BRENNAN CENTER FOR JUSTICE

The Redistricting Landscape, 2021–22

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Brennan Center for Justice at New York University School of Law

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Overview

Under the best of circumstances, the redrawing of legislative and congressional districts every 10 years is a fraught and abuse-prone process. But the next round of redistricting in 2021 and 2022 will be the most challenging in recent history. Even before the Covid-19 pandemic, intense fights over representation and fair maps were all but certain in many states due to rapid demographic change and a weakening of the legal framework governing redistricting. Invariably, communities of color would bear much of the brunt, facing outright discrimination in some places and being used as a convenient tool for achieving unfair partisan advantage in others.

Covid-19, however, has further upended the redistricting cycle by delaying the release of data needed by states to draw maps, and in turn delaying redistricting.

This report looks at the upcoming redistricting cycle through the lens of four factors that will influence outcomes in each state: who controls map drawing; changes in the legal rules governing redistricting over the last decade; pressures from population and demographic shifts over the same period; and the potential impact of the Covid-19 pandemic on the 2020 Census. In each state, the confluence of these factors will determine the risk of manipulated maps or whether, conversely, the redistricting process will produce maps that reflect what voters want, respond to shifts in public opinion, and protect the rights of communities of color.

Expect a tale of two countries. In much of the country, newly enacted reforms and divided government will make it harder to force through partisan gerrymanders or racially discriminatory maps. In other states, however, there may be even greater room for unfair processes and results than in 2011, when the nation saw some of the most gerrymandered and racially discriminatory maps in its history.

Highlights: What's New in 2021–22?

- **Political changes and reforms:** Single-party control of map drawing is by far the biggest predictor of redistricting abuses. For the next round of redistricting, the good news is that single-party control has decreased due to a combination of reforms and elections that have resulted in divided government. In total, six states have adopted redistricting reforms that will be used in the upcoming redistricting cycle, including Virginia in November 2020. Meanwhile, several other states where maps are still drawn by legislatures and that saw egregious gerrymandering last cycle now have divided governments. Lawmakers in these states must now compromise or forfeit their map drawing authority to the courts — where the likelihood of fair maps is much higher. The impact of these changes is especially notable at the congressional level: in the upcoming cycle, Republicans will have sole control over the drawing of just 181 congressional districts, compared with 213 districts after the 2010 elections. (The exact number of seats could change slightly depending on the results of the 2020 Census.)

- **Legal changes:** The legal landscape, by contrast, is more ominous this time around. Map drawing in 2021–22 will take place with a legal framework weakened by two major Supreme Court rulings. In 2013, the Supreme Court gutted core protections of the Voting Rights Act in *Shelby County v. Holder*. Then, in 2019, the Court closed the door to federal court challenges to partisan gerrymanders in *Rucho v. Common Cause*. But there is also hopeful news. The last decade saw new jurisprudential fronts open with wins against partisan gerrymandering in two state courts, suggesting that state constitutions could emerge as an alternative route to challenge gerrymandering in the 2021–22 cycle.

- **Demographic and population changes:** As has always been the case, population changes will be a crucial driver of redistricting abuses. The South in particular has grown rapidly and become both much more racially and politically diverse since 2011, threatening the long-standing political status quo. Similarly, some regions have seen population decreases or significant demographic changes and could also see battles over adjustments to maps. But while some parts of the country experienced major changes, large parts of the country were remarkably stable both in terms of demographics and population change, lowering the redistricting stakes and in turn reducing the gerrymandering risk.

- **Census delays:** As with so many areas of American life, Covid-19 has also roiled the next round of redistricting, creating uncertainty about when states will

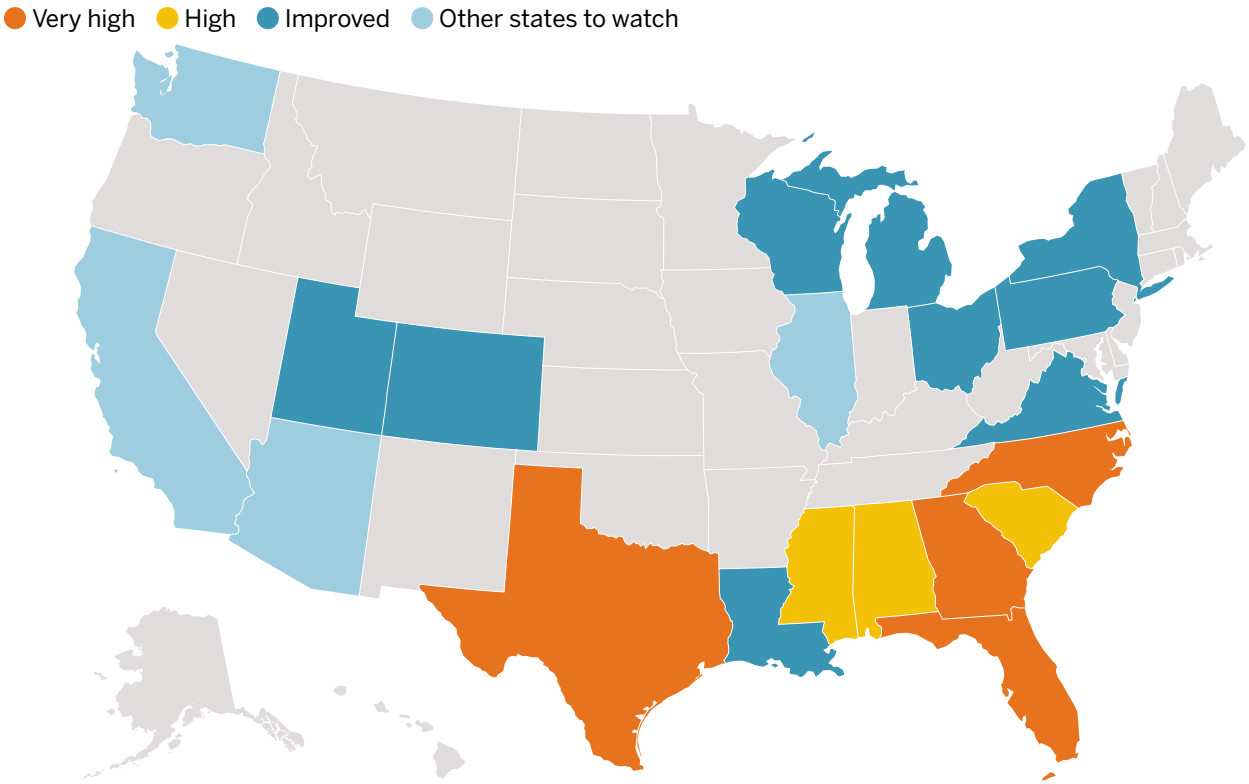
get the data they need to draw maps. Data delivery being delayed until next summer (as the Census Bureau at one point suggested) would cascade into delays to the map drawing process in many states — in some cases significantly. A number of states, including Iowa and Maine, would have to make constitutional or legal changes to avoid the process defaulting to the courts.

States like Texas would be required to draw maps in a special session, where there typically are far fewer procedural protections and oversight opportunities. And Virginia would likely not have new maps in place in time for its 2021 legislative elections.

States to Watch

FIGURE 1

Risk for Gerrymandering or Unfair Maps in 2021–22



Legend Notes

- **Highest-risk states:** These states combine single-party political control of the redistricting process with extremely fast growth and demographic change. Additionally, for the first time in 50 years, they will not be required to obtain preapproval to use maps under Section 5 of the Voting Rights Act.
- **Other high-risk states:** These states, though they are not growing or changing demographically as fast as the highest-risk states, were formerly covered by Section 5 of the Voting Rights Act and will also draw maps this decade under single-party control.
- **Likely improved states:** These states adopted redistricting reforms in the last decade (though reforms could be challenged or ignored in some places) or saw political changes that mean map drawing will no longer be under a single party's control.
- **Other states to watch:** These states saw significant nonwhite population growth in certain regions in the last decade and could see fights over increased representation demands for growing communities of color.

Factor 1: Who Will Draw the Maps?

By far, the biggest predictor of whether a state will draw fair maps is whether a single party controls the map drawing process. Single-party control, whether by Democrats or Republicans, creates an almost irresistible temptation for the party in charge to make decisions behind closed doors with predetermined partisan or other discriminatory objectives driving the outcome. And with better data and map drawing technology increasingly available, the danger posed by single-party control has only increased since maps were last redrawn in 2011.

By contrast, maps drawn by commissions — even imperfect ones — have tended to be both more responsive to voter preferences and better at protecting communities of color. Maps drawn by divided governments and courts have also done much better at avoiding excessive partisanship and racial discrimination.[1]

The 2011 redistricting cycle vividly illustrated the impact of single-party control. After the 2010 Tea Party elections, Republicans had full control of the redistricting process in states like Florida, Michigan, North Carolina, Ohio, Pennsylvania, and Wisconsin, which have large numbers of congressional districts. With this control, Republicans were able to lock in a 10-to-3 advantage for congressional seats in North Carolina and a 13-to-5 advantage in Pennsylvania, even though voters in both states tend to split their votes almost evenly. Nationwide, the Brennan Center found that in 2016, gerrymandering in Michigan, Ohio, and Pennsylvania alone gave Republicans 16 to 17 more seats in the U.S. House of Representatives than would have been expected with unbiased maps.[2] In the South, this gerrymandering had a racial dimension.

