

117TH CONGRESS
2D SESSION

S. 5335

To reform congressional redistricting.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2022

Ms. KLOBUCHAR introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform congressional redistricting.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Redistricting Reform
5 Act of 2022”.

6 **SEC. 2. FINDING OF CONSTITUTIONAL AUTHORITY.**

7 Congress finds that it has the authority to establish
8 the terms and conditions States must follow in carrying
9 out congressional redistricting after an apportionment of
10 Members of the House of Representatives because—

11 (1) the authority granted to Congress under ar-
12 ticle I, section 4 of the Constitution of the United

1 States gives Congress the power to enact laws gov-
2 erning the time, place, and manner of elections for
3 Members of the House of Representatives;

4 (2) the authority granted to Congress under
5 section 5 of the 14th Amendment to the Constitu-
6 tion gives Congress the power to enact laws to en-
7 force section 2 of such amendment, which requires
8 Representatives to be apportioned among the several
9 States according to their number;

10 (3) the authority granted to Congress under
11 section 5 of the 14th Amendment to the Constitu-
12 tion gives Congress the power to enact laws to en-
13 force section 1 of such amendment, including protec-
14 tions against excessive partisan gerrymandering that
15 Federal courts have not enforced because they un-
16 derstand such enforcement to be committed to Con-
17 gress by the Constitution;

18 (4) of the authority granted to Congress to en-
19 force article IV, section 4, of the Constitution, and
20 the guarantee of a Republican Form of Government
21 to every State, which Federal courts have not en-
22 forced because they understand such enforcement to
23 be committed to Congress by the Constitution;

1 (5) requiring States to use uniform redistricting
 2 criteria is an appropriate and important exercise of
 3 such authority; and

4 (6) partisan gerrymandering dilutes citizens'
 5 votes because partisan gerrymandering injures vot-
 6 ers and political parties by infringing on their 1st
 7 Amendment right to associate freely and their 14th
 8 Amendment right to equal protection of the laws.

9 **SEC. 3. BAN ON MID-DECADE REDISTRICTING.**

10 A State that has been redistricted in accordance with
 11 this Act may not be redistricted again until after the next
 12 apportionment of Representatives under section 22(a) of
 13 the Act entitled “An Act to provide for the fifteenth and
 14 subsequent decennial censuses and to provide for an ap-
 15 portionment of Representatives in Congress”, approved
 16 June 18, 1929 (2 U.S.C. 2a), unless a court requires the
 17 State to conduct such subsequent redistricting to comply
 18 with the Constitution of the United States, the Voting
 19 Rights Act of 1965 (52 U.S.C. 10301 et seq.), the terms
 20 or conditions of this Act, or applicable State law.

21 **SEC. 4. CRITERIA FOR REDISTRICTING.**

22 (a) **REQUIRING PLANS TO MEET CRITERIA.**—A
 23 State may not use a congressional redistricting plan which
 24 is not in compliance with this section.

1 (b) RANKED CRITERIA.—Under the redistricting plan
2 of a State, there shall be established single-member con-
3 gressional districts using the following criteria as set forth
4 in the following order of priority:

5 (1) Districts shall comply with the United
6 States Constitution, including the requirement that
7 they substantially equalize total population.

8 (2) Districts shall comply with the Voting
9 Rights Act of 1965 (52 U.S.C. 10301 et seq.), in-
10 cluding by creating any districts where, if based
11 upon the totality of the circumstances, 2 or more po-
12 litically cohesive groups protected by such Act are
13 able to elect representatives of choice in coalition
14 with one another, and all applicable Federal laws.

15 (3)(A) Districts shall be drawn, to the extent
16 that the totality of the circumstances warrant, to en-
17 sure the practical ability of a group protected under
18 the Voting Rights Act of 1965 (52 U.S.C. 10301 et
19 seq.) to participate in the political process and to
20 nominate candidates and to elect representatives of
21 choice is not diluted or diminished, regardless of
22 whether or not such protected group constitutes a
23 majority of a district's citizen voting age population.

24 (B) For purposes of subparagraph (A), the as-
25 sessment of whether a protected group has the prac-

1 tical ability to nominate candidates and to elect rep-
2 resentatives of choice shall require the consideration
3 of the following factors:

4 (i) Whether the group is politically cohe-
5 sive.

6 (ii) Whether there is racially polarized vot-
7 ing in the relevant geographic region.

8 (iii) If there is racially polarized voting in
9 the relevant geographic region, whether the pre-
10 ferred candidates of the group nevertheless re-
11 ceive a sufficient amount of consistent crossover
12 support from other voters such that the group
13 is a functional majority with the ability to both
14 nominate candidates and elect representatives
15 of choice.

