

Why Does PA Need an Independent Redistricting Commission?

For centuries, gerrymandering of legislative districts has allowed politicians to choose their voters and lock in legislative power. The word itself dates back to 1812, when Governor Elbridge Gerry of Massachusetts signed off on a salamander-shaped district that benefited his own party, the Democratic-Republicans.

The practice became far more precise in recent decades, thanks to sophisticated mapping platforms and the ability to collect and track far more demographic data than in the past.

A growing body of research ties gerrymandering to polarization, legislative dysfunction, gridlock, and increasing voter frustration with an overly partisan political process. Recent surveys show strong support for redistricting reform from all parties and

demographics. While political leaders may struggle to hold control, voters expect to be heard on this. Repeated cycles of costly litigation and uncertainty about who will control the process will be the norm until better redistricting processes are in place.

The next redistricting processes will take place in 2031, following the 2030 National Census.

No one knows who will control the PA House or Senate; no one knows who will sit in the Governor's office or hold the PA Supreme Court majority. So no one knows who will have the final say in determining Pennsylvania voting districts.

What we DO know is that when one party uses redistricting to hold control, the partisan divide grows deeper and voters' distrust increases.

Here are some questions to consider:

- Why should Pennsylvania change its current redistricting processes?
- Didn't the 2021 redistricting solve things?
- Why would an Independent Redistricting Commission (IRC) be an improvement?
(Are all commissions IRCs? What happened in Michigan? Any lessons learned?)
- What would a transparent, public process look like?
(Weren't the PA 2021 processes good enough?)
- Doesn't PA already have adequate mapping standards?
(What about competitive districts?)
- What does the prison population have to do with redistricting?
- Why does Pennsylvania need to address this NOW?
(Who will be harmed if this issue is ignored?)

Senate Bill 131 and House Bill 31 are designed to create a fair and transparent redistricting process that incorporates lessons learned from other commissions, and reflects insights from Pennsylvania legislators, redistricting experts and Pennsylvania's citizen mappers and advocate communities. This document presents highlights of those lessons learned while answering the preceding questions.



WHY SHOULD PENNSYLVANIA CHANGE ITS CURRENT REDISTRICTING PROCESSES?

Pennsylvania currently has two separate redistricting processes. Congressional districts are drawn by the Legislature, passed as a simple bill, and are subject to approval or veto by the Governor.

PA State House and Senate districts have been drawn by the Legislative Reapportionment Commission (LRC) since a constitutional amendment in 1968¹. The LRC is a Bipartisan Political Commission with five members: the Majority and Minority leaders of the State House and Senate who then select a fifth member as Chair. If the House and Senate leaders can't agree, the PA Supreme Court selects a Chair. Maps drawn by the LRC do not need approval by the Legislature or the Governor and remain in use for the following decade unless challenged and redrawn.

Whichever political party is in power – Democrat or Republican – gerrymandering is often the outcome.

Pennsylvania gerrymandering in 2011 drew national attention. PA's Congressional districts were widely considered among the worst in the country. In 2011, The Washington Post held a "name that district" contest, and PA's District 7 was dubbed "Goofy kicking Donald Duck" due to its strange shape.²

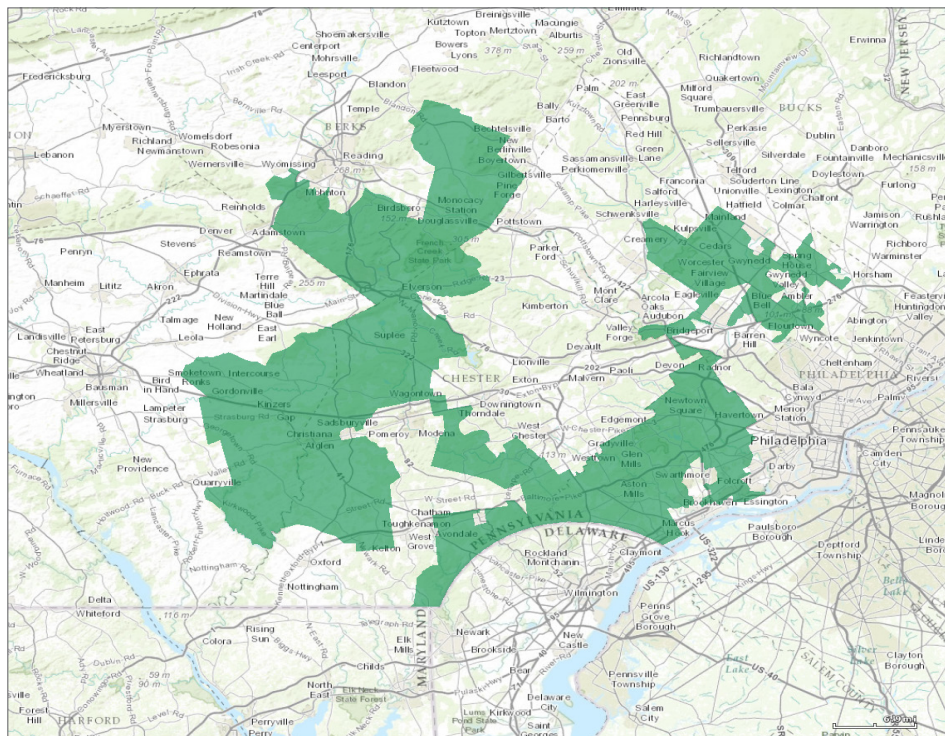


Figure 1: PA Congressional District 7, 2012-2016, Wikipedia.