Democrats, likewise, gerrymandered maps in states they controlled. In Maryland, for example, they radically redrew the congressional map to gain an additional seat. But because Republicans dominated in the 2010 election, Democrats controlled far fewer states than Republicans. And where they were in charge, Democrats were generally somewhat less aggressive than Republicans in their gerrymandering efforts. One reason for this dynamic was that in states like Illinois, internal party politics led to pressure on Democrats to concentrate nonwhite voters in districts that elected candidates preferred by communities of color. As a result, they had fewer opportunities to make white-majority districts more politically competitive by strategically adding in Democratic-leaning people of color.

By contrast, states like California and Arizona that used independent commissions to draw their maps — or like Minnesota, whose maps were drawn by a court — had maps with much less partisan bias and that were far more responsive to shifts in voter sentiment. States with divided governments also generally saw much less biased maps. There were notable exceptions, however: in Virginia, for example, an insider deal resulted in the Democratic-controlled state senate opting not to block Republicans' racially gerrymandered map for the state house in exchange for Democrats being able to draw the state senate map.

The 2021–22 Landscape

For the 2021–22 redistricting cycle, both reforms and a decrease in single-party control of the map drawing process have significantly improved the prospects for fairer maps.

Reforms

Since maps were last redrawn, voters in six states — Colorado, Michigan, New York, Ohio, Utah, and Virginia — have passed redistricting reforms that will take effect this decade. In every instance, reforms won at the ballot box with bipartisan margins, carrying both red counties and blue counties.[3]

The Colorado and Michigan reforms were particularly robust, creating strong independent commissions to take over map drawing. Michigan's reforms are especially noteworthy because the state's independent commission will have a chance to redraw maps that currently are among the country's most gerrymandered.

New York, Ohio, Utah, and Virginia adopted other variants of reforms that, while falling short of creating independent commissions, also promise better balance in the next round of redistricting. These reforms include a bipartisan commission in Virginia and advisory commissions in New York and Utah that will draw maps for legislative consideration.

But there were also misses on the reform front. When 2020 began, it looked like voters would have the chance to vote on reforms in several other states, including ballot initiatives in Nebraska, Oklahoma, and Oregon. Unfortunately, the Covid-19 pandemic upended efforts to get measures on the ballot. Meanwhile, reformers in Missouri suffered a loss when reforms approved by voters in 2018 were gutted by a subsequent constitutional amendment proposed by Republican lawmakers and approved by

FIGURE 2

States Where Redistricting Will Be Done by Commissions or Divided Governments This Decade

STATE	CONGRESSIONAL REDISTRICTING	LEGISLATIVE REDISTRICTING
Alaska	n/a*	Commission
Arizona	Independent commission	Independent commission
California	Independent commission	Independent commission
Colorado	Independent commission	Independent commission
Hawaii	Commission	Commission
Idaho	Commission	Commission
Iowa	Advisory commission	Advisory commission
Louisiana	Divided government	Divided government
Maine	Advisory commission	Advisory commission
Michigan	Independent commission	Independent commission
Minnesota	Divided government	Divided government
Missouri	n/a	Commission
Montana	Commission	Commission
New Jersey	Commission	Commission
New York	Advisory commission	Advisory commission
Pennsylvania	Divided government	Commission
Utah	Advisory commission	Advisory commission
Vermont	n/a*	Divided government
Virginia	Advisory commission	Advisory commission
Washington	Commission	Commission
Wisconsin	Divided government	Divided government

*Alaska and Vermont are expected to continue to each have only one congressional district after reapportionment.

voters in 2020. As a result, Missouri will return to using a variant of a deadlock- and abuse-prone system for map drawing in 2021–22.

And even in states that passed reforms, challenges remain. Republicans in Michigan have brought several (thus far unsuccessful) legal challenges to its new system and may yet attempt to undermine it in other ways. It also remains to be seen whether the Democrats who control government in New York and the Republicans who control government in Utah will respect or ignore the nonbinding maps drawn by advisory commissions, especially in light of likely pressures in both national parties to eke out additional congressional seats wherever possible.

Changes in Political Control

The prospects for fairer maps have also improved in several states because, unlike last decade, they will no longer be drawn under single-party control. Although divided government does not prevent insider deals to protect incumbents, it does give each party a veto on maps, providing a strong check on maps that discriminate wildly against one party. If the parties do not compromise, the deadlock will send map drawing to the courts.

States that will have divided governments for the next round of redistricting notably include Louisiana, Pennsylvania, and Wisconsin, where Republicans drew gerrymandered or racially discriminatory maps in 2011, but where the election of Democratic governors with veto power

now balances out legislatures that remain Republican.

On the other hand, single-party control of the redistricting process will continue in much of the country. All told, Republicans will have sole control over drawing congressional maps in 18 states and legislative maps in 20 states, while Democrats will have sole control of congressional maps in 7 states and legislative maps in 9 states. These single-party-controlled states include Florida, Georgia, North Carolina, and Texas, four battleground states where Democrats fell short in efforts to win legislative chambers in the 2020 elections. By contrast, since 2011, Democrats have gained a political trifecta only in Nevada. (They also won trifectas in New York and Virginia, but reforms in those states mean that advisory commissions will have the first shot at crafting new maps. Additionally, in Virginia, rejection of the commission's maps would send map drawing to the courts rather than give the Democratic legislature free rein to enact its own plan.)

FIGURE 3

States with Single-Party Control of Redistricting in 2021–22

STATE	CONGRESSIONAL REDISTRICTING	LEGISLATIVE REDISTRICTING
Alabama	GOP	GOP
Arkansas	GOP	GOP
Connecticut	Dem	Dem
Delaware*	n/a	Dem
Florida	GOP	GOP
Georgia	GOP	GOP
Illinois	Dem	Dem
Indiana	GOP	GOP
Kansas†	GOP	GOP
Kentucky‡	GOP	GOP
Maryland††	Dem	Dem
Massachusetts	Dem	Dem
Mississippi	GOP	GOP
Missouri	GOP	n/a
Nebraska#	GOP	GOP
Nevada	Dem	Dem
New Hampshire	GOP	GOP
New Mexico	Dem	Dem
North Carolina§	GOP	GOP
North Dakota*	n/a	GOP
Ohio¶	GOP	GOP
Oklahoma	GOP	GOP
Oregon	Dem	Dem
Rhode Island*	n/a	Dem
South Carolina	GOP	GOP
South Dakota*	n/a	GOP

FIGURE 3 *Continued*

STATE	CONGRESSIONAL REDISTRICTING	LEGISLATIVE REDISTRICTING
Tennessee	GOP	GOP
Texas	GOP	GOP
West Virginia	GOP	GOP
Wyoming*	n/a	GOP

*Delaware, North Dakota, South Dakota, and Wyoming are expected to continue to each have one congressional district after reapportionment, while Rhode Island is expected to lose one of its two seats.
†Republicans have a veto-proof majority.
‡Veto override requires only a simple majority.
††Democrats have a veto-proof majority for congressional redistricting. Governor cannot veto legislative plans.
#Nebraska's legislators are elected on a nonpartisan basis, but Republicans have effective control.
§Governor cannot veto maps.
¶Republicans will control redistricting, but reforms will help limit abuses.

Factor 2: A More Fraught Legal Framework

If the political landscape looks somewhat better than the last time maps were drawn, the legal landscape, by contrast, has worsened (although there are some bright spots, primarily at the state level). Communities of color in particular will enter the next cycle of map drawing with fewer protections than at any time since the 1960s.

The Supreme Court's Green Light for Partisan Gerrymandering

One of the most important changes to the legal landscape since the last redistricting cycle was the Supreme Court's ruling that federal courts could not police partisan gerrymanders.

Before 2016, federal courts had struggled unsuccessfully for decades to come up with a judicially workable standard to use when gauging whether a map had been drawn with too much partisan consideration.[4] By 2011, many map drawers assumed that the inability to find a workable standard meant that there were effectively no limits, helping to fuel some of the most aggressive gerrymandering in the nation's history when maps were redrawn that year.

Then in 2016, a seeming breakthrough happened, with a number of trial courts striking down several of the last decade's most aggressive gerrymanders in quick succession. However, hopes for a constitutional check on gerrymandering were short-lived: before any maps could be redrawn, the Supreme Court's 2019 opinion in *Rucho v. Common Cause* reversed the trial courts and held that although partisan gerrymandering is harmful and antidemocratic, it is a political issue that federal courts lack the authority to address.[5]

With federal courts now definitively out of the picture for the 2021–22 redistricting cycle, extreme gerrymanders could further proliferate in states with single-party control of the process (see Factor 1). The risk could be especially great in states where major demographic or political shifts also threaten the political status quo (see Factor 3). But even some demographically and politically stable states could see gerrymandering of congressional districts, given the high-stakes battle for control of the U.S. House of Representatives.