16 (4)(A) Districts shall be drawn to respect com-
17 munities of interest and neighborhoods to the extent
18 practicable after compliance with the requirements
19 of paragraphs (1) through (3). A community of in-
20 terest is defined as an area for which the record be-
21 fore the entity responsible for developing and adopt-
22 ing the redistricting plan demonstrates the existence
23 of broadly shared interests and representational
24 needs, including shared interests and representa-
25 tional needs rooted in common ethnic, racial, eco-

1 nomic, Indian, social, cultural, geographic, or his-
 2 toric identities, or arising from similar socioeconomic
 3 conditions. The term communities of interest may, if
 4 the record warrants, include political subdivisions
 5 such as counties, municipalities, Indian lands, or
 6 school districts, but shall not include common rela-
 7 tionships with political parties or political can-
 8 didates.

9 (B) For purposes of subparagraph (A), in con-
 10 sidering the needs of multiple, overlapping commu-
 11 nities of interest, the entity responsible for devel-
 12 oping and adopting the redistricting plan shall give
 13 greater weight to those communities of interest
 14 whose representational needs would most benefit
 15 from the community's inclusion in a single congres-
 16 sional district.

17 (c) NO FAVORING OR DISFAVORING OF POLITICAL
 18 PARTIES.—

19 (1) PROHIBITION.—A State may not use a re-
 20 districting plan to conduct an election if the plan's
 21 congressional districts, considered cumulatively on a
 22 statewide basis, have been drawn with the intent, or
 23 have the effect, of materially favoring or disfavoring
 24 any political party.

1 (2) DETERMINATION OF EFFECT.—The deter-
2 mination of whether a redistricting plan has the ef-
3 fect of materially favoring or disfavoring a political
4 party shall be based on an evaluation of the totality
5 of circumstances which, at a minimum, shall involve
6 consideration of each of the following factors:

7 (A) Computer modeling based on relevant
8 statewide general elections for Federal office
9 held over the 8 years preceding the adoption of
10 the redistricting plan setting forth the probable
11 electoral outcomes for the plan under a range
12 of reasonably foreseeable conditions.

13 (B) An analysis of whether the redis-
14 tricting plan is statistically likely to result in
15 partisan advantage or disadvantage on a state-
16 wide basis, the degree of any such advantage or
17 disadvantage, and whether such advantage or
18 disadvantage is likely to be present under a
19 range of reasonably foreseeable electoral condi-
20 tions.

21 (C) A comparison of the modeled electoral
22 outcomes for the redistricting plan to the mod-
23 eled electoral outcomes for alternative plans
24 that demonstrably comply with the require-
25 ments of paragraphs (1), (2), and (3) of sub-

1 section (b) in order to determine whether rea-
 2 sonable alternatives exist that would result in
 3 materially lower levels of partisan advantage or
 4 disadvantage on a statewide basis. For purposes
 5 of this subparagraph, alternative plans consid-
 6 ered may include both actual plans proposed
 7 during the redistricting process and other plans
 8 prepared for purposes of comparison.

9 (D) Any other relevant information, includ-
 10 ing how broad support for the redistricting plan
 11 was among members of the entity responsible
 12 for developing and adopting the plan and
 13 whether the processes leading to the develop-
 14 ment and adoption of the plan were transparent
 15 and equally open to all members of the entity
 16 and to the public.

17 (3) REBUTTABLE PRESUMPTION.—

18 (A) TRIGGER.—In any civil action brought
 19 under section 7 in which a party asserts a claim
 20 that a State has enacted a redistricting plan
 21 which is in violation of this subsection, a party
 22 may file a motion not later than 30 days after
 23 the enactment of the plan (or, in the case of a
 24 plan enacted before the effective date of this
 25 Act, not later than 30 days after the effective

1 date of this Act) requesting that the court de-
2 termine whether a presumption of such a viola-
3 tion exists. If such a motion is timely filed, the
4 court shall hold a hearing not later than 15
5 days after the date the motion is filed to assess
6 whether a presumption of such a violation ex-
7 ists.

8 (B) ASSESSMENT.—To make the deter-
9 mination required under subparagraph (A), the
10 court shall do the following:

11 (i) Determine the number of congres-
12 sional districts under the plan that would
13 have been carried by each political party's
14 candidates for the office of President and
15 the office of Senator in the 2 most recent
16 general elections for the office of President
17 and the 2 most recent general elections for
18 the office of Senator (other than special
19 general elections) immediately preceding
20 the enactment of the plan, except that if a
21 State conducts a primary election for the
22 office of Senator which is open to can-
23 didates of all political parties, the primary
24 election shall be used instead of the gen-
25 eral election and the number of districts

1 carried by a party's candidates for the of-
2 fice of Senator shall be determined on the
3 basis of the combined vote share of all can-
4 didates in the election who are affiliated
5 with such party.

