



United Congress of Community and Religious Organizations
Testimony in Support of HB 62 (Ford)
House Executive Committee 03.20.13

Good morning. Thank you to members of the House Executive Committee for considering HB 62, a bill to correct how prisoners are counted for the purpose of redistricting. My name is Josina Morita, I am the Director of the United Congress of Community and Religious Organizations—a coalition of Black, Latino, Asian and Arab community based organizations.

Prison-based gerrymandering is the practice of apportioning the political representation of prisoners away from their home districts, and to the districts in which they are incarcerated. This is not an explicit policy. It is a practice that occurs due to a lack of and misuse of population data, but has far reaching negative impacts on the right to fair representation for all Illinoisans.

The problem begins with how individuals are counted for the purpose of redistricting. U.S. Census data, which Illinois uses to draw its redistricting maps, counts everyone at their “usual residence”—generally defined as where they sleep and eat. The U.S. Constitution, however, mandates that everyone be counted at their “legal residence”—their permanent home residence. Illinois law is clear that prison is not a legal residence. In 1887, the judgment in *County of Franklin v. County of Henry* (1887) declared that “a person confined in prison under the judgment and sentence of a court does not thereby change his residence.” By using uncorrected Census data that counts prisoners at their prison address results in over 47,000 people being counted in the wrong place, and a map that has house districts with over 4,000 less legal residents than other districts—clearly violating “One person, One vote” for all residents of the state.

Prison-based gerrymandering violates the most basic redistricting principles laid out in the U.S. and Illinois Constitutions including equal population, compactness and contiguity, and the Voting Rights Act.

Equal Population: The Illinois Constitution mandates that the state draw equal population districts. Illinois is one of only two states to prioritize absolute population equality in state legislative districts. While Illinois has put great effort into drawing its map to the highest standard, allowing deviation only up to a single person—prison-based gerrymandering produced districts in 2011 with 4,323 person deviations at the house level and 7,869 at the senate level. This not only violates fair representation for areas in which prisoners are from, it violates the right to fair representation for all Illinoisans.

Compact and Contiguous: All districts are required to be relatively compact and contiguous. The practice of counting a prisoner at their place of incarceration—often hundreds of miles away from their “legal residence”—is a clear violation of this requirement.

Federal Voting Rights Act: This Act requires that majority-minority districts are drawn wherever possible, and prohibits the practice of vote dilution. Prison-based gerrymandering takes away significant Black and Latino population from concentrated areas, and disperses it to largely

majority-white areas throughout the state. This restricts the state's ability to draw the number of voting rights districts that would be possible if prisoners were counted at their "legal residence," therefore diluting the voting rights of communities of color protected under this Act.

Prison-based gerrymandering continues to have an increasing impact on Illinois' redistricting process for a few reasons. Illinois' prison population has grown by over 500 percent over the last 40 years—and continues to increase. There is a growing geographic divide between where prisoners are from and where prisons are located. While 65 percent of prisoners are from Cook County, 90 percent are incarcerated in prisons an average of 200 miles away. Illinois also has one of the most racially disparate criminal justice systems in the country, for both adults and juveniles. The incarceration rate among Blacks is nine times higher than the rate for whites. All of these factors have exacerbated the impacts of prison-based gerrymandering.

Solutions exist. There are 20 counties and municipalities in Illinois that already correct their data at the local level. These include Bond, Christian, Crawford, Fayette, Fulton, Jefferson, Lawrence, Lee, Livingston, Logan, Montgomery, Rock Island and Will counties, as well as the cities of Canton, Crest Hill, Danville, Galesburg, Pontiac and Vandalia. In 1992, an Illinois Appeals court upheld the practice of excluding prisoners from the population when apportioning county districts in *Knox County Democratic Cent. Committee v. Knox County Bd.* (1992). Four states—Maryland, New York, California, and Delaware—have also passed legislation to correct this problem. And in June 2012, the U.S. Supreme Court upheld the constitutionality of Maryland's law in *Fletcher vs. Jones (2012)*.

HB 62 is one of these solutions. This bill is modeled after Maryland's law that was recently upheld by the U.S. Supreme Court. This bill would require the Illinois Department of Corrections to collect the "legal residence" addresses for prisoners, and provide this data to the Secretary of State who would use this data along with provided U.S. Census data to correct the state's redistricting data to ensure prisoners are removed from their prison address and counted at their "legal residence." Nothing in this bill would impact current funding formulas or allocations.

This bill would correct a growing problem in Illinois and ensure the state is correctly adhering to the standards provided in the U.S. and Illinois Constitutions. And ultimately this bill will help ensure fair representation for all Illinoisans. For these reasons, the United Congress of Community and Religious Organizations asks you to support HB 62.

Thank you for your consideration,

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