A burst of partisan gerrymandering would be a replay of what happened in 2011, when the Supreme Court's deadlock on partisan gerrymanders emboldened map drawers. The consequences could be worse this time, however, because map drawers will have access to more powerful mapping tools and more granular data about voter behavior and propensities. Together, these tools will let map drawers pick voters with extreme precision and create maps that perform as designed, even in wave elections.

The Loss of Section 5

Communities of color will face a difficult redistricting cycle because, for the first time in five decades of map drawing, they will lack the protection of Section 5 of the Voting Rights Act — unless Congress acts to restore it before map drawing happens.

Section 5 mandated that jurisdictions with a history of racial discrimination in voting obtain preclearance for any changes to redistricting plans or other voting rules — either from the U.S. Department of Justice (DOJ) or a federal court in Washington, DC.[6] When maps were last redrawn in 2011, 16 states, mostly in the South, were required to submit new maps to the federal government for approval.

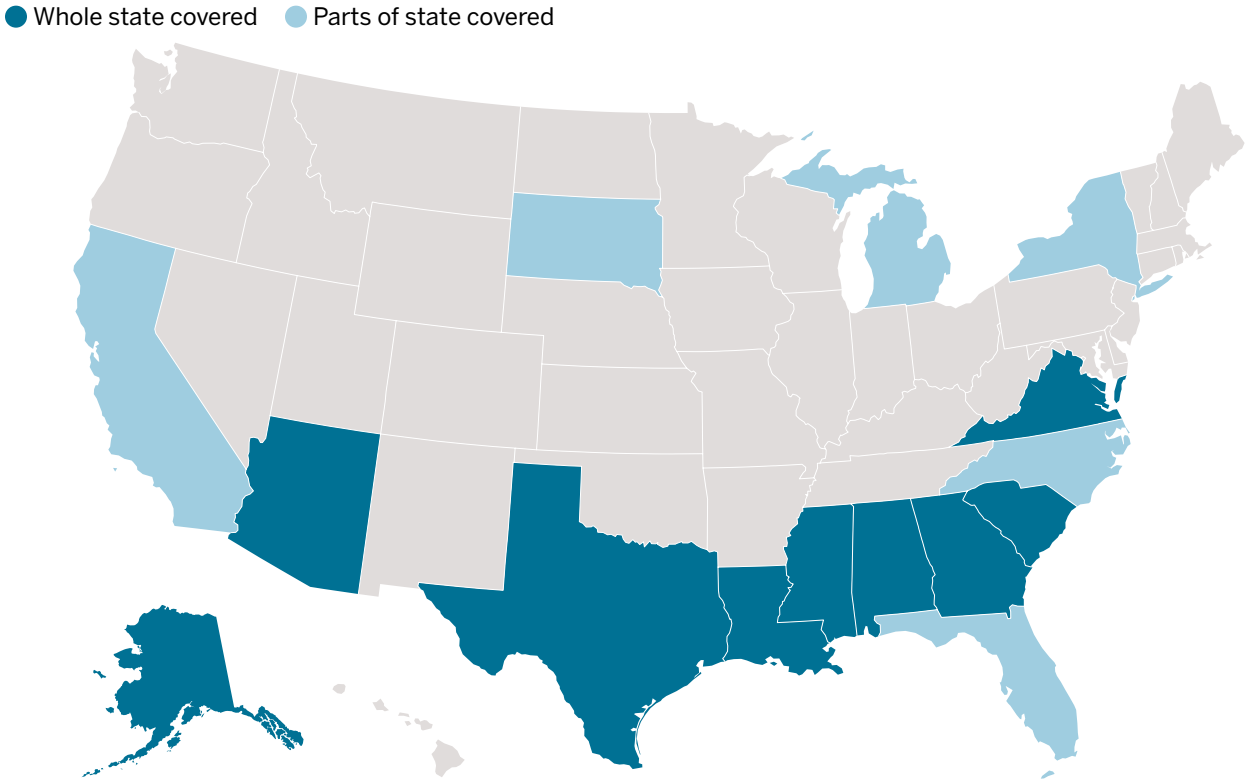
Section 5 was extremely effective at protecting communities of color during the redistricting process. To win approval for any changes, states had to show that they did not intend to discriminate and that maps would not result in *retrogression* — that is, that the changes would not make it harder for racial and ethnic minorities to elect their preferred candidates, regardless of the map drawers' intent. Critically, the burden of proof was on the states: if preclearance was denied, states would be forced to start over or to use a court-drawn interim map, as happened in Texas in 2012. Moreover, fear of a preclearance denial often deterred states from drawing maps that hurt communities of color, and even helped spur them to create new electoral opportunities for minority communities to avoid charges of discrimination or retrogression.

But in its 2013 *Shelby County v. Holder* decision, the Supreme Court ruled that the formula used to determine the parts of the country covered by Section 5 was out of date, despite a wealth of evidence that it still played a vital role in stopping racial discrimination in voting.[7] While the Court held that Congress could enact a new, updated coverage formula, efforts to do so have been stalled in the Republican-controlled U.S. Senate.

Without Section 5, some states could be tempted in the

FIGURE 4

States Covered by Section 5 of the Voting Rights Act Prior to June 2013



upcoming round of redistricting to draw maps that split up voters of color in ways that make it harder for them to elect their preferred candidates. The absence of Section 5 will also increase the risk of discriminatory maps by letting states potentially game the timing of redistricting. In the past, states had an incentive to complete redistricting expeditiously to allow enough time for the back-and-forth of preclearance review. Now, states previously subject to Section 5 may choose to delay completing redistricting to limit time for litigating any challenges brought under other laws. That risk could be even higher this cycle, given that likely delays in the delivery of census data will push back the redistricting process and cause map drawing in many states to take place in special sessions (see Factor 4).

But these dire outcomes are not yet settled, as Congress can still act to restore Section 5. In 2019, the House passed the Voting Rights Advancement Act (H.R. 4), adopting a new Section 5 formula that would place 11 states — Alabama, California, Florida, Georgia, Louisiana, Mississippi, New York, North Carolina, South Carolina, Texas, and Virginia — under preclearance coverage. The bill stalled in the Senate. However, with Democrats taking control of the chamber, the bill could get new life in the 117th Congress — possibly in time to affect the upcoming redistricting cycle.

The Narrowing of Section 2

Compounding the loss of Section 5, the Supreme Court has gradually undermined Section 2 of the Voting Rights Act, another provision that protected communities of color.

For decades, Section 2 helped communities of color overcome a legacy of discrimination in voting.[8] In contrast to Section 5, which applied only in states with a history of discrimination, Section 2 applies nationwide and allows communities of color to argue for the creation of additional electorally favorable districts as long as certain preconditions are met. Section 2 had an especially great impact during the 1990 redistricting round, when vigor-

ous enforcement helped more than double the number of congressional districts in the South in which Black or Latino Americans made up a majority of the voting population.[9]

But in 2009, the Supreme Court stiffened the requirements for winning Section 2 relief with its decision in *Bartlett v. Strickland*.[10] Post-*Bartlett*, voters seeking to create a Section 2 district have to show that the minority group could make up a majority of the citizen voting age population in a district.[11] Before the ruling, they were only required to show that the district was effective in electing the preferred candidates of a community of color, even if less than half of the district's adult citizens were members of that racial or ethnic community.

This additional requirement has often proved difficult to meet in practice while at the same time keeping districts compact, another requirement for Section 2 districts. In particular, Asian and Latino Americans, the nation's two fastest-growing ethnic groups, tend to be spread out geographically and are often interspersed within white and Black communities, making it hard to meet the "50 percent plus one" requirement for Section 2 liability.[12]

This difficulty is compounded by the unresolved question of whether coalition districts are protected under the Voting Rights Act. Some federal appeals courts have ruled that two or more nonwhite groups can be considered together when gauging whether it is possible to draw a minority opportunity district under Section 2, as long as there is political cohesion among the minority groups. Other courts, however, have said that Section 2 does not require the drawing of coalition districts.[13] The Supreme Court has not yet resolved this issue.

Potential Efforts to Change the Apportionment Base

The upcoming redistricting cycle could bring a fight over efforts of questionable legality by some states or localities to draw legislative or local government districts on the basis of adult citizen population rather than total population, the long-standing practice in all 50 states. (This risk does not apply to congressional districts.)

The effect of this switch would be to devastate representation for growing Latino and Asian American communities, mainly because those communities are younger and have more children than do non-Hispanic white communities. But the harm would not be limited to Latino and Asian American communities. Cities and suburbs, by virtue of having more children relative to voting age adults, would also lose representation to more rural parts of states, hurting both Democrats and Republicans in those regions. Black communities would also be hit hard by adult citizen apportionment because a higher percentage of their populations is under age 18.

If a state or local government tries to change the population base it uses to draw districts, a host of legal challenges would follow. One fight would be over whether redistricting based on adult citizen populations violates the Constitution's population equality requirements. In its 2016 *Evenwel v. Abbott* decision, the Supreme Court rejected a challenge by conservative activists seeking to compel states to draw maps based on the number of adult citizens rather than on total population.[14] However, the Court left unresolved the question of whether it is constitutional for states to voluntarily use adult citizen populations as the basis for drawing districts.[15] Maps drawn on the basis of adult citizens rather than total population would also probably be challenged as racially discriminatory. In either case, the fight would likely be one of the decade's landmark redistricting fights at the Supreme Court.