6 (ii) Determine, for each of the 4 elec-
7 tions assessed under clause (i), whether
8 the number of districts that would have
9 been carried by any party's candidate as
10 determined under clause (i) results in par-
11 tisan advantage or disadvantage in excess
12 of the applicable threshold described in
13 subparagraph (C). The degree of partisan
14 advantage or disadvantage shall be deter-
15 mined by one or more standard quan-
16 titative measures of partisan fairness
17 that—

18 (I) use a party's share of the
19 statewide vote to calculate a cor-
20 responding benchmark share of seats;
21 and

22 (II) measure the amount by
23 which the share of seats the party's
24 candidate would have won in the elec-

1 tion involved exceeds the benchmark
2 share of seats.

3 (C) APPLICABLE THRESHOLD DE-
4 SCRIBED.—The applicable threshold described
5 in this subparagraph is, with respect to a State
6 and a number of seats, the greater of—

7 (i) an amount equal to 7 percent of
8 the number of congressional districts in
9 the State; or

10 (ii) one congressional district.

11 (D) DESCRIPTION OF QUANTITATIVE
12 MEASURES; PROHIBITING ROUNDING.—In car-
13 rying out this subsection—

14 (i) the standard quantitative measures
15 of partisan fairness used by the court may
16 include the simplified efficiency gap but
17 may not include strict proportionality; and

18 (ii) the court may not round any num-
19 ber.

20 (E) PRESUMPTION OF VIOLATION.—A plan
21 is presumed to violate paragraph (1) if it ex-
22 ceeds the threshold described in subparagraph
23 (C) with respect to 2 or more of the 4 elections
24 assessed under subparagraph (B).

1 (F) STAY OF USE OF PLAN.—Notwith-
2 standing any other provision of this Act, in any
3 action under this paragraph, the following rules
4 shall apply:

5 (i) Upon filing of a motion under sub-
6 paragraph (A), a State's use of the plan
7 which is the subject of the motion shall be
8 automatically stayed pending resolution of
9 such motion.

10 (ii) If after considering the motion,
11 the court rules that the plan is presumed
12 under subparagraph (E) to violate para-
13 graph (1), a State may not use such plan
14 until and unless the court which is car-
15 rying out the determination of the effect of
16 the plan under paragraph (2) determines
17 that, notwithstanding the presumptive vio-
18 lation, the plan does not violate paragraph
19 (1).

20 (G) NO EFFECT ON OTHER ASSESS-
21 MENTS.—The absence of a presumption of a
22 violation with respect to a redistricting plan as
23 determined under this paragraph shall not af-
24 fect the determination of the effect of the plan
25 under paragraph (2).

1 (4) DETERMINATION OF INTENT.—A court may
2 rely on all available evidence when determining
3 whether a redistricting plan was drawn with the in-
4 tent to materially favor or disfavor a political party,
5 including evidence of the partisan effects of a plan,
6 the degree of support the plan received from mem-
7 bers of the entity responsible for developing and
8 adopting the plan, and whether the processes leading
9 to development and adoption of the plan were trans-
10 parent and equally open to all members of the entity
11 and to the public.

12 (5) NO VIOLATION BASED ON CERTAIN CRI-
13 TERIA.—No redistricting plan shall be found to be
14 in violation of paragraph (1) because of the proper
15 application of the criteria set forth in paragraph (1),
16 (2), or (3) of subsection (b), unless one or more al-
17 ternative plans could have complied with such para-
18 graphs without having the effect of materially favor-
19 ing or disfavoring a political party.

20 (d) FACTORS PROHIBITED FROM CONSIDERATION.—
21 In developing the redistricting plan for the State, the
22 State may not take into consideration any of the following
23 factors, except as necessary to comply with the criteria
24 described in paragraphs (1) through (3) of subsection (b),
25 to achieve partisan fairness and comply with subsection

1 (c), and to enable the redistricting plan to be measured
 2 against the external metrics described in section 5(c):

3 (1) The residence of any Member of the House
 4 of Representatives or candidate.

5 (2) The political party affiliation or voting his-
 6 tory of the population of a district.

7 (e) ADDITIONAL CRITERIA.—A State may not rely
 8 upon criteria not set forth in this section to justify non-
 9 compliance with the requirements of this section.

