

City of Philadelphia



Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 100020)

RESOLUTION

Calling upon the Pennsylvania General Assembly to amend the election law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained, for the purpose of apportioning legislative districts and calling upon the United States Census Bureau to change its method for counting prisoners so that prisoners are recorded as living at their last known address prior to incarceration.

WHEREAS, Obtaining an accurate count of the population is so vital to a representative democracy that the framers of the United States Constitution addressed the issue of the census and apportionment in the opening paragraphs of this governing document; and

WHEREAS, The right to vote and the right to representation is a fundamental civic right; and

WHEREAS, The Census Bureau applies the “usual residence” rule when it tabulates where people reside, which means that the Census Bureau generally counts people according to where they live and sleep most of the time; and

WHEREAS, Prisoners are therefore tabulated as residents of the counties of their incarceration rather than residents of the counties in which they resided prior to incarceration, locations where they likely have significant ties and interests; and

WHEREAS, The “usual residence” method of tabulation therefore results in a population shift to locations where prisons are situated; and

WHEREAS, This population shift is in direct contravention to the democratic principle of “one person, one vote;” and

WHEREAS, Minority communities and other traditionally disenfranchised groups suffer especially high rates of incarceration; and

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WHEREAS, Prisons in the Commonwealth of Pennsylvania are overwhelmingly located in rural counties, yet the majority of prisoners in Pennsylvania reside in urban counties prior to incarceration; and

WHEREAS, Therefore the uneven rates of incarceration in the Commonwealth of Pennsylvania result in a population shift of minorities from urban counties, where they are counted as members of substantial voting blocks and in which they have an interest, to rural counties where they do not enjoy civic participation; and

WHEREAS, Current census practices thereby deprive urban areas of the benefits that accrue to a jurisdiction as a result of population size, such as voting and funding; and

WHEREAS, Such population distortions affect U.S. Congressional Districts, but have an even greater impact on state legislative districts; and

WHEREAS, Eight state House of Representatives districts would not meet federal "one-person, one-vote" standards if nonvoting state prisoners did not count as district residents for purposes of drawing up legislative districts, according to an analysis conducted by Prison Policy Initiative, an advocacy group based in Northampton, Massachusetts; and

WHEREAS, This policy has led to a serious undercount of Philadelphia's population. Twelve percent of the state's population is in Philadelphia, but 40% of the state's prisoners are from that city and 99% of the state's prison cells are located outside of Philadelphia; and

WHEREAS, Application of the "usual residence rule" has a focused and negative impact on the political strength of Black residents. Fifty-five percent of the state's prisoners are Black, but 93% of the state's prison cells are located in House districts that are disproportionately White; and

WHEREAS, Pennsylvania has the legal authority to correct the Census data by collecting the home addresses of people in prison and then adjusting the U.S. Census counts prior to redistricting. The Third Circuit Court of Appeals, in the case of *Borough of Bethel Park v. Stans*, 449 F. 2d 575, 583 (C.A. 3, 1971), held that

Although a state is entitled to the number of representatives in the House of Representatives as determined by the federal census, it is not required to use these census figures as a basis for apportioning its own legislature. Therefore, appellants' contention that they will suffer injury because of Pennsylvania's reliance on the federal census for the apportionment of its legislative bodies is properly directed at the appropriate state law.

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legislation with these goals has been introduced in New York and Michigan, and is patterned on how Kansas adjusts the federal census counts of military personnel and students; and

WHEREAS, In the alternative, the Census Bureau could easily fix this problem by changing its policy and counting people in prison as residents of their last known address; now, therefore, be it

RESOLVED, That the Council of the City of Philadelphia calls upon the Pennsylvania General Assembly to adjust the United States Census data so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained, for the purpose of apportioning legislative districts.

FURTHER RESOLVED, That the Council of the City of Philadelphia calls upon the United States Census Bureau to change its method for counting prisoners so that prisoners are recorded as living at their last known address prior to incarceration.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the twenty-eighth of January, 2010.

Anna C. Verna
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers Tasco, Jones, Sanchez and Green

Sponsored by: Councilmembers Tasco, Jones, Sanchez, Green, Goode, Greenlee, Kenney, DiCicco, Clarke, Blackwell, Miller, Council President Verna and Krajewski