government Code, is amended by
16 adding Sections 2058.003 and 2058.004 to read as follows:

17 Sec. 2058.003. INCLUSION OF INCARCERATED PERSONS IN CENSUS
18 COUNTS. (a) Not later than the 14th day following the date on which
19 the tract-level population counts for this state from the federal
20 decennial census are released by the director of the Bureau of the
21 Census of the United States Department of Commerce, the
22 comptroller, in coordination with the Texas Demographic Center, the
23 Texas Legislative Council, and the Texas Department of Criminal
24 Justice, shall prepare and disseminate adjusted population counts
25 for each geographic unit included in the census counts as provided
26 by this section.

27 (b) Not later than June 1 of the year in which the federal

1 decennial census is conducted, each state or local governmental
2 entity in this state that operates a facility for the incarceration
3 of persons convicted of a criminal offense, including a mental
4 health institution for those persons, or that places any person
5 convicted of a criminal offense in a private facility to be
6 incarcerated on behalf of the governmental entity, shall submit a
7 report to the comptroller with the following information:

8 (1) a unique identifier, not including the name, for
9 each person incarcerated in a facility operated by the governmental
10 entity or in a private facility on behalf of the governmental entity
11 on the date for which the census reports population who completed a
12 census form, responded to a census inquiry, or was included in any
13 report provided to census officials, if the form, response, or
14 report indicated that the person resided at the facility on that
15 date;

16 (2) the age, gender, and race of each person included
17 in the report and whether the person is of Hispanic, Latino, or
18 Spanish origin, if known; and

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

21 (c) Each governmental entity required to make a report under
22 Subsection (b) shall ensure that the entity collects and maintains
23 the information required to make the report. The comptroller, in
24 coordination with the correctional institutions division of the
25 Texas Department of Criminal Justice, shall prescribe procedures
26 that a governmental entity shall use to permit each person included
27 in the report to indicate the person's race and ethnicity for

1 purposes of Subsection (b)(2) in a manner similar to the manner in
2 which a person not incarcerated would indicate the person's race
3 and ethnicity for the federal decennial census.

4 (d) The comptroller shall request each agency that operates
5 a federal facility in this state that incarcerates persons
6 convicted of a criminal offense to provide the comptroller with a
7 report including the information listed in Subsection (b) for
8 persons convicted of an offense in this state.

9 (e) For each person included in a report received under
10 Subsection (b) or (d), the comptroller, in coordination with the
11 Texas Demographic Center, the Texas Legislative Council, and the
12 Texas Department of Criminal Justice, shall determine the
13 geographic units for which population counts are reported in the
14 federal decennial census that contain the last address at which the
15 person resided before the person's incarceration according to the
16 report and, if that address is in this state:

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

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

25 (f) The information required to be included in a report
26 under Subsection (b) or (d) is confidential and not subject to
27 required disclosure under Chapter 552. This subsection does not

1 apply to information aggregated by geographic census unit that does
2 not disclose the address of or other information that might
3 identify an individual.

4 Sec. 2058.004. USE OF ADJUSTED CENSUS COUNTS FOR
5 REDISTRICTING. (a) Each state and local governmental entity,
6 including any board or commission, that is responsible for drawing
7 districts for any elected office in this state on the basis of
8 population, including any federal, state, or local elected office,
9 shall use the adjusted population counts prepared by the
10 comptroller under Section 2058.003 to determine the population of
11 geographic units.

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

21 (c) 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 (b).

26 (d) To the extent of any conflict between Subsection (b) or
27 (c) and another state or federal law requiring a deviation of less

1 than five percent for an election district, the other law controls.

2 (e) A governmental entity to which this section applies may
3 exceed the adjusted population restrictions required by this
4 section only to the extent necessary to comply with federal law or
5 the Texas Constitution.

6 (f) This section does not apply to any political subdivision
7 or state governmental body before the comptroller makes the initial
8 adjustment of census counts under Section 2058.003.

9 SECTION 5. Section 151.317, Tax Code, is amended by
10 amending Subsection (c) and adding Subsection (c-1) to read as
11 follows:

12 (c) Except as provided by Subsection (c-1), in [~~In~~] this
13 section, "residential use" means use:

14 (1) in a family dwelling or in a multifamily apartment
15 or housing complex or building or in a part of a building occupied
16 as a home or residence when the use is by the owner of the dwelling,
17 apartment, complex, or building or part of the building occupied;
18 or

19 (2) in a dwelling, apartment, house, or building or
20 part of a building occupied as a home or residence when the use is by
21 a tenant who occupies the dwelling, apartment, house, or building
22 or part of a building under a contract for an express initial term
23 for longer than 29 consecutive days.

24 (c-1) The term "residential use" does not include use in a
25 health care or detention facility, including a hospital,
26 rehabilitation center, substance abuse treatment center,
27 psychiatric facility, prison, jail, or other detention center, or

1 use by the owner or operator of the health care or detention
2 facility.

3 SECTION 6. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect January 1, 2023.