State Court Wins Against Partisan Gerrymandering

Wins in two state courts against partisan gerrymandering are rare bright spots in the redistricting legal landscape. While federal courts will no longer be policing partisan gerrymandering, these state-level victories may offer a model for other states' efforts to ensure fair maps.

In early 2018, the Pennsylvania Supreme Court struck down the state's congressional map, an extreme gerrymander drawn to give Republicans a 13-to-5 advantage in the state's congressional delegation, on the grounds that it violated the Pennsylvania Constitution's free and equal elections clause.[16] That decision led to the adoption of a court-drawn map that produced a much fairer split between the parties.

Then in 2019, state courts in North Carolina struck down the state's legislative and congressional maps as partisan gerrymanders in violation of the state constitution's guarantee that "all elections shall be free," ordering that they be redrawn.[17]

The Pennsylvania and North Carolina wins, coupled with the Supreme Court's *Rucho* decision, likely portend more partisan gerrymandering claims in state courts during the 2021–22 redistricting cycle. But state constitutions differ, as do state supreme court makeups (North Carolina's own state supreme court has since become more conservative). So it remains to be seen whether and to what extent this approach will prove effective in countering gerrymandering writ large.

Stronger Protections Against Racial Gerrymandering

Another positive development in the last decade is a series of Supreme Court rulings on racial gerrymandering that could help block partisan gerrymandering as well.

In 2011, Republican lawmakers in several southern states aggressively redrew maps to cram large percentages of the states' Black voters into just two districts.[18] That strategy, known as *packing*, helped lock in the first Republican majorities since Reconstruction in states like North Carolina and Alabama by reducing the number of Democrats in surrounding majority-white districts.[19] Black voters in several states challenged the maps as unconstitutional racial gerrymanders, saying that the districts had been drawn with too much consideration of race, deploying a claim that historically had been used by white voters to defeat creation of new minority opportunity districts.

In *Alabama Legislative Black Caucus v. Alabama* (2015), the Supreme Court struck down that state's legislative maps, rejecting Alabama's argument that Section 5 of the Voting Rights Act — which was in force when the maps were drawn — required the changes.[20] And in *Cooper v. Harris* (2016), the justices likewise rejected North Carolina's defense that, in packing Black voters into a small number of districts, they had been driven only by partisan aims, not racial ones.[21] "The sorting of voters on the grounds of their race remains suspect even if race is meant to function as a proxy for other (including political) characteristics," Justice Elena Kagan wrote for the majority.[22] In addition to being a significant victory against racial discrimination, *Cooper* could also help stop partisan gerrymanders that are accomplished using race.

Despite these rulings, racial gerrymandering remains a serious threat. The risk is especially great in Republican-controlled states where packing nonwhite voters into a handful of minority-majority districts can be an efficient and effective way to offset growing support for Democrats from white voters in nearby districts. This decade in particular could see a proliferation of racial gerrymandering in the increasingly diverse and politically competitive suburbs of states like Georgia and Texas.

The Prospect of Federal Redistricting Reform

One other piece of good news for the upcoming redistricting cycle could come in the form of federal legislation. In March 2019, the House passed the For the People Act (H.R. 1), a sweeping package of democracy reforms that would ban gerrymandering, set uniform national rules for map drawing, and create independent commissions to draw all congressional districts.[23] The Republican-controlled Senate had refused to take up the legislation. But with control of the Senate having switched parties in January 2021, passage of similar legislation in the new Congress could strengthen the legal tools available to ensure fair maps nationwide.

Factor 3: Population and Demographic Changes

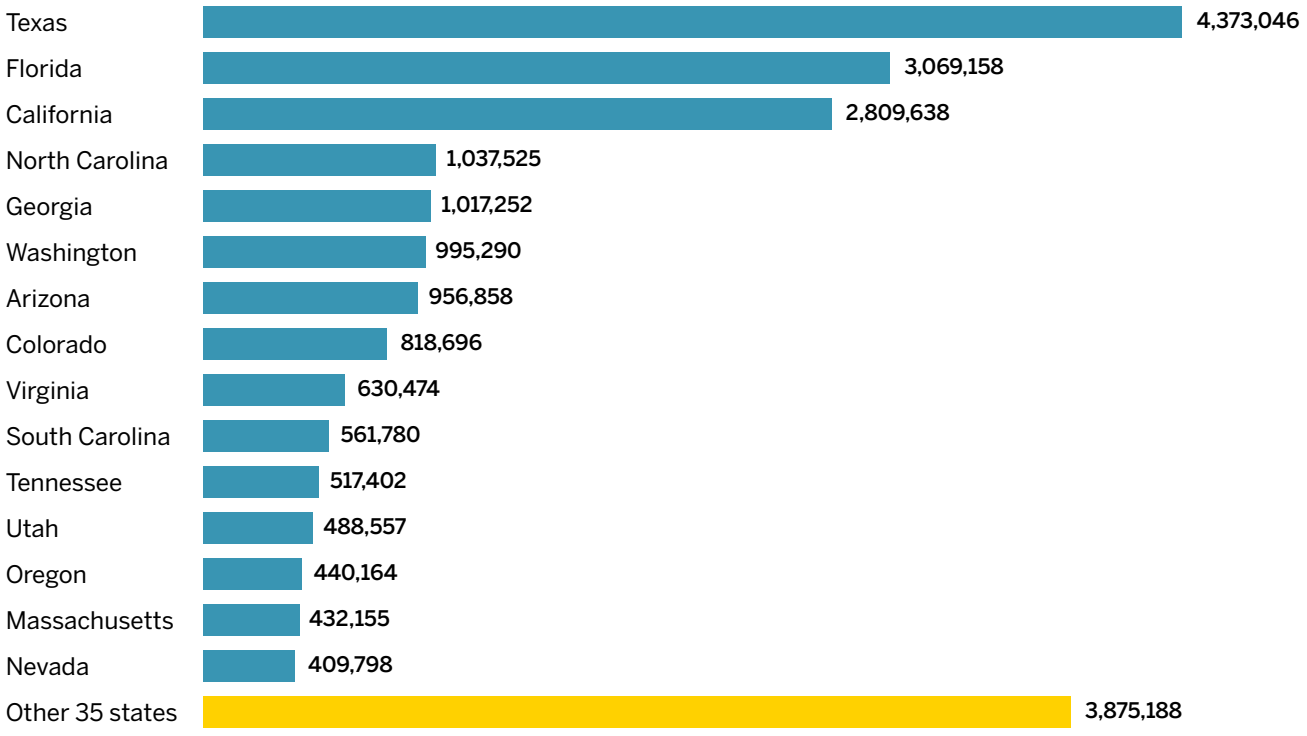
Population and demographic changes will also affect where redistricting battles take place during the 2021–22 cycle. Fast-growing areas, especially where nonwhite populations have seen rapid increases, are likely to see particularly fraught conflicts over map drawing. Areas with population declines or changing demographics could also see fights over the reallocation of political power. By contrast, many parts of the country are stable both in terms of overall population and demographics. These areas may see some redistricting fights or abuses, but generally nothing on the level of faster-changing areas.

Where Big Changes in Population Have Occurred

While 2020 Census data is not yet available, the Brennan Center projects — assuming a robust count — that it will show the U.S. population at around 330 million, an increase of about 21 million since 2010 (the country's slowest growth rate in decades). This growth has been far from even across the country. Just 15 states, all but one in the South or West, are projected to account for 82 percent of this population growth, with just three states — Texas, Florida, and California — accounting for 45 percent of it. By contrast, states in the Midwest and Northeast grew slowly, and Illinois, Connecticut, and Rhode Island have all likely experienced small population declines.

FIGURE 5

Projected Growth in Total Population, 2010–20



Source: Brennan Center for Justice estimate based on data from the U.S. Census Bureau's American Community Survey

The first and most direct impact of these changes will be shifts in congressional representation. The Constitution requires the reallocation of congressional districts among the states once per decade based on total population figures reported by the census — a process known as *reapportionment*. These fastest-growing states are projected to be the big winners when congressional seats are reapportioned. Texas once again will likely be the biggest gainer, picking up three additional congressional seats in reapportionment after gaining four seats following the 2010 Census.[24] By contrast, reapportionment will be another hit for northeastern and midwestern states, which lost seats after the 2010 Census and will again see significant losses in representation this decade.[25]

Population shifts are often a big driver of redistricting battles, especially when combined with gains or losses in congressional seats, as incumbents and political parties try to preserve or gain advantages. This decade's population growth suggests that some of the big fights will be in the South, Midwest, and Northeast.