10 (f) APPLICABILITY.—

11 (1) IN GENERAL.—This section applies to any
 12 authority, whether appointed, elected, judicial, or
 13 otherwise, responsible for enacting the congressional
 14 redistricting plan of a State.

15 (2) DATE OF ENACTMENT.—This section ap-
 16 plies to any congressional redistricting plan that
 17 would be, or is, in effect after the date of enactment
 18 of this Act, regardless of the date of enactment by
 19 the State of the congressional redistricting plan.

20 (g) SEVERABILITY OF CRITERIA.—If any of the cri-
 21 teria set forth in this section or any amendment made by
 22 this section, or the application of such criteria to any per-
 23 son, circumstance, or amendment, is held to be unconstitu-
 24 tional, the remaining criteria set forth in this section, and
 25 the application of such criteria to any person, cir-

1 cumstance, or amendment, shall not be affected by the
2 holding.

3 **SEC. 5. DEVELOPMENT OF PLAN.**

4 (a) PUBLIC NOTICE AND INPUT.—

5 (1) USE OF OPEN AND TRANSPARENT PROC-
6 ESS.—The entity responsible for developing and
7 adopting the congressional redistricting plan of a
8 State shall solicit and take into consideration com-
9 ments from the public throughout the process of de-
10 veloping the plan, and shall carry out its duties in
11 an open and transparent manner which provides for
12 the widest public dissemination reasonably possible
13 of its proposed and final redistricting plans.

14 (2) WEBSITE.—

15 (A) FEATURES.—The entity shall maintain
16 a public internet site which is not affiliated with
17 or maintained by the office of any elected offi-
18 cial and which includes the following features:

19 (i) All proposed redistricting plans
20 and the final redistricting plan, including
21 the accompanying written evaluation under
22 subsection (c).

23 (ii) All comments received from the
24 public submitted under paragraph (1).

1 (iii) Access in an easily usable format
2 to the demographic and other data used by
3 the entity to develop and analyze the pro-
4 posed redistricting plans, together with any
5 reports analyzing and evaluating such
6 plans and access to software that members
7 of the public may use to draw maps of pro-
8 posed districts.

9 (iv) A method by which members of
10 the public may submit comments directly
11 to the entity.

12 (B) SEARCHABLE FORMAT.—The entity
13 shall ensure that all information posted and
14 maintained on the site under this paragraph,
15 including information and proposed maps sub-
16 mitted by the public, shall be maintained in an
17 easily searchable format.

18 (3) MULTIPLE LANGUAGE REQUIREMENTS FOR
19 ALL NOTICES.—The entity responsible for developing
20 and adopting the plan shall make each notice which
21 is required to be posted and published under this
22 section available in any language in which the State
23 (or any jurisdiction in the State) is required to pro-
24 vide election materials under section 203 of the Vot-
25 ing Rights Act of 1965 (52 U.S.C. 10503).

1 (b) DEVELOPMENT OF PLAN.—

2 (1) HEARINGS.—The entity responsible for de-
3 veloping and adopting the congressional redistricting
4 plan shall hold hearings both before and after releas-
5 ing proposed plans in order to solicit public input on
6 the content of such plans. These hearings shall—

7 (A) be held in different regions of the
8 State and streamed live on the public internet
9 site maintained under subsection (a)(2);

10 (B) be sufficient in number, scheduled at
11 times and places, and noticed and conducted in
12 a manner to ensure that all members of the
13 public, including members of racial, ethnic, and
14 language minorities protected under the Voting
15 Rights Act of 1965, have a meaningful oppor-
16 tunity to attend and provide input both before
17 and after the entity releases proposed plans.

18 (2) POSTING OF MAPS.—The entity responsible
19 for developing and adopting the congressional redis-
20 tricting plan shall make proposed plans, amend-
21 ments to proposed plans, and the data needed to
22 analyze such plans for compliance with the criteria
23 of this Act available for public review, including on
24 the public internet site required under subsection
25 (a)(2), for a period of not less than 5 days before

1 any vote or hearing is held on any such plan or any
2 amendment to such a plan.

3 (c) WRITTEN EVALUATION OF PLAN AGAINST EX-
4 TERNAL METRICS.—The entity responsible for developing
5 and adopting the congressional redistricting plan for a
6 State shall include with each redistricting plan voted upon
7 by such entity, or a committee of such entity, and pub-
8 lished under this section a written evaluation that meas-
9 ures each such plan against external metrics which cover
10 the criteria set forth in section 4(b), including the impact
11 of the plan on the ability of members of a class of citizens
12 protected by the Voting Rights Act of 1965 (52 U.S.C.
13 10301 et seq.) to elect candidates of choice, the degree
14 to which the plan preserves or divides communities of in-
15 terest, and any analysis used by the State to assess com-
16 pliance with the requirements of section 4(b) and (c).

