

HOUSE BILL REPORT

SHB 2527

As Passed Legislature

Title: An act relating to protecting the rights of Washingtonians during the United States census.

Brief Description: Concerning the rights of Washingtonians during the United States census.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Ramos, Kilduff, Gregerson, Valdez, Slatter, Ortiz-Self, Tarleton, Davis, Doglio, Callan, Ramel, Pollet, Hudgins, Ormsby and Santos).

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/22/20, 1/28/20 [DPS].

Floor Activity:

Passed House: 2/12/20, 66-30.

Senate Amended.

Passed Senate: 3/3/20, 29-20.

House Concurred.

Passed House: 3/7/20, 68-29.

Passed Legislature.

Brief Summary of Substitute Bill

- Creates a Washington Census Bill of Rights and Responsibilities that affirms rights related to participating in the United States decennial Census (Census).
- Makes impersonating a Census taker a gross misdemeanor.
- Makes it an unfair or deceptive practice under the Consumer Protection Act to mail materials with the intent to interfere with Census operations.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan, Hudgins, Mosbrucker 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 2 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member.

Staff: Carrington Skinner (786-7192).

Background:

United States Decennial Census.

Since 1790, the United States (U.S.) decennial Census (Census) has been conducted every 10 years to determine the population of the entire country and to compile demographic information concerning age, sex, race, and ethnicity. The results determine the number of seats for each state in the U.S. House of Representatives and are used to draw congressional and state legislative districts. Census counts are also used to determine the distribution of federal funds to states, counties, and cities. The operation, which is mandated by the federal Constitution, is conducted by the U.S. Census Bureau (Bureau), which is part of the U.S. Department of Commerce (DOC).

In 2020 the Census tally will begin in January with counting populations in remote parts of Alaska. In March, most households will begin receiving an invitation by mail to participate in the Census. Respondents will be asked to provide information about where they live as of April 1, 2020, which is known as Census Day. Beginning in May and June, Census takers will visit homes of people who have not yet responded to the Census to collect information. In December, the Bureau will deliver apportionment counts to the President and Congress.

This year's Census will be the first to permit responses to be submitted online or by phone, in addition to paper forms and in-person responses. Printed Census forms will be available in English and Spanish; the online questionnaire and telephone assistance will be available in 13 languages. In addition, language assistance guides, glossaries, and identification cards will be available in 59 non-English languages.

To verify the identity of a Census taker, the Bureau encourages residents to check for a valid identification badge with photograph, which should contain a DOC watermark and expiration date. With limited exceptions that include address verification and the exchange of statistical information with other federal departments, officers and employees of the Bureau are not allowed to:

- use information obtained by the Census other than for statistical purposes;
- publish data that allows an individual or establishment to be identified; or
- permit anyone other than sworn officers and employees to view individual reports.

Employees who do publish or communicate confidential Census information can be fined no more than \$5,000 or sentenced to five years in prison, or both.

The Washington Complete Count Committee, along with city, county, and regional committees, seeks to educate Washington residents about the Census and encourage participation. The Office of Financial Management (OFM) serves as the liaison between the state and the Bureau during the Census process.

Impersonation Crimes.

There are several crimes related to fraud under Washington criminal law, including Forgery, False Certification, and Criminal Impersonation. Criminal Impersonation in the first degree, which is a class C felony, occurs when a person assumes a false identity or pretends to be a representative of a person or organization and does an act with the intent to defraud. A person is guilty of Criminal Impersonation in the second degree, a gross misdemeanor, when the person:

- claims to be a law enforcement officer or creates the impression he or she is a law enforcement officer, and does an act with the intent to convey the impression that he or she is acting in an official capacity and a reasonable person would believe he or she is an officer; or
- falsely assumes the identity of a veteran or active duty member of the Armed Forces with the intent to defraud for personal gain or facilitate any unlawful activity.

Gross misdemeanors are punishable by a maximum county jail term of 364 days or by a fine of not more than \$500, or both.

Under federal law, a person who falsely assumes or pretends to be an officer or employee of the U.S. government and demands or obtains money, documents, or things of value is to be fined or imprisoned not more than three years, or both. It is also a federal crime to falsely represent that a person is an officer of the U.S. and arrest, detain, or search a person or a person's building or property.

Under the state's Consumer Protection Act (CPA), unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are unlawful. A person injured by a CPA violation may bring a private cause of action for injunctive relief and the recovery of actual damages and reasonable attorneys' fees. In addition, the CPA allows the Attorney General to bring a CPA action in the name of the state or on behalf of persons residing in the state seeking to prevent or restrain violations and may seek restoration for persons injured by a CPA violation.

Summary of Substitute Bill:

A Washington Census Bill of Rights and Responsibilities is created, which affirms the following rights to:

- participate in the Census free of threat or intimidation;
- the confidentiality of information provided in the Census form;
- respond to the Census by means made available to the respondent, either by phone, by mail, online, or in person;
- request language assistance; and
- verify the identity of a Census worker.

The Secretary of State is required to translate the Census Bill of Rights and Responsibilities into languages other than English. The OFM must make the Census Bill of Rights and Responsibilities available for use on its website and available for inclusion on city and county Census websites, as well as the Census Questionnaire Assistance Center website.

A new crime of Impersonating a Census Taker is created, which is a gross misdemeanor. A person is guilty of this crime if he or she falsely represents that he or she is a Census taker with the intent to:

- interfere with the operation of the Census;
- obtain information; or
- obtain consent to enter a private dwelling.

It is an unfair or deceptive practice under the CPA to mail materials with the intent to:

- deceive a person into believing that the material is an official Census communication;
- interfere with Census operations; or
- discourage a person from participating in the Census.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill helps ensure that everyone is counted in the Census and adds a gross misdemeanor as a stop-gap in case someone tries to interfere with the Census process. California recently added a similar provision that other states are also looking at to prevent fraud or intimidation during the Census. The basis of the bill came from discussions with people of color and folks in low-income neighborhoods where there is fear about actions that may be taken during the Census.

(Opposed) None.

Persons Testifying: Representative Ramos, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.