Where There Have Been Demographic Shifts

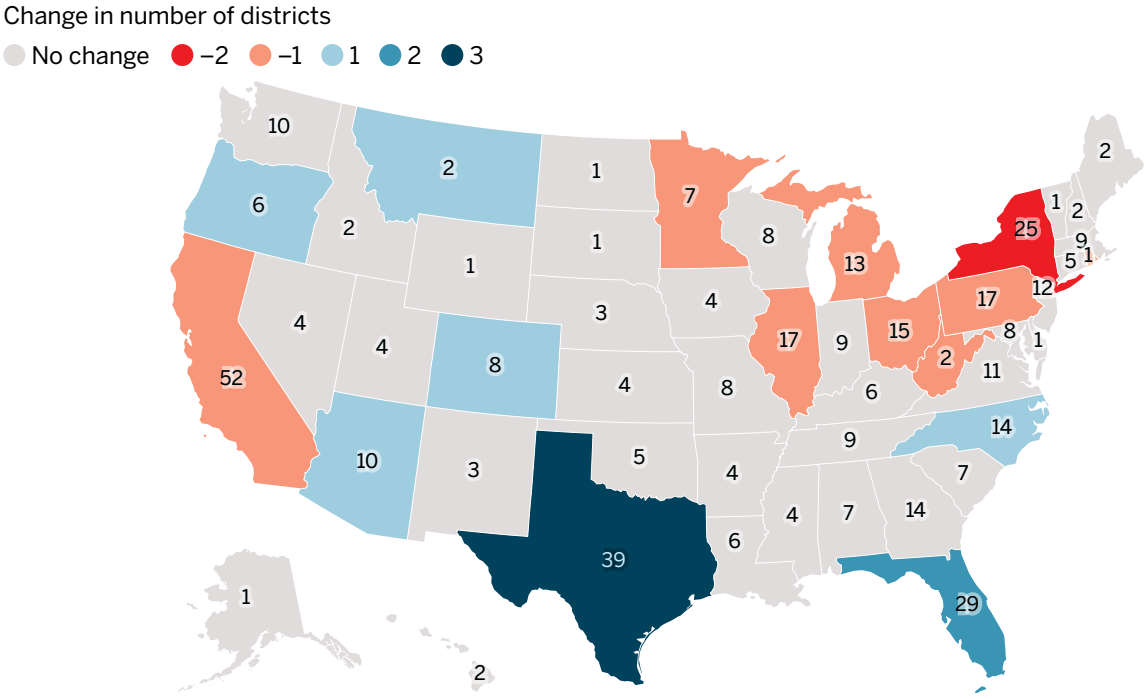
The increasing diversity of the American electorate is another major factor that will drive redistricting battles in 2021–22.

Since 2011, the number of eligible Black, Latino, and Asian American voters has grown at an extraordinary rate, with Latino Americans alone responsible for 40 percent of the increase in the country's eligible voters.[26] Collectively, Latino, Black, and Asian American voters will account for a remarkable 80 percent of the increase in eligible voters between 2010 and 2020, according to Brennan Center projections.[27]

These demographic shifts are especially pronounced in the 21 states where nonwhite Americans are projected to make up at least three-quarters of the increase in eligible voters.[28] In 10 of those states, nonwhite Americans are estimated to represent an astonishing 100 percent of the increase in citizen voting age population.

FIGURE 6

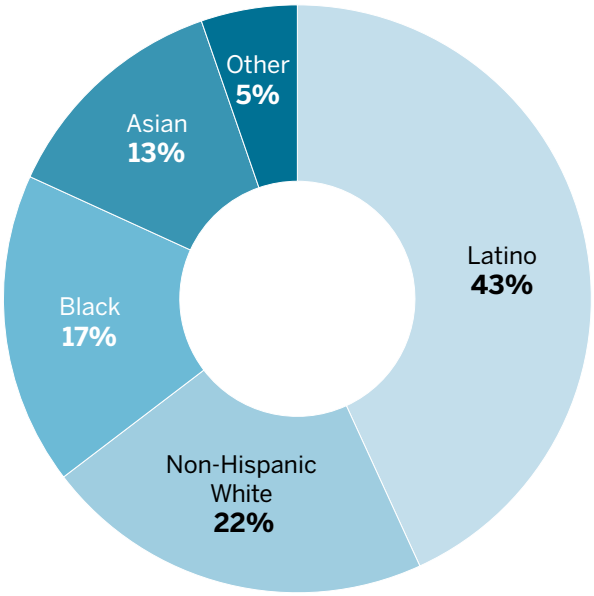
Projected Gains and Losses in Congressional Districts After 2020 Census Results



Source: Brennan Center calculation based on the U.S. Census Bureau's Annual Estimates of the Resident Population of the United States, Regions, States, and the District of Columbia, April 1, 2010 to July 1, 2020

FIGURE 7

Estimated Makeup of Increase in Eligible U.S. Voters, 2010–20



Source: Brennan Center for Justice estimate based on data from the U.S. Census Bureau's American Community Survey

However, even within states, the increase in eligible voters is not evenly spread out. Nearly 62 percent of the increase in Black voters, 71 percent of the increase in Latino voters, and 80 percent of the increase in Asian American voters has been in the country's 150 largest counties (home to roughly half the U.S. population). By contrast, just 38 percent of the increase in white voters occurred in those counties.[29]

The increase in voter diversity in the last decade was especially pronounced in the nation's suburbs, where a majority of Black, Asian, and Latino Americans in metro areas now live.[30]

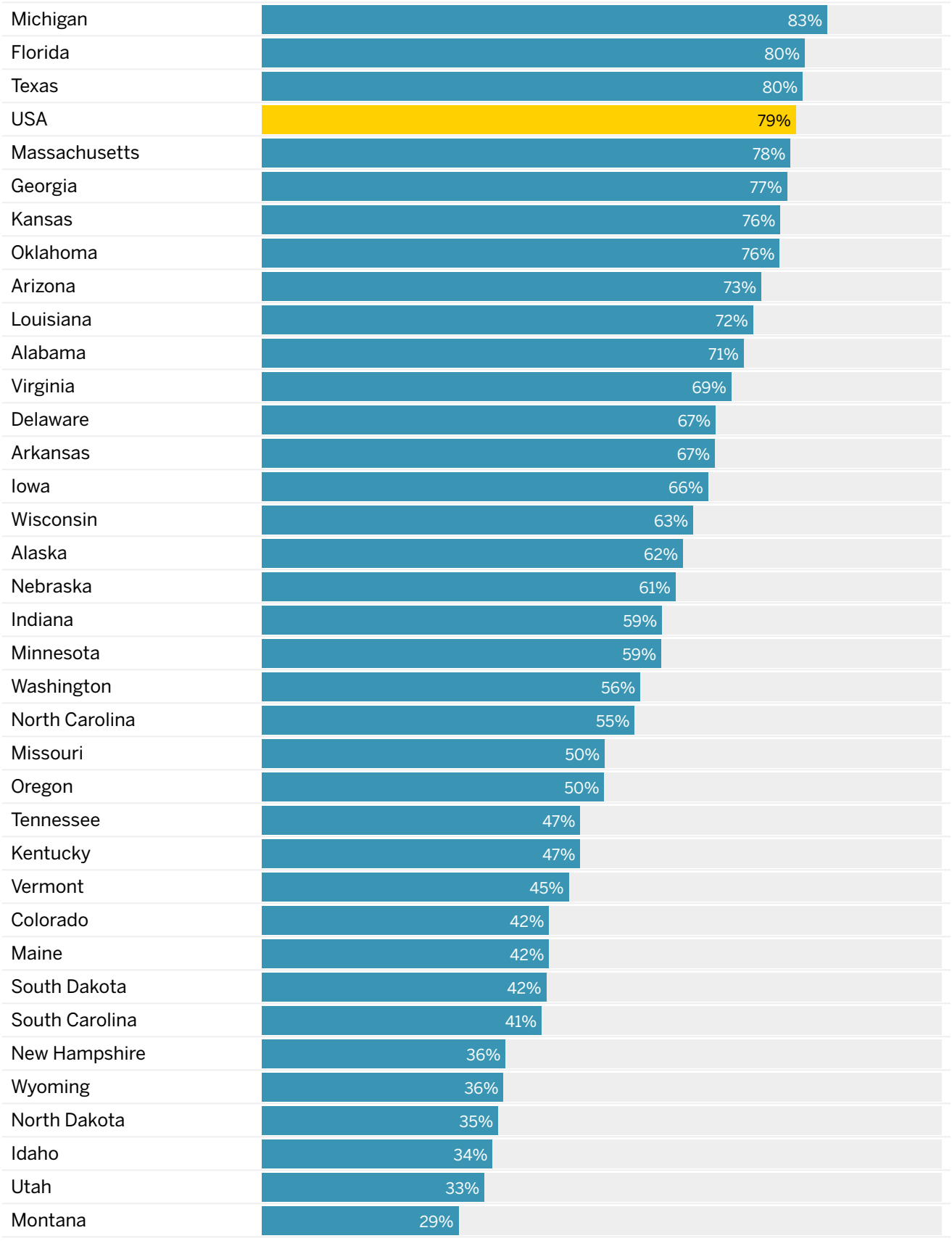
These demographic shifts will fuel redistricting fights, especially when they have occurred in tandem with political shifts. For example, in many of the same suburbs where the number of nonwhite voters has rapidly increased, college-educated women have increasingly voted for Democratic candidates since 2016. Together, these trends are making a growing number of previously safe Republican districts competitive.[31] In places where Republicans control map drawing, these conditions are ripe for gerrymandering, with communities at risk of being sliced and diced to keep the share of nonwhite voters down. Similarly, in areas where they control map drawing, Democrats might seek to strategically redraw maps to further increase nonwhite voters' share in districts to create advantages for their party.