From 2012 through 2016, Republicans held a locked-in advantage, winning 13 of 18 House districts even when votes cast were close to 50/50. By two measures, the efficiency gap and seats-to-votes, Pennsylvania's districts were the worst. By three others, PA was among the worst five, the only state among the worst five in all five metrics.³

The PA Senate plan in use from 2012 to 2020 favored Republicans by 9%. This played out across the decade, most dramatically in the 2014 election. Total votes were split 55% Republican/45% Democrat, yet Republicans won 18 seats (72%) and Democrats 7 seats (28%).⁴

House districts during that redistricting cycle were the subject of repeated litigation, so much so that districts drawn in 1991 were used until 2014. Even with new, court-ordered maps, the GOP held a significant advantage. In 2018, a Washington Post article pointed to PA's 9% gap between votes cast and seats as the largest such skew in the nation.⁵

BUT DIDN'T THE 2021 REDISTRICTING SOLVE THIS?

In 2021, the PA House State Government Committee Chair invited map submissions from the public, chose one of those without explanation and altered it without explanation. That map passed the House and Senate on a straight party vote. The Governor vetoed the map. When appeals reached the PA Supreme Court, the Court invited map submissions, held hearings, and selected the Carter plan by a 4-3 vote along party lines.

In January 2022, PlanScore posted a partisan bias comparison of maps proposed to the PA Supreme Court (see the graphic below). The nonpartisan organization of legal, mapping and data experts is compiling districting data from every state across the last half century. This allows them to show where district plans fall with regard to partisan advantage and allows comparison to all other similar district plans enacted.⁶

According to that assessment, House Bill 2146, the map passed by the PA General Assembly and vetoed by Governor Wolf, would have provided a 6% GOP advantage. According to PlanScore, the Carter Map, selected by the Court, has no consistent partisan skew.

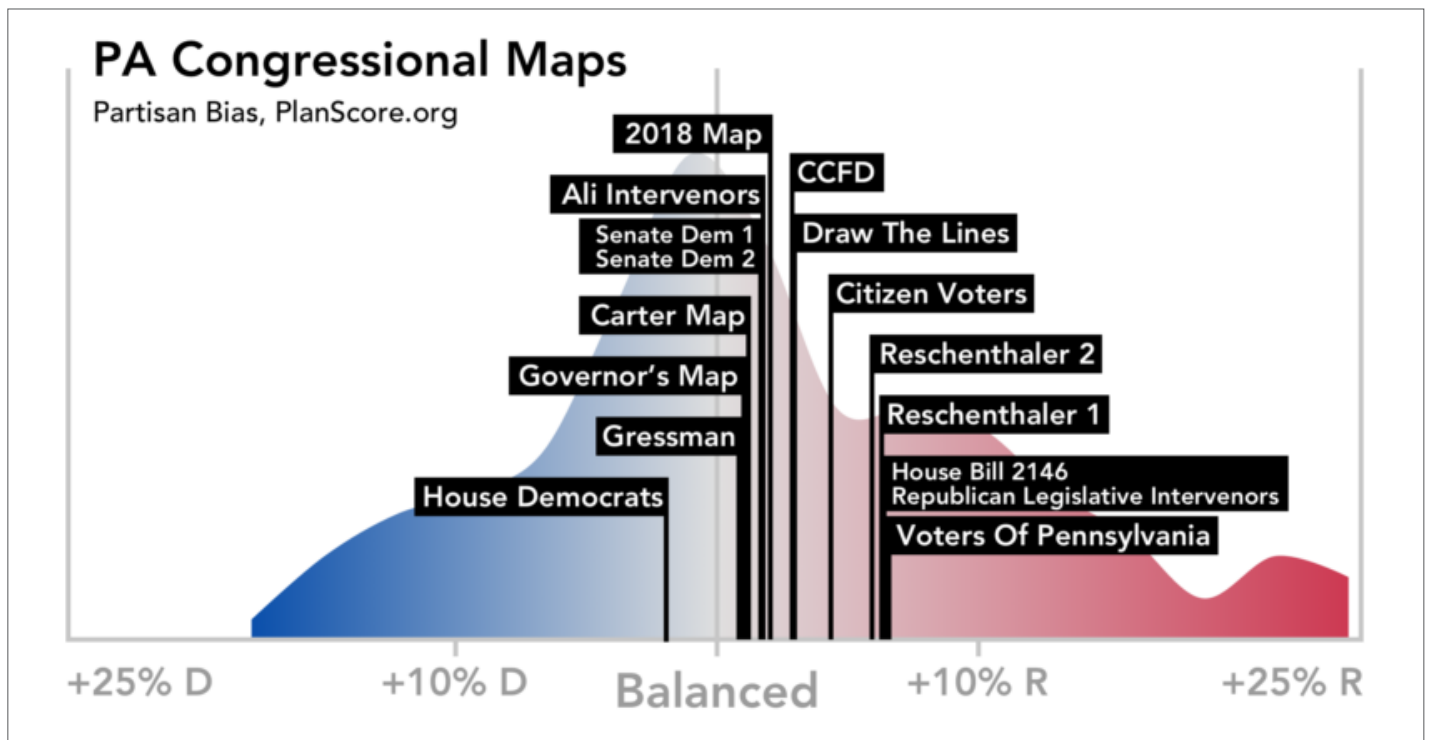


Figure 2: PlanScore comparison of maps proposed to PA Supreme Court in League of Women Voters v Commonwealth 2018

The responsiveness of the current map was demonstrated in the past two elections. In 2022, the outcome was 9 D and 8 R districts. In 2024, the outcome was 10 R, 7 D. Both outcomes accurately reflected votes cast.

The PA State House and Senate districts are also, according to PlanScore assessments, far more balanced than in decades past. The House partisan bias score is 0. The Senate score is +3% Republican, compared to +9% Republican from the previous 2 decades.