17 (d) PUBLIC INPUT AND COMMENTS.—The entity re-
18 sponsible for developing and adopting the congressional
19 redistricting plan for a State shall make all public com-
20 ments received about potential plans, including alternative
21 plans, available to the public on the internet site required
22 under subsection (a)(2), at no cost, not later than 24
23 hours prior to holding a vote on final adoption of a plan.

24 **SEC. 6. FAILURE BY STATE TO ENACT PLAN.**

25 (a) DEADLINE FOR ENACTMENT OF PLAN.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), each State shall enact a final congres-
3 sional redistricting plan following transmission of a
4 notice of apportionment to the President by the ear-
5 liest of—

6 (A) the deadline set forth in State law, in-
7 cluding any extension to the deadline provided
8 in accordance with State law;

9 (B) February 15 of the year in which reg-
10 ularly scheduled general elections for Federal
11 office are held in the State; or

12 (C) 90 days before the date of the next
13 regularly scheduled primary election for Federal
14 office held in the State.

15 (2) SPECIAL RULE FOR PLANS ENACTED PRIOR
16 TO EFFECTIVE DATE OF THIS ACT.—If a State en-
17 acted a final congressional redistricting plan prior to
18 the effective date of this Act and the plan is not in
19 compliance with the requirements of this Act, the
20 State shall enact a final redistricting plan which is
21 in compliance with the requirements of this Act not
22 later than 45 days after the effective date of this
23 Act.

24 (b) DEVELOPMENT OF PLAN BY COURT IN CASE OF
25 MISSED DEADLINE.—If a State has not enacted a final

1 congressional redistricting plan by the applicable deadline
2 under subsection (a), or it appears likely that a State will
3 fail to enact a final congressional redistricting plan by
4 such deadline—

5 (1) any citizen of the State may file an action
6 in the United States district court for the applicable
7 venue asking the district court to assume jurisdic-
8 tion;

9 (2) the United States district court for the ap-
10 plicable venue, acting through a 3-judge court con-
11 vened pursuant to section 2284 of title 28, United
12 States Code, shall have the exclusive authority to de-
13 velop and publish the congressional redistricting
14 plan for the State; and

15 (3) the final congressional redistricting plan de-
16 veloped and published by the court under this sec-
17 tion shall be deemed to be enacted on the date on
18 which the court publishes the final congressional re-
19 districting plan, as described in subsection (e).

20 (c) APPLICABLE VENUE.—For purposes of this sec-
21 tion, the “applicable venue” with respect to a State is the
22 District of Columbia or the judicial district in which the
23 capital of the State is located, as selected by the first party
24 to file with the court sufficient evidence that a State has
25 failed to, or is reasonably likely to fail to, enact a final

1 redistricting plan for the State prior to the expiration of
 2 the applicable deadline set forth in subsection (a).

3 (d) PROCEDURES FOR DEVELOPMENT OF PLAN.—

4 (1) CRITERIA.—In developing a redistricting
 5 plan for a State under this section, the court shall
 6 adhere to the same terms and conditions that ap-
 7 plied (or that would have applied, as the case may
 8 be) to the development of a plan by the State under
 9 section 4.

10 (2) ACCESS TO INFORMATION AND RECORDS.—

11 The court shall have access to any information,
 12 data, software, or other records and material that
 13 was used (or that would have been used, as the case
 14 may be) by the State in carrying out its duties
 15 under this Act.

16 (3) HEARING; PUBLIC PARTICIPATION.—In de-
 17 veloping a redistricting plan for a State, the court
 18 shall—

19 (A) hold one or more evidentiary hearings
 20 at which interested members of the public may
 21 appear and be heard and present testimony, in-
 22 cluding expert testimony, in accordance with
 23 the rules of the court; and

24 (B) consider other submissions and com-
 25 ments by the public, including proposals for re-

1 districting plans to cover the entire State or
2 any portion of the State.

3 (4) USE OF SPECIAL MASTER.—To assist in the
4 development and publication of a redistricting plan
5 for a State under this section, the court may appoint
6 a special master to make recommendations to the
7 court on possible plans for the State.

8 (e) PUBLICATION OF PLAN.—

9 (1) PUBLIC AVAILABILITY OF INITIAL PLAN.—
10 Upon completing the development of one or more
11 initial redistricting plans, the court shall make the
12 plans available to the public at no cost, and shall
13 also make available the underlying data used to de-
14 velop the plans and a written evaluation of the plans
15 against external metrics (as described in section
16 5(c)).