FIGURE 8

Black, Latino, and Asian Americans as Share of Increase in States' Eligible Voters

STATE	% OF INCREASE IN ELIGIBLE VOTERS ATTRIBUTABLE TO BLACK, LATINO, AND ASIAN VOTERS
New Mexico	100%
California	100%
Connecticut	100%
Illinois	100%
Mississippi	100%
New Jersey	100%
New York	100%
Pennsylvania	100%
Rhode Island	100%
Maryland	98%
Nevada	90%
Hawaii	87%
Ohio	86%

FIGURE 8 *Continued*



Source: Brennan Center for Justice projection based on data from the Census Bureau's American Community Survey

In- and Out-Migration

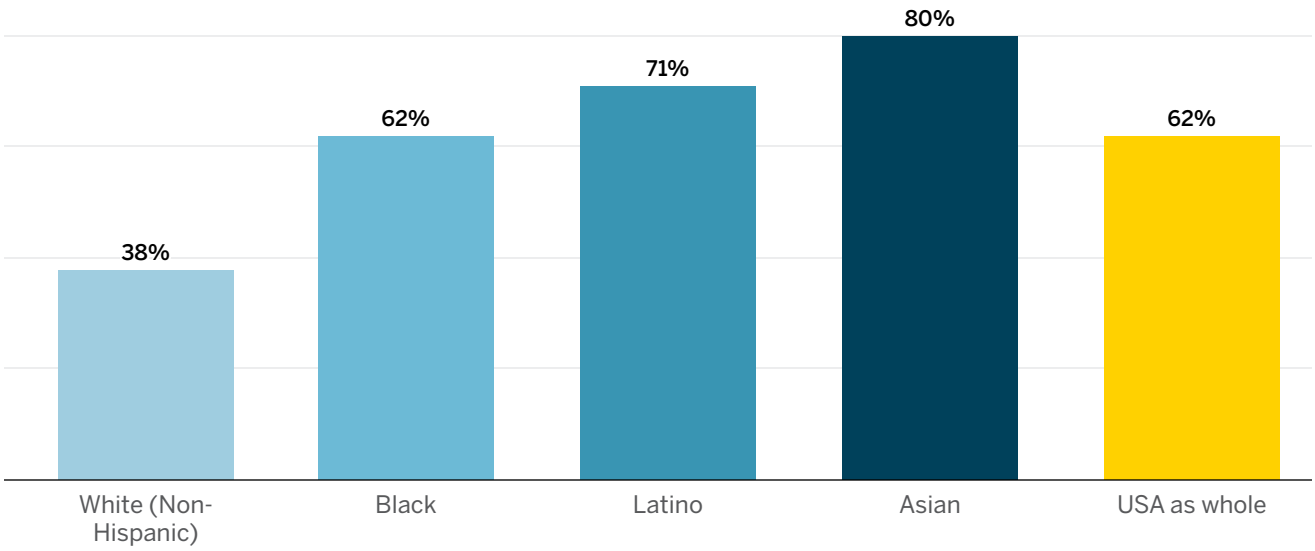
Another type of demographic change that can upset the delicate political status quo and create an incentive to manipulate maps is movement of a large number of voting age people in or out of a state or region. Fourteen states in particular should be watched for potential redistricting abuses, having experienced in the last decade a high rate of in-migration (as opposed to states where growth came mostly from births or immigration from outside the United States).[32]

Other states could experience redistricting pressures for the opposite reason: significant out-migration of voting age residents to other states. Since 2010, New York has been the biggest loser, seeing the loss of 1.4 million residents to other states. Indeed, New York continued to grow modestly last decade only because of immigration from outside the United States. California, Illinois, New Jersey, Michigan, Pennsylvania, Ohio, Connecticut, Maryland, and Massachusetts also have experienced sizable population outflows to other states.

High rates of out-migration can result in loss of representation in regions of a state with significant population declines, upsetting the political balance in other ways. New York City, for example, has seen significant out-migration of native-born white and Black Americans, and could see divisive battles over representation as fast-growing Latino and Asian American populations make new demands for their share of political power.

FIGURE 9

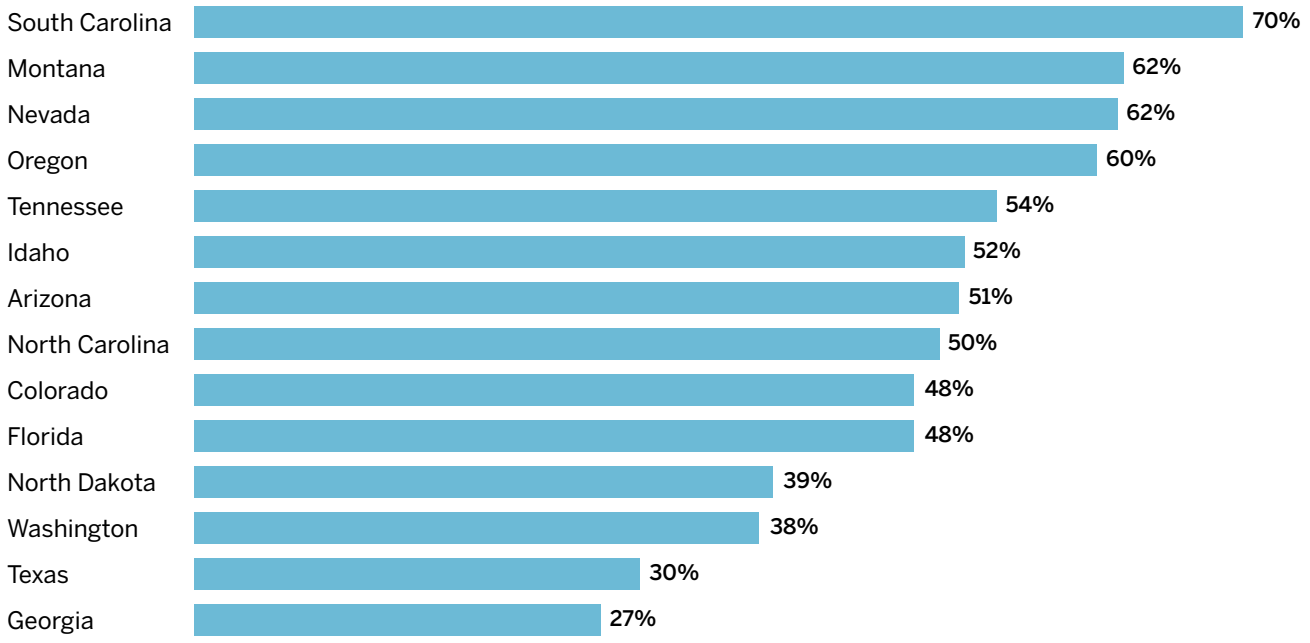
Share of Increase in Eligible Voters Since 2010 Concentrated in 150 Most Populous U.S. Counties



Source: Brennan Center for Justice projection using data from the American Community Survey

FIGURE 10

States with Significant In-Migration from Other States



Source: U.S. Census Bureau, Cumulative Estimates of the Components of Resident Population Change for the United States, Regions, and States, and Puerto Rico, April 1, 2010 to July 1, 2019

Factor 4: Potential Delays to the Redistricting Process

In March 2020, census operations largely ground to a halt because of the Covid-19 pandemic, throwing the Census Bureau months off schedule. This in turn has delayed the delivery of the block-level redistricting data needed to draw districts and will push redistricting off schedule in many states. (As of the time of writing, the expectation is that redistricting data will be delivered to states in late summer 2021.)

Data delay will create timing challenges in a number of states and, in Virginia, will make it virtually impossible to draw new maps before scheduled elections. In other states, the timing issues are not as severe, but a delay in receiving data could push redistricting into special legislative sessions, where there are fewer procedural protections and more opportunities to manipulate the process.

Timing Challenges

Data delays will create challenges and timing issues in several states:

- **Virginia** will face an especially hard choice because of its odd-numbered-year legislative elections. Delays in getting redistricting data, if significant, will make it impossible for Virginia to draw new legislative maps and then hold primary elections ahead of the November 2021 general elections.[33] (New Jersey also holds off-year legislative elections, but voters approved a constitutional amendment in 2020 allowing the state to use its existing maps for 2021 elections if census data is delayed.)

- Five other states also will need to take steps to avoid the automatic default of map drawing to a backup process. Without changes to deadlines, state supreme courts in **Iowa** and **Maine** will draw maps, and in **Connecticut**, **Illinois**, and **Oklahoma**, a backup commission will take over map drawing.[34] Generally, these backup processes are less optimal than the states' normal processes. In Illinois, for example, the process for selecting the commission's tiebreaking member could result in single-party control of the redistricting process, with Democrats being completely shut out despite controlling both houses of the legislature and the governor's mansion. (California also is in this category of states, but its state supreme court has already issued an order adjusting deadlines to give the state's redistricting commission time to complete its work.)