WHAT MADE THE DIFFERENCE?

A major factor in the more balanced outcomes at every level was public attention throughout the process. Groups like Fair Districts PA and partners advocated at every point along the way, asking for more public input, greater transparency, and more attention to partisan fairness.

SPECIFIC CONTRIBUTING FACTORS INCLUDED:

The LRC Chair was independent and nonpartisan.

As in past cycles, the partisan Supreme Court selected the LRC's chair, but appointed an independent-minded chair. Mark Nordenberg, when selected, was praised by both parties as a "fair and neutral arbiter" who was "disassociated from partisan politics."⁷ There is no guarantee this would happen again.

The LRC involved the public far more than in the past.

They held public meetings to review draft maps, accepted and reviewed submitted maps, and adjusted maps based on input. For example, a bipartisan group of four House members from the Pittsburgh region influenced the IRC with a presentation about the need to draw districts that crossed the border between Allegheny and Washington counties. The LRC is not currently required to involve the public or provide a rationale for their maps; in the past they've held closed door sessions and provided little public information.

Maybe better, but still highly partisan

The LRC was still fraught with partisan conflicts due to its political nature. The maps were approved by a 4-1 vote. Even though the State House map has a slight R bias by some metrics, and no hint of D advantage by any respected measure, the dissenting commissioner filed a petition with the US Supreme Court claiming that the balanced plan was an "extreme partisan outlier" and that 2012 maps should be used until changes were made. The suit was dismissed.⁸

According to LRC Chair Nordenberg:

The composition of the Commission essentially guarantees that its processes, though hopefully civil, will be strongly influenced by partisan interests and will largely be adversarial...It would be surprising if each of those four caucus leaders, elected to a leadership position by his or her caucus members, was not highly motivated to secure the adoption of a plan that would best advance the interests of that caucus.⁹

There is nothing in law to protect Pennsylvania redistricting processes from future partisan manipulation and nothing to guarantee fair future outcomes. Legislators who felt the harm of previous gerrymanders and legislators who decried the 2021 process might consider what could happen in future redistricting if current processes continue.

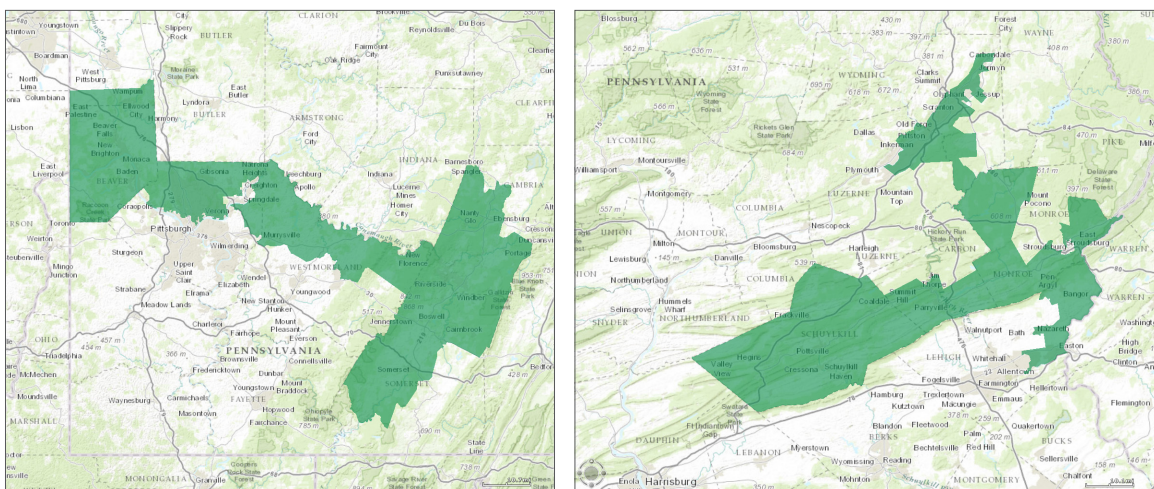


Figure 3: PA Congressional Districts 12 and 17, 2012-2016, Wikipedia

WHY WOULD AN INDEPENDENT REDISTRICTING COMMISSION (IRC) BE AN IMPROVEMENT?

Lessons learned from the 2021 redistricting cycle suggest that Independent Redistricting Commissions (IRCs) draw maps that are fair to both voters and political parties.

According to a 2024 Campaign Legal Center report: “The 2021 redistricting cycle affirmed that true Independent Redistricting Commissions vested with the full authority of redistricting are the gold standard.”¹⁰

A genuine IRC uses a selection process that limits the influence of elected officials and party leaders while balancing partisan affiliations. Citizen commissioners are selected from a large pool of volunteers by a semi-random nonpartisan process. Candidates must be registered voters, qualified, and broadly representative of the diversity of the state. Current and past politicians, lobbyists, and other political insiders are excluded. Genuine IRCs incorporate public input in a transparent, public process, and give commissioners full authority to approve final maps.

