

League of Women Voters of Dane County Program

September, 2023

## The State Supreme Court Fair Maps Case



Our September Program presents information about *Clarke v. Wisconsin Election Commission*, the case before the Wisconsin Supreme Court that charges that the current maps violate the Wisconsin Constitution. On August 2, 2023, 19 Wisconsin voters filed a petition with the Wisconsin Supreme Court alleging that the current maps are partisan gerrymanders in violation of the Wisconsin Constitution's guarantees of equal protection, free speech, and free association.

This program is a learning opportunity on your own time. [The one-hour press conference about the case is available on YouTube here](#). We encourage you to watch this video with family and/or friends. On [the Law Forward website](#) you can read the press release, brief, and petition, as well as view examples of non-contiguous district maps that are being challenged.

[League Discussion Units](#) will meet to discuss this case during the third week of September. If you aren't already a member of a discussion unit, [you can find contact information here](#).

### Discussion Questions

1. What was one new aspect of gerrymandering and the need for fair maps in Wisconsin that you learned? What surprised you in the presentation?
2. From the case made by the legal team against gerrymandering in Wisconsin, what argument did you find the strongest? Why?
3. Looking at the MAPS, what evidence do you see to support the case that the redistricted maps are not contiguous? How many districts (representatives) might this affect?
4. What should the League do regarding this case and the fight for Fair Maps?

## League of Women Voters of Wisconsin Positions

Support of:

- Regularly scheduled apportionment based primarily on population equality, but also with consideration of the compactness and contiguity of districts; representation of diverse populations; and, in so far as is possible, recognition of community of interest as defined by town, village, city, county or ward boundaries and major geographical characteristics.
- A redistricting process characterized by objectivity, accountability, timely and efficient completion and a reasonable degree of flexibility.
- Citizen participation and access at all levels and steps of the process.
- Establishment of an independent commission or designation of an independent agency to be responsible for the development of a legislative and Congressional redistricting plan.
- Streamlined court review of any legal challenge.

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### Excerpts from Press Release:

**“Wisconsin Voters File Challenge to Wisconsin Gerrymandered Legislative Maps: National Legal Experts Unite to Restore Democracy in Wisconsin” \***

“In the past 12 years, one political party captured the Legislature and has insulated itself from being answerable to the voters,” said Jeff Mandell, partner at Stafford Rosenbaum and Board President of Law Forward. Despite the fact that our legislative branch is meant to be the most directly representative of the people, the gerrymandered maps have divided our communities, preventing fair representation. This has eroded confidence in our political system, suppressed competitive elections, skewed policy outcomes, and undermined democratic representation. We have endured 12 years of rule by right-wing interests, and the voters of Wisconsin deserve fair representation. . . .

The Petition includes challenges under the Wisconsin constitution:

The existing legislative maps are an extreme partisan gerrymander that violates various parts of the Wisconsin Constitutions. Specifically, the existing maps (1) retaliate against some voters based on their viewpoint and free speech, in violation of Wisconsin’s guarantee of free speech; (2) treats some voters worse than others based on their political views and where they live in violation of Wisconsin’s guarantee of equality; and (3) violate the promise of a free government found in the Wisconsin constitution.” . . .

The State of Wisconsin continues to operate under a partisan gerrymander that violates numerous provisions of the Wisconsin Constitution. . . .

### Excerpts from the Petition:

The Petitioners\*\* here are voters- citizens of this state who seek to exercise their rights to speak freely, band together to advocate political beliefs, and obtain equal representation through the ballots they cast in lawfully drawn districts. This case is about ending the systematic silencing of voters across the state as punishment for daring to think, believe, and vote differently from a group of politicians who won a single election thirteen years ago and then set out to entrench themselves into power permanently, the state's Constitution- and the rights of its residents- be damned.

Since 2012, even when Democrats have won as much as 53% of the statewide vote, they have held no more than 39 of the 99 Assembly seats. In the same period, even when Republicans have won as little as 44.8% of the statewide vote, they have held no fewer than 60 of the 99 Assembly seats. As intended by the 2011 partisan gerrymander, voting for state legislative districts has no effect on political party control of the state legislature and, therefore, constrains the ability of the people of the State of Wisconsin to effect legislative outcomes by electing representatives of their choice who reflect their preferred policies.

As a result of the legislature's effort to punish certain voters for their political expression and favor others, in the November 2022 election, Republicans won 64 of 99 assembly seats and saw victories that yielded them 22 of 33 senate seats- a supermajority in the Senate and close to one in the Assembly. At the same time, Democratic candidates won three of five statewide elections... By every metric, Wisconsin's legislative plans score among the most- if not the most- skewed in the nation.

#### Causes of Action:

Count One: The Current State Assembly and Senate Maps are Partisan Gerrymanders in Violation of the Wisconsin Constitution's Equal Protection guarantee - Article I, Section 1

Count Two: The Current State Assembly and Senate Maps Are Partisan Gerrymanders in Violation of the Wisconsin Constitution's Free Speech and Association Guarantees - Article I, Sections 3 and 4

Count Three: The Current State Assembly and Senate Maps are Partisan Gerrymanders in Violation of the Wisconsin Constitution's Free Government Guarantee - Article I, Section 22

Count Four: The Current State Assembly and Senate Maps Violate the Contiguity Requirement - Article IV, Sections 4 and 5

Count Five: Violation of Separation of Powers Doctrine”

*\*August 2, 2023, Press Release. Law Forward, Stafford Rosenbaum, Election Law Clinic at Harvard Law School, Campaign Legal Center, and Arnold & Porter are filing a Petition to the Supreme Court of Wisconsin to take jurisdiction of an original action to challenge the gerrymandered state legislative maps. [Wisconsin Voters File Challenge to Wisconsin Gerrymandered Legislative Maps | Law Forward](#)*

*\*\*The Petitioners are from all corners of Wisconsin and demonstrate the effects the right-wing gerrymander has had on Wisconsin voters, families, and communities they include: Rebecca Clarke, Dr. Ruben Anthony, Terry Dawson, Dana Glasstein, Dr. Ann Groves-Lloyd, Carl Hujet, Gerry Iverson, Tia Johnson, Angie Kirst, Dr. Selika Lawton, Gabian Maldonado, Anne Marie McClellan, James McNett, Brittany Muriello, Ela Joosten (Pari) Schils, Nathaniel Slack, Mary Smith- Johnson, Denise (Dee) Sweet, Gabrielle Young.*

## **Actions You Can Take:**

1. Write a letter to the editor of your local paper outlining the importance of this case for the voters of Wisconsin. (Reminder: you may write as an individual, but anything that is sent in the name of the League must be approved and signed by the Board.)
2. Read about the taxpayer funds that will be spent opposing this case in court and spread the word with people you know. [Wisconsin Republicans commit more than \\$1.8 million in taxpayer funds to defend GOP-drawn legislative maps.](#) Write a letter to the editor.
3. Your suggestions?