17 (2) PUBLICATION OF FINAL PLAN.—At any
18 time after the expiration of the 14-day period which
19 begins on the date the court makes the plans avail-
20 able to the public under paragraph (1), and taking
21 into consideration any submissions and comments by
22 the public which are received during such period, the
23 court shall develop and publish the final redistricting
24 plan for the State.

1 (f) USE OF INTERIM PLAN.—In the event that the
2 court is not able to develop and publish a final redis-
3 tricting plan for the State with sufficient time for an up-
4 coming election to proceed, the court may develop and
5 publish an interim redistricting plan which shall serve as
6 the redistricting plan for the State until the court develops
7 and publishes a final plan in accordance with this section.
8 Nothing in this subsection may be construed to limit or
9 otherwise affect the authority or discretion of the court
10 to develop and publish the final redistricting plan, includ-
11 ing the discretion to make any changes the court deems
12 necessary to an interim redistricting plan.

13 (g) APPEALS.—Review on appeal of any final or in-
14 terim plan adopted by the court in accordance with this
15 section shall be governed by the appellate process in sec-
16 tion 7.

17 (h) STAY OF STATE PROCEEDINGS.—The filing of an
18 action under this section shall act as a stay of any pro-
19 ceedings in State court with respect to the State’s congres-
20 sional redistricting plan unless otherwise ordered by the
21 court.

22 **SEC. 7. CIVIL ENFORCEMENT.**

23 (a) CIVIL ENFORCEMENT.—

1 (1) ACTIONS BY ATTORNEY GENERAL.—The At-
 2 torney General may bring a civil action for such re-
 3 lief as may be appropriate to carry out this Act.

4 (2) AVAILABILITY OF PRIVATE RIGHT OF AC-
 5 TION.—

6 (A) IN GENERAL.—Any citizen of a State
 7 who is aggrieved by the failure of the State to
 8 meet the requirements of the Constitution or
 9 Federal law, including this Act, with respect to
 10 the State’s congressional redistricting, may
 11 bring a civil action in the United States district
 12 court for the applicable venue for such relief as
 13 may be appropriate to remedy the failure.

14 (B) SPECIAL RULE FOR CLAIMS RELATING
 15 TO PARTISAN ADVANTAGE.—For purposes of
 16 subparagraph (A), a person who is aggrieved by
 17 the failure of a State to meet the requirements
 18 of section 4(c) may include—

19 (i) any political party or committee in
 20 the State; and

21 (ii) any registered voter in the State
 22 who resides in a congressional district that
 23 the voter alleges was drawn in a manner
 24 that contributes to a violation of such sec-
 25 tion.

1 (C) NO AWARDING OF DAMAGES TO PRE-
2 VAILING PARTY.—Except for an award of attor-
3 ney’s fees under subsection (d), a court in a
4 civil action under this section shall not award
5 the prevailing party any monetary damages,
6 compensatory, punitive, or otherwise.

7 (3) DELIVERY OF COMPLAINT TO HOUSE AND
8 SENATE.—In any action brought under this section,
9 a copy of the complaint shall be delivered promptly
10 to the Clerk of the House of Representatives and the
11 Secretary of the Senate.

12 (4) EXCLUSIVE JURISDICTION AND APPLICABLE
13 VENUE.—

14 (A) IN GENERAL.—The district courts of
15 the United States shall have exclusive jurisdic-
16 tion to hear and determine claims asserting
17 that a congressional redistricting plan violates
18 the requirements of the Constitution or Federal
19 law, including this Act.

20 (B) APPLICABLE VENUE.—The applicable
21 venue for such an action shall be the United
22 States District Court for the District of Colum-
23 bia or for the judicial district in which the cap-
24 ital of the State is located, as selected by the
25 person bringing the action.

1 (C) SPECIAL RULE.—In a civil action that
2 includes a claim that a redistricting plan is in
3 violation of subsection (b) or (c) of section 4
4 the United States District Court for the Dis-
5 trict of Columbia shall have jurisdiction over
6 any defendant who has been served in any
7 United States judicial district in which the de-
8 fendant resides, is found, or has an agent, or in
9 the United States judicial district in which the
10 capital of the State is located.

11 (D) PROCESS.—Process may be served in
12 any United States judicial district where a de-
13 fendant resides, is found, or has an agent, or in
14 the United States judicial district in which the
15 capital of the State is located.