- Sixteen other states will also likely miss various deadlines associated with redistricting. These states, too, would benefit from executive or judicial action to extend or clarify deadlines in order to ensure adequate time to complete the redistricting process in a robust and transparent fashion.[35] These include **Michigan**, where a new independent commission will draw maps for the first time in 2021–22.[36]

Depending on how late the redistricting process is, some states might also need to consider changes to their candidate filing deadlines or even primary dates to allow redistricting to take place on a reasonable timeline.

The Risk of Special Sessions

Even if states do not run into legal barriers that prevent completion of the redistricting process, census delays will force map drawing in many states into special legislative sessions. This significantly increases the risk of abuses. Special sessions are often short and fixed in duration, reducing the opportunity for hearings and effective public oversight.

The timing of special sessions also is frequently controlled by governors or legislative leadership, offering them an opportunity to game the timing of map drawing, particularly in states with single-party control of government. Late-timed special sessions could leave courts with much less time than usual to adjudicate map challenges before the next election cycle starts.

This risk of redistricting timeline gaming will be exacerbated in states that are no longer required to seek preclearance of new maps under Section 5 of the Voting Rights Act. Without Section 5, states will no longer need to complete maps in time to allow for sometimes-lengthy federal review.

Appendix: Redistricting Risk Assessments

Highest-Risk States

These states — all previously covered by Section 5 of the Voting Rights Act — are likely to see fraught redistricting processes and could be at serious risk of gerrymandering and racially discriminatory maps.

- **Florida:** The country's second-fastest-growing state and one of its most rapidly diversifying, Florida is one of the states at highest risk for discriminatory maps. As was the case last decade, Republicans again will have sole control of the map drawing process. Last decade, Republicans used that control to draw maps that gave them safe majorities in both the state's congressional delegation and in the Florida legislature. A 2010 constitutional amendment banning partisan gerrymandering and state supreme court decisions from the last cycle have created some guardrails that could help constrain the most blatant abuses. However, the appointment of new justices has made the Florida Supreme Court considerably more conservative since the last round of map drawing. How vigorously the court will enforce those limits on gerrymandering in state law should Republicans decide again to aggressively gerrymander remains to be seen.

- **Georgia**: Fast-growing and demographically changing Georgia also faces significant risk for discriminatory maps. The nonwhite share of Georgia's electorate grew rapidly over the last decade, especially in the suburbs of Atlanta, where white voters now are also increasingly voting for Democratic candidates. These two trends in tandem threaten Republicans' hold on power, making it tempting for Republicans to use their single-party control of the process to gerrymander maps to safeguard against change. And as in southern states in general, the existence of racially polarized voting means that the most efficient way to gerrymander is often to target communities of color.

- **North Carolina**: Republicans will again control the redistricting process in North Carolina. (The state's governor, a Democrat, plays no role in redistricting under North Carolina law.) State court decisions in 2019 struck down last decade's extreme gerrymanders, ruling that they violated the state constitution's free elections guarantee. This time around, those decisions will not stop Republicans from again passing gerrymandered maps but will provide voters with an avenue for redress. An important caveat, however, is that the 2020 elections produced a more conservative North Carolina Supreme Court. It remains to be seen how vigorously the court will apply last decade's precedents.

- **Texas**: In 2011, Texas redistricting resulted in nearly decade-long litigation over racially discriminatory maps, including two trips to the U.S. Supreme Court. Heading into the 2021–22 round of redistricting, fast growth and rapid diversification again point to a fraught redistricting cycle. First, Texas has grown faster by far than any other state, with more than half of the state's population gain coming from Latinos and almost 90 percent from people of color. As in Georgia, the suburban areas where the nonwhite voting population has increased the fastest have also seen significant shifts of white voters away from Republicans and toward Democrats, creating political risk for Republicans. And once again, Republicans will have sole control over the process, having staved off Democratic efforts to win the state house in 2020. But Republican gerrymandering in Texas in both of the last two decades broke down toward the end of the 2010s given the rapidity of the state's growth and demographic change. A crucial question this decade will be whether Republicans try to aggressively maximize seats — at the risk of losing some of them by decade's end due to political and demographic changes — or try to draw a smaller number of safe seats.

Other High-Risk States

These states — though they are not growing or changing demographically as fast as the highest-risk states — were also formerly covered by Section 5 of the Voting Rights Act. This decade, all will draw maps under single-party control.

- **Alabama**: In 2011, Republicans in Alabama controlled redistricting for the first time since Reconstruction, and they used that power to aggressively racially gerrymander the state's Black population, a move later struck down by the courts. Republicans will again have unified control of the process this decade. Although Alabama has not experienced the fast population growth and demographic change of other southern states, this decade once again could bring fights over treatment of Black voters, including a renewal of claims by Black voters that Alabama is obligated under the Voting Rights Act to create a second Black-majority congressional district.

- **Mississippi**: This decade, Republicans will control redistricting in Mississippi for the first time since Reconstruction. The state has grown only modestly since 2010, but the treatment of the state's sizable Black population in redistricting has historically been contentious regardless of the party in control. This decade

could see renewed fights to increase the number of Black-majority legislative districts as well as to possibly add a second Black-majority congressional district.

- **South Carolina**: As in 2011, Republicans will again control redistricting in South Carolina. Although gerrymandering is not essential to preserving Republican majorities in the heavily Republican state, South Carolina saw significant in-migration last decade from other parts of the country, which brings increased gerrymandering risks in parts of the state. South Carolina also could see fights over increased representation for the state's large Black population, including possible demands to create a second Black-majority congressional district.

Likely Improved States

These states drew maps under single-party control last decade but are likely to draw fairer maps this time because of reforms or the end of single-party control.

- **Colorado**: In 2011, Colorado's commission-drawn legislative plans and court-drawn congressional plan were generally fair from both racial and partisan perspectives. However, the prospects for fair maps has increased this decade because of an independent redistricting commission established in 2018.

- **Louisiana**: Democratic Gov. John Bel Edwards was reelected in 2019, which means that Louisiana will draw maps this decade with a divided state government. Deadlock would force map drawing into the courts, where claims likely would include a demand to create an additional Black-majority congressional district in the state.

- **Michigan**: Michigan is one of the biggest success stories in the fight against gerrymandering. During the last cycle, Republicans used their full control of state government to produce some of the most extreme gerrymanders in the country. In response, a grassroots movement launched a campaign for reform, and in 2018, voters overwhelmingly approved a ballot measure to create a strong independent commission to draw both legislative and congressional maps. Republicans sued to block the commission from going into effect but have thus far been unsuccessful. Even if the commission were somehow invalidated, the state now has a Democratic governor who could veto legislatively passed maps and send the map drawing process to the courts.

- **New York** and **Utah** passed measures to reform redistricting but bear watching to see how new reforms are implemented. In New York, responsibility for drawing both legislative and congressional maps will move from lawmakers to a newly created advisory commission.[37] However, the legislature can reject the commission's maps and pass an alternative. With the New York legislature under unified Democratic control in a redistricting year for the first time in decades, it remains to be seen how deferential lawmakers will be to the advisory commission's work, or whether they will try to gerrymander to help shore up Democrats' prospects of retaining control of the U.S. House. Utah will have a similar advisory commission and could face similar gerrymandering pressures, particularly at the congressional level.

- **Pennsylvania**: Pennsylvania saw aggressive gerrymanders last cycle, but the prospect for fair maps this decade is much brighter. On the congressional front, the 2018 election of a Democratic governor means that Democrats now have the ability to block bad maps and send map drawing to the courts. In addition, also in 2018, the Pennsylvania Supreme Court struck down the state's congressional maps, ruling that they violated the state constitution's free and equal elections clause. In doing so, the court put in place new limits on partisan gerrymandering that will help ensure fairer maps this time around. For legislative maps, Democrats are likely to have a 3–2 majority on the apportionment board that draws legislative maps, creating the possibility that they could try to enact their own gerrymander to replace the current Republican gerrymander. However, here too, the limits on partisan gerrymandering recognized by state courts could stymie any such efforts and help ensure that one extreme gerrymander is not replaced with another.

- **Ohio**: Gerrymandering in Ohio in 2011 spurred a push for reform. In 2015, voters overwhelmingly approved a constitutional amendment to adopt a new process for legislative maps, and in 2019 they did the same for congressional maps. (Both measures had the support of both parties and passed the Ohio legislature almost unanimously.) The reforms, though complicated, are designed to incentivize but not mandate bipartisanship in map drawing. Any maps passed without sufficient bipartisan support would remain in effect only for two election cycles, after which they would have to be redrawn — when a different party might be in charge.[38] In addition, congressional maps passed on a party line basis would be subject to stricter rules on partisan fairness, creating a new way to challenge gerrymandered maps in court.[39] In the end, however, much may depend on the Ohio Supreme Court if Republicans decide to be aggressive.