To date, three states have IRCs with full authority over Congressional and state legislative districts: California, Colorado, and Michigan.¹¹ Their commissioners are selected as follows:

California: The CA State Auditor’s office oversees the selection of 14 IRC commissioners (5D, 5R, 4 unaffiliated). In 2021, more than 20,000 voters submitted applications with essays and letters of recommendation. An Applicant Review Panel selects 120 of the most qualified applicants. The Legislature may remove 8D, 8R, and 8 unaffiliated from the pool. The State Auditor then randomly draws 3D, 3R, and 2 unaffiliated from the remaining pool, and these commissioners select an additional 2D, 2R, and 2 unaffiliated commissioners from the pool for a total of 14.¹²

Colorado: CO selects its independent Congressional and Legislative Redistricting Commissions by soliciting applications on the IRC website, then screening for eligibility by nonpartisan staff. A Judicial panel randomly selects 300D, 300R, and 450 unaffiliated during a public meeting, then reviews the applications and selects 50 each D, R and unaffiliated applicants based on merit. It randomly selects 6 (2D, 2R, and 2 unaffiliated) commissioners from the pool. Senate & House Majority and Minority Leaders then each select 10 candidates from the initial applicant pool, and the Judicial panel selects a commissioner from each Leader’s candidate list. The Judicial panel selects 2 additional unaffiliated commissioners from the pool for a total of 12 commissioners.¹³

Michigan: MI’s Department of State (DOS) oversees the selection of commissioners. It posts the IRC application on its website and mails at least 10,000 applications to randomly selected Michigan voters. In 2021, the pool of 9,357 applicants was reviewed to ensure they represented the geographic and demographic makeup of the state, and the Legislature had the opportunity to strike a limited number of applicants. The DOS then randomly selected four Republican, four Democratic, and five unaffiliated commissioners to serve on the IRC.¹⁴

Experience shows that Independent Redistricting Commissions (IRCs) are effective in drawing nonpartisan districts that are fair to voters and political parties alike.

An IRC could do the same for Pennsylvania.

ARE ALL REDISTRICTING COMMISSIONS ALIKE?

Advisory Commissions are NOT the same as IRCs.

Their recommendations are frequently ignored. Prior to the 2021-22 redistricting cycle, voters in New York, Ohio, Utah, and Missouri approved Advisory Commissions to draw maps. None of those maps drawn by these Advisory Commissions in 2021 were put into effect.

Bipartisan Commissions, like PA’s LRC, don’t perform as well as IRCs.

Bipartisan commissions are political; commissioners are either politicians or appointed by partisan officials and exclude unaffiliated or third-party voters. In addition to PA, seven states – Arkansas, Hawaii, Idaho, Montana, New Jersey, Virginia, and Washington – have bipartisan political redistricting commissions. In the 2021 cycle they all struggled with political gridlock and/or drew gerrymandered maps.

BUT WHAT HAPPENED IN MICHIGAN?

Michigan's IRC was put in place by a citizen initiative passed in 2018. The new commission yielded significant successes, including enthusiastic public input and far less partisan bias than the state had seen in at least the past three decades. Michigan's 2012 maps favored Republicans by up to 15%. PlanScore assessments rank the IRC-drawn 2022 state Senate and Congressional maps among the most balanced in the country.¹⁵

The process fell short in drawing state House and Senate districts in the Detroit metro area. Thirteen districts were ruled unconstitutional by a federal court because they were drawn based predominantly on race, violating the Equal Protection clause in the US Constitution. The court found that the commission's legal counsel "told the commissioners that, to comply with the Voting Rights Act ('VRA'), they must limit the "black voting age population"—known as 'BVAP' in redistricting jargon—to approximately 35-45%. That proposition is without support in the Supreme Court's VRA caselaw."

The court held that, on the basis of bad advice, the commission had violated the equal protection clause of the US Constitution, which "absent some compelling interest...bars a State from 'separating its citizens into different voting districts on the basis of race.'" ¹⁶

A Michigan case study included in the Campaign Legal Center report points to problems with an inadequate hiring process for commission staff, failure to seek counsel from qualified Voting Rights experts, and bad advice from partisan legal counsel.¹⁷

An additional case study notes two further problems with the Michigan process:

1. The commission was charged with violating open meeting requirements. "Commissioners instructed reporters to leave the room, paused the livestream of the meeting, and covered the room's door windows with paper" as they discussed the legal ramifications of dismantling long-standing majority-minority districts.
2. Communities of color in those impacted districts felt their comments and testimony had not been considered.¹⁸

The Common Cause Redistricting Report Card gave Michigan a score of B, noting substantial improvements in transparency, impressive public input and far greater partisan fairness. The report found a "Mixed legacy on Voting Rights Act compliance" and noted:

Voting Rights Act compliance training should be improved: The MICRC's extensive focus on unpacking majority Black districts from the last cycle likely damaged the ability of Black Michiganders to elect their candidates of choice and left maps vulnerable to a legal challenge. Future commissions should be instructed on the proper interpretation of the Gingles requirements to draw districts in which sufficiently concentrated communities of Black voters can elect their candidates of choice.¹⁹

These outcomes are a clear reminder that commission independence alone is not an adequate safeguard. A transparent public process and clear, prioritized mapping standards are equally important in assuring fair outcomes and avoiding costly, disruptive litigation.

SB 131 and HB 31 address the "Michigan" issues by including specific requirements for hiring qualified, nonpartisan staff and prioritization of criteria.

A recent review of election outcomes based on 2021 district plans reports:

Though [nonpartisan] commissions are not always perfect, these results recommend the approach as something more states should consider for the next redistricting cycle. They can be an especially powerful reform when accompanied by explicit rules requiring them to draw fair maps that give everyone an equal voice in the political process.²⁰

WHAT WOULD A TRANSPARENT, PUBLIC PROCESS LOOK LIKE?