16 (5) USE OF 3-JUDGE COURT.—If an action
17 under this section raises statewide claims under the
18 Constitution or this Act, the action shall be heard by
19 a 3-judge court convened pursuant to section 2284
20 of title 28, United States Code.

21 (6) REVIEW OF FINAL DECISION.—A final deci-
22 sion in an action brought under this section shall be
23 reviewable on appeal by the United States Court of
24 Appeals for the District of Columbia Circuit. There
25 shall be no right of appeal in such proceedings to

1 any other court of appeals. Such appeal shall be
 2 taken by the filing of a notice of appeal within 10
 3 days of the entry of the final decision. A final deci-
 4 sion by the Court of Appeals may be reviewed by the
 5 Supreme Court of the United States by writ of cer-
 6 tiorari.

7 (b) EXPEDITED CONSIDERATION.—In any action
 8 brought under this section, it shall be the duty of the dis-
 9 trict court, the United States Court of Appeals for the
 10 District of Columbia Circuit, and the Supreme Court of
 11 the United States (if it chooses to hear the action) to ad-
 12 vance on the docket and to expedite to the greatest pos-
 13 sible extent the disposition of the action and appeal.

14 (c) REMEDIES.—

15 (1) ADOPTION OF REPLACEMENT PLAN.—

16 (A) IN GENERAL.—If the district court in
 17 an action under this section finds that the con-
 18 gressional redistricting plan of a State violates,
 19 in whole or in part, the requirements of this
 20 Act—

21 (i) the court shall adopt a replacement
 22 congressional redistricting plan for the
 23 State in accordance with the process set
 24 forth in section 6; or

(ii) if circumstances warrant and no delay to an upcoming regularly scheduled election for the House of Representatives in the State would result, the district court, in its discretion, may allow a State to develop and propose a remedial congressional redistricting plan for review by the court to determine whether the plan is in compliance with this Act, except that—

(I) the State may not develop and propose a remedial plan under this clause if the court determines that the congressional redistricting plan of the State was enacted with discriminatory intent in violation of the Constitution or section 4(b); and

(II) nothing in this clause may be construed to permit a State to use such a remedial plan which has not been approved by the court.

(B) PROHIBITING USE OF PLANS IN VIOLATION OF REQUIREMENTS.—No court shall order a State to use a congressional redistricting plan which violates, in whole or in part, the requirements of this Act, or to conduct an election

1 under terms and conditions which violate, in
2 whole or in part, the requirements of this Act.

3 (C) SPECIAL RULE IN CASE FINAL ADJU-
4 DICATION NOT EXPECTED WITHIN 3 MONTHS
5 OF ELECTION.—

6 (i) DUTY OF COURT.—If final adju-
7 dication of an action under this section is
8 not reasonably expected to be completed at
9 least 3 months prior to the next regularly
10 scheduled primary election for the House
11 of Representatives in the State, the district
12 court shall, as the balance of equities war-
13 rant—

14 (I) develop, adopt, and order the
15 use of an interim congressional redis-
16 tricting plan in accordance with sec-
17 tion 6(f) to address any claims under
18 this Act for which a party seeking re-
19 lief has demonstrated a substantial
20 likelihood of success; or

21 (II) order adjustments to the
22 timing of primary elections for the
23 House of Representatives and other
24 related deadlines, as needed, to allow
25 sufficient opportunity for adjudication

1 of the matter and adoption of a reme-
 2 dial or replacement plan for use in the
 3 next regularly scheduled general elec-
 4 tions for the House of Representa-
 5 tives.

6 (ii) PROHIBITING FAILURE TO ACT ON
 7 GROUNDS OF PENDENCY OF ELECTION.—
 8 The court may not refuse to take any ac-
 9 tion described in clause (i) on the grounds
 10 of the pendency of the next election held in
 11 the State or the potential for disruption,
 12 confusion, or additional burdens with re-
 13 spect to the administration of the election
 14 in the State.

15 (2) NO STAY PENDING APPEAL.—Notwith-
 16 standing the appeal of an order finding that a con-
 17 gressional redistricting plan of a State violates, in
 18 whole or in part, the requirements of this Act, no
 19 stay shall issue which shall bar the development or
 20 adoption of a replacement or remedial plan under
 21 this subsection, as may be directed by the district
 22 court, pending such appeal. If such a replacement or
 23 remedial plan has been adopted, no appellate court
 24 may stay or otherwise enjoin the use of such plan
 25 during the pendency of an appeal, except upon an

1 order holding, based on the record, that adoption of
 2 such plan was an abuse of discretion.