- **Virginia**: In the last round of redistricting, both Virginia legislative and congressional maps were struck down by the courts as racial gerrymanders. In 2021, however, the state's maps will be drawn by a new bipartisan commission approved by voters in November 2020. The new commission will require bipartisan support to send maps for consideration by the legislature. If the maps fail to garner the required bipartisan support, the Virginia Supreme Court will draw the maps. In either case, the maps are unlikely to be racially discriminatory or have the same high levels of partisan bias as last decade's initial set of maps.

- **Wisconsin**: During the 2011 redistricting cycle, one of the worst gerrymanders in the country happened in Wisconsin. Republicans retain control of the legislature, but unlike last redistricting cycle, the governor is a Democrat who can veto any maps that provide too much of a Republican advantage. A veto would lead to the courts redrawing the maps, which should lead to fairer results. However, at the time of writing, Republicans are trying to force adoption of procedural changes that would require the conservative Wisconsin Supreme Court to draw the maps in the event of a political deadlock.

Other States to Watch

- **Arizona**, **California**, **Illinois**, and **Washington** are not major statewide redistricting hotspots but could see pointed battles over representation for fast-growing communities of color. In some cases, as in eastern Washington, demands for increased electoral opportunities could result in friction with white voters who have long held power. In other cases, the tensions will be with other minority groups. For example, Los Angeles County has gained almost 800,000 Latino eligible voters since 2010, with much of the growth occurring in Black opportunity districts. In Arizona, changes to the composition of the judicial selection body that vets commissioner applicants also has raised concerns in some quarters.

Endnotes

1 Laura Royden, Michael Li, and Yurij Rudensky, *Extreme Gerrymandering and the 2018 Midterm*, Brennan Center for Justice, March 23, 2018, 13–19, https://www.brennancenter.org/sites/default/files/2019-08/Report_Extreme_Gerrymandering_Midterm_2018.pdf.

2 Laura Royden and Michael Li, *Extreme Maps,* Brennan Center for Justice, May 9, 2017, 1–5, https://www.brennancenter.org/sites/default/files/2019-08/Report_Extreme%20Maps%205.16_0.pdf. (This report discusses partisan bias in this decade's congressional maps.)

3 New York voters approved an advisory commission in 2014. Ohio voters approved an expansion of the state's political appointee commission in 2015 and new rules for congressional redistricting in 2019.

4 In Vieth v. Jubelirer, 541 U.S. 267 (2004), the Supreme Court deadlocked on whether partisan gerrymandering claims were justiciable, with a plurality holding that they were not, four justices asserting that they were, and Justice Anthony Kennedy punting the issue to another day. However, the Supreme Court failed again two years later to resolve the issue in League of United Latin American Citizens v. Perry, 548 U.S. 399 (2006).

5 Rucho v. Common Cause, 588 U.S. __, 139 S.Ct. 2484, 2506–7 (2019).

6 Prior to 2013, nine states were covered in their entirety by Section 5 of the Voting Rights Act: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. In addition, parts but not all of six states were also covered: California, Florida, New York, North Carolina, South Dakota, and Michigan.

7 Shelby County v. Holder, 570 U.S. 529 (2013).

8 The Supreme Court laid out the basic three-part test for establishing Section 2 liability in Thornburg v. Gingles, 478 U.S. 30 (1986).

9 Michael Li and Laura Royden, "Does the Anti-Gerrymandering Campaign Threaten Minority Voting Rights?," Brennan Center for Justice, October 10, 2017, https://www.brennancenter.org/our-work/analysis-opinion/does-anti-gerrymandering-campaign-threaten-minority-voting-rights.

10 Bartlett v. Strickland, 556 U.S. 1 (2009).

11 Under the Supreme Court's ruling in *Bartlett*, a Section 2 plaintiff must be able to show through a demonstration map that it is possible to draw a reasonably compact district in which the minority group in question makes up more than 50 percent of the voting age population. This has been subsequently interpreted to mean citizen voting age population.

12 For example, in 2017, a three-judge panel in Texas rejected a Section 2 claim seeking creation of a Latino majority district in the Dallas-Fort Worth region, finding that the plaintiffs' proposed district, which had a bare Latino citizen voting age population, was not geographically compact under *Gingles*. Perez v. Perry, No. 5:11-cv-00360 (W.D. Tex. Mar. 10, 2017).

13 Some circuit courts have held that two or more minority groups can be aggregated for Section 2 if there is evidence of political cohesion between the groups. See Campos v. City of Baytown, 840 F.2d 1240, 1244 (5th Cir. 1988), which held that "there is nothing in the law that prevents the plaintiffs from identifying the protected aggrieved minority to include both blacks and Hispanics"; and Concerned Citizens of Hardee County v. Hardee County Board of Commissioners, 906 F.2d 524, 526 (11th Cir. 1990), which held that "two minority groups (in this case blacks and Hispanics) may be a single Section 2 minority if they can establish that they behave in a politically cohesive manner." Other circuits have disagreed. See Nixon v. Kent County, 76 F.3d 1381, 1386–87 (6th Cir. 1996), which rejected coalition districts because the plain language of Section 2 "does not mention minority coalitions, either expressly or conceptually." The Supreme Court has not yet weighed in on the issue.

14 Evenwel v. Abbott, __U.S. __, 136 S. Ct. 1120, 1126–27 (2016).

15 *Evenwel*, 136 S. Ct. at 1132–33.

16 League of Women Voters of Pennsylvania v. Commonwealth of Pennsylvania, 18 A.3d. 737 (Pa. 2018).

17 See Common Cause v. Lewis, Case no. 18 CVS 014001 (Wake County Superior Court, filed September 3, 2019) (ruling on legislative maps); and Harper v. Lewis, Case no. 19 CVS 012667 (Wake County Superior Court, filed October 29, 2019) (ruling on congressional plan).

18 Justin Levitt, "Quick and Dirty: The New Misreading of the Voting Rights Act," *Florida State University Law Review* 43, no. 2 (Winter 2016): 573–610.

19 Subsequent suits have contended that map drawers in Alabama, Georgia, and Louisiana failed to create a sufficient number of Section 2 congressional districts.

20 Alabama Legislative Black Caucus v. Alabama, 575 U.S. 254, 275–76 (2015).

21 Cooper v. Harris, 581 U.S. ___, 137 S. Ct. 1455, 1474n7 (2016).

22 *Cooper*, 137 S. Ct. at 1474.

23 Kate Ackley, "House Passes HR 1 Government Overhaul, Sending It Back to Campaign Trail," *Roll Call*, March 8, 2019, https://www.rollcall.com/news/congress/house-passes-hr-1-government-overhaul-sending-it-back-to-campaign-trail.

24 "2018 Population Estimates—2018 Apportionment," Election Data Services, accessed January 24, 2020, https://www.election-dataservices.com/wp-content/uploads/2018/12/Appor18Tables-Maps.pdf.

25 See note 24.

26 Brennan Center projection based on data from the U.S. Census Bureau's American Community Survey (ACS).

27 See note 24.

28 See note 24.

29 See note 24.

30 William H. Frey, "The Suburbs: Not Just for White People Anymore," *New Republic*, November 24, 2014, https://newrepublic.com/article/120372/white-suburbs-are-more-and-more-thing-past.

31 Democrats also would have an incentive to bolster their electoral prospects in the South through racial gerrymandering that takes advantage of communities of color. However, Democrats will not have sole control of the redistricting process in any southern states in 2021–22.

32 U.S. Census Bureau, Cumulative Estimates of the Components of Resident Population Changes for the United States, Regions, States, and Puerto Rico, April 1, 2010 to July 1, 2019.

33 Yurij Rudensky, Michael Li, and Annie Lo, *How Changes to the 2020 Census Timeline Will Impact Redistricting,* Brennan Center for Justice, May 4, 2020, https://www.brennancenter.org/our-work/research-reports/how-changes-2020-census-timeline-will-impact-redistricting.

34 Rudensky et al., *Changes to the 2020 Census*, 5–18.

35 New York, South Dakota, and Washington have fixed-date deadlines for completing redistricting in their constitutions that will be difficult to meet and will need to be adjusted through executive or judicial action to allow enough time for redistricting. Delaware, Hawaii, and Utah also have fixed-date deadlines for completing redistricting that will be hard to meet, but because these deadlines

are statutory rather than constitutional, they can be changed by the states' legislatures. Alabama, Arkansas, Connecticut, Indiana, Massachusetts, Michigan, Nevada, New Hampshire, Oregon, and Vermont have deadlines for legislative and/or congressional redistricting that are tied to the "census year" that may create timing issues depending on how they are interpreted.

36 Rudensky et al., *Changes to the 2020 Census*, 10–11.

37 *50 State Guide to Redistricting*, Brennan Center for Justice, last modified June 7, 2019, https://www.brennancenter.org/our-work/research-reports/50-state-guide-redistricting.

38 Ohio Const. art. XI, § 8 (procedure for legislative redistricting); and Ohio Const. art. XIX, § 1 (procedure for congressional redistricting).

39 Ohio Const. art. XIX, § 1(F)(3).

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