A transparent public process allows community input and restores trust that voters' voices are heard. Key elements appear in recent reviews of the 2021 process as well as in analysis of the past two decades of the California Citizens Commission:

- Training for commissioners in redistricting criteria and Voting Rights Act requirements.
- An open hiring process that allows commissioners to interview and hire qualified, nonpartisan staff.
- Adequate funding for commissioners, staff, expert consultants and public outreach and platforms.
- Community outreach and engagement across diverse geographic and demographic populations.
- Restrictions on commissioner communications outside of public meetings.
- Public access to all records and data.
- Adequate, well-publicized opportunities for public input and comment.
- An online platform where the public can view meetings, post comments, access data, submit maps or portions of maps and review and comment on proposed maps.
- Voting thresholds that require support from both partisan and unaffiliated commissioners. California, Colorado and Michigan require supermajorities with support from Democrat, Republican, and unaffiliated commissioners. California's maps are approved when 9 of 14 commissioners, 3 from each party and 3 unaffiliated, vote in favor of the maps. Michigan's IRC requires 9 of 13 votes to approve maps, including at least 2 votes from Democrat, Republican, and unaffiliated commissioners.
- Deadlines for important aspects of the process.
- A clearly defined nonpartisan failsafe. To date, no IRC has failed to enact maps within the required timeline. In such a case that commissioners cannot approve a map as required, an ideal backup plan would provide an alternative method that continues to keep the process within the commission.²¹

Pennsylvania's redistricting processes incorporated some of the above. The LRC provided a robust public website, invited comments online and in multiple public hearings, and worked quickly to provide census data to citizen mapping platforms. The LRC and Supreme Court invited testimony from Voting Rights experts, and the LRC, House State Government, and Court allowed submission of citizen maps.

Even so, many discussions and decisions were made behind closed doors. Public outreach was minimal and carried on in large part by community groups and advocacy organizations.

Partisan dynamics were an inevitable part of the process when all participants except one had an eye toward party dynamics and future elections.

And of most importance: there are no guarantees in law for any aspects of the process provided in 2021.

RECOMMENDED PRIORITIZATION & REPORTING

Reports from the most recent redistricting cycle suggest that some actions or outcomes be prohibited, with other actions or outcomes required, and still others listed in rank order to accomplish to the extent possible once higher priority standards have been met. As part of enforcement, district plans must be accompanied by reports explaining how standards have been met, as well as analysis using commonly accepted metrics.

Prohibitions:

- Benefit to an individual party or candidate
- Discrimination against a party, person or demographic
- Unnecessary division of jurisdictions or communities of interest

Requirements: (some to the extent possible after addressing higher ranked criteria):

- Partisan fairness
- Population equality within established limits
- Respect for communities of interest
- Respect for jurisdictions (counties, municipalities, etc).
- Contiguity
- Compactness
- Respect for geographic boundaries

DOESN'T PA ALREADY HAVE ADEQUATE MAPPING STANDARDS?

Clearly defined and prioritized mapping criteria provide guardrails against gerrymandering and give redistricting commissions and the public a way to evaluate and compare proposed district plans.

The 2024 Campaign Legal Center report suggests two lessons from the 2021 process:

1. All redistricting criteria should be codified in state law with robust definitions of key terms (e.g., “communities of interest”).
2. State law should provide clear instructions for prioritizing redistricting criteria, or, if necessary, commissions should determine how they will prioritize criteria at the outset. As the report notes, “[r]edistricting criteria can sometimes pull in different directions.”²²

Existing Standards: There are no redistricting standards explicitly stated in the US Constitution or federal law. Two have been established by legal precedent across the past half-century.

Population equality: In 1964 the US Supreme Court established the population equality standard, interpreting the US Constitution Article 1, Section 2 and the Equal Protection Clause of the Fourteenth Amendment to require that electoral districts within a redistricting plan contain an approximately equal number of persons. This has been interpreted in some states to mean an exactly zero population deviation, but case law shows that the court has accepted up to a 0.79% maximum population deviation.

“[A]bsolute” population equality is the standard for congressional districts unless a deviation is necessary to achieve “some legitimate state objective.” According to the Court, these objectives can include “consistently applied legislative policies” such as achieving greater compactness, respecting municipal boundaries, preserving prior districts, and avoiding contests between incumbents.²³

Pennsylvania’s state legislative districts are generally presumed to be constitutional if their total population deviation is less than 10%.

Minority representation: Section 2 of the Voting Rights Act of 1965 prohibits discrimination in voting on the basis of race, color, or membership in a language minority group. This nationwide prohibition applies to any voting qualification or prerequisite to voting or standard, practice, or procedure, *including districting plans and methods of election for governmental bodies.*

The Equal Protection Clause of the Fourteenth Amendment has also been used to challenge state legislative maps for racial gerrymandering.

The Pennsylvania Constitution, Article I, § 29, also provides protection for minority representation: “Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the race or ethnicity of the individual.”

Lack of partisan and racial gerrymandering: The PA Constitution’s Free and Equal Elections clause states “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” In 2018, the Pennsylvania Supreme Court cited this clause in *League of Women Voters v. Commonwealth*, finding that PA’s 2011 Congressional districts were an impermissible partisan gerrymander.²⁴ That legal precedent has been tested in other states with mixed success. The US Supreme Court has so far refused to weigh in.

Other criteria: The Pennsylvania Constitution requires that state senatorial and representative districts “shall be composed of compact and contiguous territory as nearly equal in population as practicable...Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming a either senatorial or representative district.”

As written, the current criteria offer little guidance to mappers or protection to voting communities. Most observers would note that PA legislative districts are rarely compact, not always contiguous, and regularly divide local entities far more than necessary.

SHOULD COMPETITIVENESS BE REQUIRED?

Some states require competitive districts, defined as districts where both major political parties have relatively equal levels of support. Voters often ask that competitiveness be considered a top priority, since that makes each vote more important and can force greater responsiveness from incumbents who know each vote matters.

