Appendix: The Supreme Court, partisan mid-decade redistricting, the Census and the Balance in the House

Short version: House control may get incrementally tougher for Democrats due to mid-decade partisan redistricting, interstate migration patterns and Supreme Court changes to the Voting Rights Act

Partisan redistricting in Texas, Florida, Missouri and maybe California

- Officials in TX and FL have attempted to justify mid-decade redistricting based on errors in the 2020 census. Substantial counting mistakes were identified by the Census Bureau itself, the General Accounting Office and National Academies; and atypical population shifts also occurred due to COVID and related shutdowns. That said, the political reality appears to be that redistricting is being done for partisan reasons
- Neither the Constitution nor federal law prohibit mid-decade redistricting. But: California and other state constitutions do, and some vest power to draw district lines in independent commissions. So, rather than directly adopting a new congressional map, the CA legislature passed a public initiative to amend the state constitution to override the state commission and impose a new congressional map for the rest of the decade. Voters will approve/reject this constitutional amendment and the new map in November
- The Supreme Court has held that the Constitution does not contain a judicially enforceable prohibition against **partisan** gerrymandering but some state constitutions do (Florida). If FL state courts find that new districts violate this restriction, they could be invalidated with existing districts reinstated
- Texas faces no such barriers: the Texas legislature has the power to draw congressional district lines, no state constitutional provision or statute bars mid-decade redistricting, and there currently is no recognized prohibition on political gerrymandering. Trump has called on Missouri and Indiana to join the Texas Brigade
- Most Democrat-controlled states already have completely Democratic House delegations (MA) or appear to have the fewest Republican seats reasonably possible given the number of Republican voters and their geographic concentration (WA). Others face state constitutional restrictions on redistricting (CO), although like California they may attempt to circumvent them. The NY legislature is starting that process but unlike California, state constitutional amendments must be approved in two consecutive legislative sessions
- The table below looks at the nine states that have more than two opposing party House seats capable of being redrawn, and where one party controls the Governor's seat and both chambers of the state legislature (a trifecta). **Illinois and Georgia are the only states on the list with as much legislative freedom to operate as Texas**. Note: ChatGPT got the trifecta list wrong when we asked it to make one

Rules around mid-decade Congressional redistricting in trifecta states with > 2 opposing party seats

	House Seats	GOP/DEM split	Does the state constitution explicitly prohibit political gerrymandering?	Does the state vest redistricting power in the legislature or in a state commission?	Do changes to the state constitution require two separate legislative sessions?	Does the state constitution permit Congressional redistricting only after the Federal Census?	Princeton gerrymander score
Democratic trifecta states							
California	52	9R / 43D	Yes	Non-politician comisson	No	Yes	B
Colorado	8	4R / 4D	Yes	Non-politician comisson	No	Yes	A
Illinois	17	3R / 14D	No	Legislature, subject to veto	No	No	F
New Jersey	12	3R / 9D	No	Politician commission	3/5 of each House or simple majority for two sessions	Yes	A
New York	26	7R / 19D	Yes	Commission + legislature	Yes	Yes	A
Republican trifecta states							
Florida	28	20R / 8D	Yes	Legislature, subject to veto	No	No	F
Georgia	14	9R / 5D	No	Legislature, subject to veto	No	No	F
Ohio	15	10R / 5D	Yes	Legislature, subject to veto	No	Yes but one req. in 2026	F
Texas	38	25R / 13D	No	Legislature, subject to veto	No	No	F

Sources: Ballotpedia, NCSL, Book of the States, University of Pennsylvania, JPMAM, 2025. Trifecta states: same party controls Governor seat and both state legislative chambers. Princeton gerrymander index grades are generated by an algorithm that measures partisan bias, competitiveness and geographic manipulation in new district lines

Some opposing party Congressional districts shown in the table exist since they were created by states aiming to comply with the Voting Rights Act…but there's a case at the Supreme Court which might change the rules.

Majority-minority districts and the VRA

The Supreme Court recently ordered a **very rare re-argument** in consolidated cases involving Section 2 of the Voting Rights Act, *Louisiana v. Callais* and *Robinson v. Callais*. The issues at play suggest the Court may constrict or even invalidate the Section 2 provision. The Court asked both parties in these cases to file briefs addressing whether Louisiana's creation of a second majority-minority congressional district, which occurred pursuant to a court order under Section 2 of the VRA, violates the Fourteenth or Fifteenth Amendments. Section 2 requires that "majority-minority" districts be established under certain circumstances for Congress and state/local legislatures. If Section 2 is constrained or eliminated, it could lead to elimination of longstanding Democratic seats, particularly those held by minority legislators.

- A majority-minority district is a Congressional or state/local district in which the majority of the population belongs to a racial or ethnic minority group
- Section 2 of the VRA applies primarily to districts in which a single racial group constitutes a majority. Estimates of the number of such districts vary based on the source, ranging from 44 to 60, and of course the racial composition of congressional districts can change year to year. Circuits are currently split over whether Section 2 applies to "coalition" districts in which multiple racial minority groups that generally support the same candidates join together to form a majority
- There is no hard data on how many majority-minority districts were drawn by states aiming to comply with Section 2 of the VRA, but ~12 appear drawn based on court orders issued under Section 2. Eleven of these seats are currently held by Democrats, and the twelfth is subject to ongoing litigation but would likely be won by a Democrat as well. Those seats would be the most at risk if the Court invalidates or dramatically curtails Section 2, since states would no longer be under a federal legal obligation to maintain them. **Depending on the Court's ruling, states might not even be constitutionally *permitted* to maintain such majority-minority districts adopted to comply with the VRA, in which case new legal proceedings might force states to draw new congressional maps, overriding any state level laws banning such redistricting efforts other than after the decennial Census**
- Around 25 majority-minority districts are in states where Republicans control both legislative chambers and the Governor's office. A total of nineteen out of those 25 seats are held by Democratic Representatives
- In some cases, the dominant party will use Section 2 for partisan gerrymandering purposes (i.e., to "pack" minority voters from the opposing party into a single district to solidify strongholds in neighboring districts), so I would not assume that all Section 2 districts would be targeted for elimination