3 (3) SPECIAL AUTHORITY OF COURT OF AP-
 4 PEALS.—

5 (A) ORDERING OF NEW REMEDIAL
 6 PLAN.—If, upon consideration of an appeal
 7 under this Act, the Court of Appeals determines
 8 that a plan does not comply with the require-
 9 ments of this Act, it shall direct that the Dis-
 10 trict Court promptly develop a new remedial
 11 plan with assistance of a special master for con-
 12 sideration by the Court of Appeals.

13 (B) FAILURE OF DISTRICT COURT TO
 14 TAKE TIMELY ACTION.—If, at any point during
 15 the pendency of an action under this section,
 16 the District Court fails to take action necessary
 17 to permit resolution of the case prior to the
 18 next regularly scheduled election for the House
 19 of Representatives in the State or fails to grant
 20 the relief described in paragraph (1)(C), any
 21 party may seek a writ of mandamus from the
 22 Court of Appeals for the District of Columbia
 23 Circuit. The Court of Appeals shall have juris-
 24 diction over the motion for a writ of mandamus
 25 and shall establish an expedited briefing and

1 hearing schedule for resolution of the motion. If
 2 the Court of Appeals determines that a writ
 3 should be granted, the Court of Appeals shall
 4 take any action necessary, including developing
 5 a congressional redistricting plan with assist-
 6 ance of a special master to ensure that a reme-
 7 dial plan is adopted in time for use in the next
 8 regularly scheduled election for the House of
 9 Representatives in the State.

10 (4) EFFECT OF ENACTMENT OF REPLACEMENT

11 PLAN.—A State’s enactment of a redistricting plan
 12 which replaces a plan which is the subject of an ac-
 13 tion under this section shall not be construed to
 14 limit or otherwise affect the authority of the court
 15 to adjudicate or grant relief with respect to any
 16 claims or issues not addressed by the replacement
 17 plan, including claims that the plan which is the
 18 subject of the action was enacted, in whole or in
 19 part, with discriminatory intent, or claims to con-
 20 sider whether relief should be granted under section
 21 3(c) of the Voting Rights Act of 1965 (52 U.S.C.
 22 10302(c)) based on the plan which is the subject of
 23 the action.

24 (d) ATTORNEY’S FEES.—In a civil action under this
 25 section, the court may allow the prevailing party (other

1 than the United States) reasonable attorney fees, includ-
2 ing litigation expenses, and costs.

3 (e) RELATION TO OTHER LAWS.—

4 (1) RIGHTS AND REMEDIES ADDITIONAL TO
5 OTHER RIGHTS AND REMEDIES.—The rights and
6 remedies established by this section are in addition
7 to all other rights and remedies provided by law, and
8 neither the rights and remedies established by this
9 section nor any other provision of this Act shall su-
10 persede, restrict, or limit the application of the Vot-
11 ing Rights Act of 1965 (52 U.S.C. 10301 et seq.).

12 (2) VOTING RIGHTS ACT OF 1965.—Nothing in
13 this Act authorizes or requires conduct that is pro-
14 hibited by the Voting Rights Act of 1965 (52 U.S.C.
15 10301 et seq.).

16 (f) LEGISLATIVE PRIVILEGE.—No person, legisla-
17 ture, or State may claim legislative privilege under either
18 State or Federal law in a civil action brought under this
19 section or in any other legal challenge, under either State
20 or Federal law, to a redistricting plan enacted under this
21 Act.

22 (g) REMOVAL.—

23 (1) IN GENERAL.—At any time, a civil action
24 brought in a State court which asserts a claim for
25 which the district courts of the United States have

1 exclusive jurisdiction under this Act may be removed
2 by any party in the case, including an intervenor, by
3 filing, in the district court for an applicable venue
4 under this section, a notice of removal signed pursu-
5 ant to Rule 11 of the Federal Rules of Civil Proce-
6 dure containing a short and plain statement of the
7 grounds for removal. Consent of parties shall not be
8 required for removal.

9 (2) CLAIMS NOT WITHIN THE ORIGINAL OR
10 SUPPLEMENTAL JURISDICTION.—If a civil action re-
11 moved in accordance with paragraph (1) contains
12 claims not within the original or supplemental juris-
13 diction of the district court, the district court shall
14 sever all such claims and remand them to the State
15 court from which the action was removed.

16 **SEC. 8. NO EFFECT ON ELECTIONS FOR STATE AND LOCAL**
17 **OFFICE.**

18 Nothing in this Act or in any amendment made by
19 this Act may be construed to affect the manner in which
20 a State carries out elections for State or local office, in-
21 cluding the process by which a State establishes the dis-
22 tricts used in such elections.

1 **SEC. 9. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 apply on the date of enactment of this Act.

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