Competitive districts make sense in regions that are evenly divided between major parties. Yet in many areas of the country, including Pennsylvania, competitive districts are not always possible, or would require ignoring all other traditional mapping criteria. A 2020 study found that it is difficult to achieve competitive districts and keep communities of interest together.²⁵ The Allegheny County region of a notable “most competitive” PA House district plan, published on Dave’s Redistricting App demonstrates the harm to other criteria when competitiveness is prioritized.²⁶

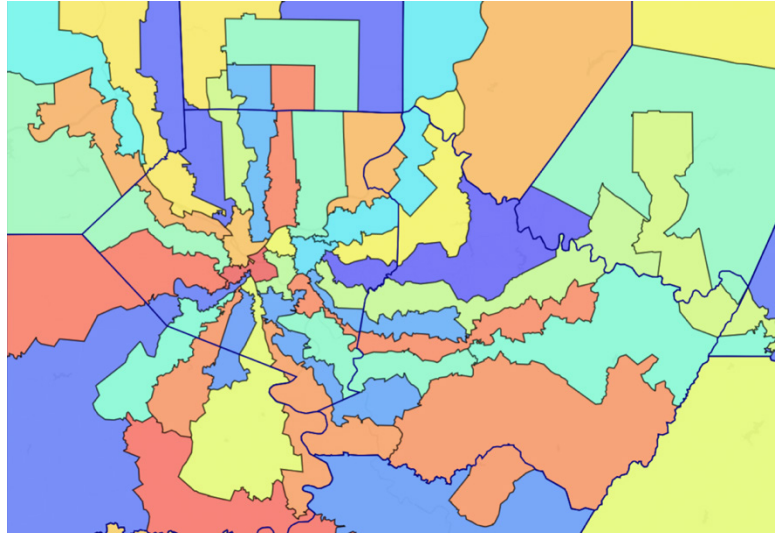


Figure 4: Southeast PA in notable “most competitive” PA House district plan drawn to prioritize competitive districts.

WHAT DOES THE PRISON POPULATION COUNT HAVE TO DO WITH REDISTRICTING?

The Census Bureau continues to count incarcerated persons in their places of detention, despite growing concerns that such a practice is unjust, often contrary to state law, and can dramatically distort representation.²⁷

Pennsylvania’s Voter Registration Act indicates that inmates should be deemed to reside where they were last registered to vote or at their last known address, *not* at the penal institution.²⁸

PA’s Bureau of Corrections goes further; an inmate could be deemed as residing at a new residence established while confined (for example, if the inmate’s spouse establishes a new residence in which the inmate intends to reside upon his/her release from confinement).²⁹

The issue of prison allocation was the subject of two resolutions during the 2021 LRC process. The first to pass (4A) required prisoner counts to be reallocated to home communities for those with known addresses in Pennsylvania, or to not be counted for purposes of redistricting if not former residents of the state.³⁰ The second (5A) amended the first so that anyone with a sentence expiring after April 1, 2030, be counted in the correctional facility where they were held on April 1, 2020.³¹

In both cases, Chair Nordenberg cast the deciding vote. His rationale in the first:

When a system holds and counts a person in one place but forces him or her to vote in another, it does create a basic issue of fairness. And looking at, the impacts more broadly, it distorts the reapportionment process by giving certain classes of voters, in this case voters living in districts with State correctional institutions, votes that carry more weight than the votes cast in districts that do not include such institutions.³²

Reallocation of prison data for the purposes of redistricting has no impact on state or federal per-person funding. It also did not have a significant effect on the Redistricting Plan as a whole. State House and Senate districts pushed the limits of, but still fell within, the 10% maximum population deviation.³³ Yet, for communities impacted by high incarceration rates, the Commission’s reallocation of prisoners was an important affirmation of the right to fair representation.

As of May 2024, 15 states have passed laws or adopted guidance modifying how prisoners are allocated during the redistricting process.³⁴ Why not add Pennsylvania to the list?

WHY DOES PENNSYLVANIA NEED AN INDEPENDENT REDISTRICTING COMMISSION NOW?

- The same political redistricting processes that caused past gerrymandering are still in place.
- Amending the PA Constitution takes time: PA is one of 24 states that don't allow citizen initiative and referendum, 1 of just 10 states that require constitutional amendments pass through **two** consecutive legislative sessions before going on the ballot for a public vote, and among just 4 of those that have 2-year legislative sessions. In both sessions, constitutional amendments must be passed 3 months before the next General Election.
- Public interest and advocacy are strong... more than two-thirds of Pennsylvanian's support the creation of an IRC to draw legislative districts.
- Many voters are tired of partisan dysfunction, partisan power-grabs, and the appearance of cheating that accompanies partisan redistricting.
- No one knows who will control current processes in 2031. Either party could be shut out for the following decade if reform isn't passed soon.

WHO WILL BE HARMED IF THIS ISSUE IS IGNORED?

Pennsylvania had the good fortune in 2021-2022 to move from the short-list of most-gerrymandered states to a more enviable position among states with responsive, balanced district plans. There is no guarantee of this for the future. Either party could find itself locked out of the legislative landscape for decades at a time.

Proposed Senate Bill 131 and House Bill 31 incorporate lessons learned from the IRCs in use in 2021. Bill language has been proposed and reviewed by national redistricting experts who have studied the successes and failures of multiple redistricting reforms. The bills provide multiple safeguards for an independent commission, a transparent, less-partisan public process; and criteria that can prevent confusion and continued litigation.

Candidates, voters and parties themselves are harmed when multiple rounds of redistricting litigation disrupt elections, sometimes requiring new maps every session with little notice of where the lines will be. Some states are still litigating district lines, halfway through the decade.

**THERE IS A CHANCE TO ADDRESS THIS NOW.
PA VOTERS ARE WAITING.**

Some top resources for nonpartisan mapping, analysis of district plans, and best practices in redistricting reform:

- Dave's Redistricting App: a free, accessible mapping tool. Check analytics for ways to compare district plans. <https://davesredistricting.org/>
- Redistricting and You: a platform for comparing individual districts across past and present plans; <https://www.redistrictingandyou.org/>
- PlanScore: a nonpartisan platform providing four respected methods of analysis, incorporating data from five decades of enacted district plans <https://planscore.org/>
- Redistricting Commissions in the 2021 Redistricting Cycle. Campaign Legal Center. https://campaignlegal.org/sites/default/files/2024-06/CLC_RedistrictingComm_Report_WEB_FINAL.pdf
- Unlocking Fair Maps: The Keys to Redistricting. Common Cause. pp. 21-32 https://www.commoncause.org/wp-content/uploads/2024/10/CC_UnlockingFairMaps_Report.pdf

APPENDIX

Comparison of Independent Redistricting Commissions Gold Standard Criteria Recommended by the Campaign Legal Center				
Criteria in Authorizing Legislation	California³⁵	Colorado³⁶	Michigan³⁷	HB31/ SB131
Commission is completely independent of legislature	Yes	Yes	Yes	Yes
Commission numbers between 9 and 15 members to reflect the states geographic and ethnic diversity	Yes	Yes	Yes	Yes
Includes commission applicant pools for Ds, Rs, and unaffiliated with selection using a semi-random, nonpartisan process	Yes	Partially Addressed (1)	Partially Addressed (2)	Yes
No elected officials or staff, lobbyists, or party officials may be commissioners	Yes	Yes	Yes	Yes
Legislators may strike “ringers” from applicant pools	No	Yes	Yes	Yes
Training for commissioners in redistricting and Voting Rights Act criteria	Not Defined	Partially Addressed (3)	Not Defined	Yes
Restrictions on commission communications outside of public meetings	Not Defined	Yes	Yes	Yes
Adequate funding including commissioner’s compensation	No (4)	No (4)	Yes	Yes
Transparent process subject to open meeting laws and public access to records and data	Yes	Yes	Yes	Yes
Community outreach and engagement across diverse geographic and demographic populations	Yes	Yes	Yes	Yes
Voting thresholds that require support from both partisan and unaffiliated commissioners	Yes	Yes	Yes	Yes
Clear and prioritized mapping criteria	Yes	Yes	Yes	Yes
Eligibility requirements for nonpartisan IRC staff and counsel	Not Included	Not Included (5)	Not Included	Yes
Addresses prison population allocations	No (6)	No (6)	No (7)	Yes
Clearly defined failsafe if the commission is deadlocked with the resolution remaining with the commission (11)	No (8)	Partially Addressed (9)	Partially Addressed (10)	Yes

- (1) Some commission members are selected by the legislature and judiciary.
- (2) All Michigan commissioners are selected randomly with no provision for non-random selection to allow for needed skills.
- (3) The General Assembly’s Legislative Council provides staffing. These staff are considered nonpartisan. Specific training not defined.
- (4) For both California and Colorado, the enabling legislation leaves the determination of adequate funding to the legislature. While both commissions can petition for additional funding, the statute contains no recourse to sue the state for adequate funding as does the Michigan amendment.
- (5) Assigns responsibility for commission staffing to the legislature’s Legislative Council.
- (6) California and Colorado did not include prisoner allocation in the IRC’s authorizing legislation because their election code and constitution, respectively, were already amended to count prisoners at their last known address.
- (7) The Michigan legislature is currently considering legislation to count prisoners at their last known address.
- (8) If the commission is deadlocked, the Supreme Court selects special masters to draw the final maps.
- (9) The Colorado Supreme Court reviews the approved plans to ensure the commission has complied with its mandate. If the Court finds the plan is noncompliant, it is returned to the commission for revision. However, there is nothing in statute to resolve who selects the final plan if the Supreme Court continues to reject a plan and the commission does not provide a satisfactory correction.
- (10) If the commission is deadlocked, the Secretary of State selects the redistricting plans.
- (11) Please note: No commission has ever deadlocked since the first commission was established in 2008 (California). In fact, the most recent California maps were adopted without legal challenges.

ENDNOTES

- 1 Article 2 -17 of the Pennsylvania Constitution amended 1967-1968
- 2 Blake, Aaron. Name that District contest winner: 'Goofy Kicking Donald Duck'. Washington Post, 12/29/2011. https://www.washingtonpost.com/blogs/the-fix/post/name-that-district-contest-winner-goofy-kicking-donald-duck/2011/12/29/gIQA2Fa2OP_blog.html
- 3 Lai, J. Why Pa. sends too many Republicans to Washington - and why that could change. Philadelphia Inquirer, 8/14/2017. <https://www.inquirer.com/philly/news/pennsylvania-gerrymandering-districts-supreme-court-20170814.html>
- 4 Wikipedia, 2014 Pennsylvania Senate Election, https://en.wikipedia.org/wiki/2014_Pennsylvania_Senate_election
- 5 Ingraham, C. In at least three states, Republicans lost the popular vote but won the House. Washington Post, 11/13/2018. <https://www.washingtonpost.com/business/2018/11/13/least-three-states-republicans-lost-popular-vote-won-house/>
- 6 PlanScore PA House partisan bias comparison , downloaded from PlanScore.org on January 28, 2022.
- 7 Biography of Mark A. Nordenberg on Pennsylvania Redistricting website. <https://www.redistricting.state.pa.us/commission/chair-biography>
- 8 Kerry Benninghoff vs. 2021 Legislative Reapportionment Commission Petition for Review by Supreme Court of PA 2/17/2022, p. 2. <https://www.brennancenter.org/sites/default/files/2022-03/Benninghoff%20v.%202021%20Legislative%20Reapportionment%20Comm%27n.pdf>
- 9 Report of Mark A. Nordenberg Chair of the 2021 Pennsylvania Legislative Reapportionment Commission regarding the Commission's final plan. 3/4/2022, p4.; <https://www.redistricting.state.pa.us/resources/Press/2022-03-04%20Report%20Chair%20of%202021%20LRC%20Final%20Plan.pdf>
- 10 Redistricting Commissions in the 2021 Redistricting Cycle. Campaign Legal Center, 2024. https://campaignlegal.org/sites/default/files/2024-06/CLC_RedistrictingComm_Report_WEB_FINAL.pdf
- 11 New Decade—Partisan Outcomes and Racial Representation in the 2021-22 Redistricting Cycle, 52 Publius: J. Federalism 428 (June 17, 2022).
- 12 WeDrawTheLinesCA. California Citizens Redistricting Commission. <https://wedrawthelines.ca.gov/>
- 13 Colorado Independent Redistricting Commissions, <https://redistricting.colorado.gov/>
- 14 Michigan Independent Citizens Redistricting Commission <https://www.michigan.gov/micrc>
- 15 PlanScore Partisan Bias in Michigan State Senate. <https://planscore.org/michigan/#!2022-plan-statesenate-mm>
- 16 Agee, D. vs. Benson, J. United States District Court Western District of Michigan Southern Division. Filed 12/21/23, p. 54. https://vhdsf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/MI_122-cv-272_131a.pdf
- 17 Redistricting Commissions in the 2021 Redistricting Cycle. Campaign Legal Center. https://campaignlegal.org/sites/default/files/2024-06/CLC_RedistrictingComm_Report_WEB_FINAL.pdf
- 18 *ibid* pp.47-48
- 19 Community Redistricting Report Card, Common Cause and CHARGE, Michigan, pp 46-47, 2024. https://www.commoncause.org/wp-content/uploads/2023/11/CommunityRedistrictingReportCard_Digital_REV3.pdf
- 20 Warshaw, C. et al. Districts for a New Decade. Redistricting Online.org. June 2022. <https://redistrictingonline.org/wp-content/uploads/2022/10/districtsforanewdecade-warsaw-june2022.pdf>
- 21 Redistricting Commissions in the 2021 Redistricting Cycle. pp 21-26; 35-53; Unlocking Fair Maps: The Keys to Redistricting. Common Cause. pp. 21-32 https://www.commoncause.org/wp-content/uploads/2024/10/CC_UnlockingFairMaps_Report.pdf; Sonenshine, R. When People Draw the Lines. <https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2020/08/RedistrictingCommission-Report6122013.pdf>
- 22 Redistricting Commissions in the 2021 Redistricting Cycle. p 28.
- 23 Congressional Redistricting 2021: Legal Framework. Congressional Research Service. 9/10/2021. <https://crsreports.congress.gov/product/pdf/LSB/LSB10639#:~:text=Dagett%2C%20the%20Court%20rejected%20a,can%20include%20%E2%80%9Cconsistently%20applied%20legislative>
- 24 League of Women Voters v Commonwealth III III (2018). <https://caselaw.findlaw.com/court/pa-supreme-court/1888577.html>
- 25 Gimpel, J. et al. Conflicting Goals of Redistricting: Do Districts That Maximize Competition Reckon with Communities of Interest? Election Law Journal Rules Politics and Policy 19(4) DOI:10.1089/elj.2019.0576 June 2020. p 2. https://www.researchgate.net/publication/342445048_Conflicting_Goals_of_Redistricting_Do_Districts_That_Maximize_Competition_Reckon_with_Communities_of_Interest p 2
- 26 Trent Bracht, Noteworthy Competitive PA State House, Dave's Redistricting App, captured 1/16/2025 <https://davesredistricting.org/join/d81a6b9b-0d38-49d9-9ff2-988aec0b951d>
- 27 Prison Gerrymandering Project <https://www.prisonersofthecensus.org/impact.html>
- 28 Pa.C.S. § 1302(a)(3)
- 29 PA Department of Corrections <https://www.pa.gov/agencies/cor/resources/rights-laws-regulations-and-acts/voting-rights.html>
- 30 Resolution 4A. A Legislative Reapportionment Commission Resolutions. <https://www.redistricting.state.pa.us/resources/press/Resolution%204A.pdf>
- 31 <https://www.redistricting.state.pa.us/resources/press/Resolution%205A.pdf>
- 32 Legislative Reapportionment Transcript, 2021/08/24/ p. 631 <https://www.redistricting.state.pa.us/resources/press/2021-08-24%20LRC%20Transcript.pdf>
- 33 Report of Mark A. Nordenberg, p. 32.
- 34 Reallocating Inmate Data for Redistricting. National Conference of State Legislatures. May 2024 <https://www.ncsl.org/redistricting-and-census/reallocating-inmate-data-for-redistricting>
- 35 WeDrawTheLinesCA. California Citizens Redistricting Commission. <https://wedrawthelines.ca.gov/>; Redistricting Commissions in the 2021 Redistricting Cycle.
- 36 Colorado Independent Redistricting Commissions, <https://redistricting.colorado.gov/>; Redistricting Commissions in the 2021 Redistricting Cycle.
- 37 Michigan Independent Citizens Redistricting Commission <https://www.michigan.gov/micrc>; Redistricting Commissions in the 2021 Redistricting Cycle.