Timing and some background on re-arguments

- Oral arguments will be held October 15 and the Court will rule by June, meaning this case will be resolved well in advance of the 2026 midterm elections
- It's impossible to speculate how the Court will rule. A few years ago, in *Allen v. Milligan* the Court upheld its traditional approach to Section 2; the Court's composition has not changed since then and might simply continue its prior approach. Four Republican Justices dissented in *Allen*, however, and some Justices in earlier opinions suggested interest in revisiting Section 2 and called its constitutionality into question
- **It is extremely rare for the Court to order that a case be re-argued**. Usually this occurs only when a new Justice is appointed, particularly when other Justices are closely divided in a matter. Other than that, the Court typically resolves all cases, no matter how controversial, in the term in which they are argued. One of the only examples from this century of the Court ordering re-argument without a new Justice being appointed is Citizens United v. FEC. The Court asked parties to brief whether it should overturn two of its precedents which had upheld a federal law prohibiting corporations from making independent expenditures concerning federal elections. Following re-argument, the Court issued a sweeping opinion overturning those precedents and invalidating provisions of the Federal Election Campaign Act

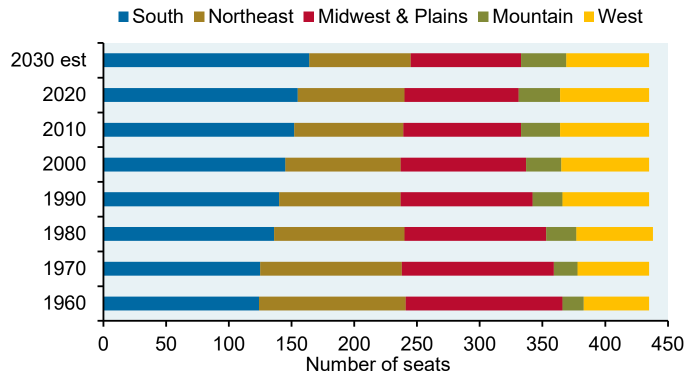
Related issues: the 2030 Census

Whatever the results of mid-decade redistricting efforts and Supreme Court rulings on the Voting Rights Act, the 2030 Census may make it harder for Democrats. The Brennan Center estimates that interstate migration trends could result in Democratic states losing House seats (CA -4, NY -3, IL -1, OR -1, MN -1, RI -1) and GOP states gaining seats (TX +4, FL +4, AZ +1, UT +1, ID +1). Such Congressional reapportionment would impact not only control of the House but the Electoral College as well, starting in 2032. The table below shows the fastest growing states, and the chart shows Congressional districts by region following each Census. California, New York and Illinois continued to experience the largest net domestic migration losses between 2023 and 2024.

States with the fastest growing populations 2020-2030 EST, cumulative % change	
Utah	13.1%
Idaho	12.4%
Texas	11.4%
North Dakota	11.3%
Nevada	10.7%
Colorado	10.6%
Washington	10.5%
Florida	10.5%
Arizona	8.6%
South Carolina	7.7%

Source: UVA Cooper Center

Congressional districts by region



Source: Brennan Center. Estimates of seats after the 2030 Census based on analysis of population growth trends for July 1 2022 to July 1 2024

The Brennan Center is using migration trends from 2022-2024 for its reapportionment projections. Some of these trends may be changing in Florida due to a property insurance crisis, regular landfalls of Cat 4 and Cat 5 hurricanes, soaring home prices and property taxes, continued loss of wetland areas, increased congestion and rising utility bills. While Ocala and Jacksonville are still on the PODS.COM list of most moved-to cities in 2025, Orlando fell off the list in 2025 and Tampa showed up on the most moved-out-of cities list for the first time.

Most moved-to cities

City	State	2025 rank	2024 rank
Myrtle Beach	SC	1	1
Ocala	FL	2	2
Raleigh	NC	3	6
Greenville-Spartanburg	SC	4	4
Dallas-Fort Worth	TX	5	Unr
Charlotte	NC	6	5
Boise	ID	7	11
Knoxville	TN	8	8
Nashville	TN	9	13
Jacksonville	FL	10	9
Chattanooga	TN	11	Unr
Huntsville	AL	12	16
Portland	ME	13	12
Johnson City	TN	14	15
Spokane	WA	15	Unr
Atlanta	GA	16	14
Greensboro	NC	17	20
Asheville	NC	18	10
San Antonio	TX	19	Unr
Dover	DE	20	17

Source: 2025 PODS Moving Trends Report

Most moved-out-of-cities

City	State	2025 rank	2024 rank
Los Angeles	CA	1	1
San Francisco Area	CA	2	2
South Florida/Miami area	FL	3	3
Long Island	NY	4	4
San Diego	CA	5	8
Central Jersey	NJ	6	6
Chicago	IL	7	7
Boston	MA	8	13
Hudson Valley	NY	9	10
Denver	CO	10	12
Santa Barbara	CA	11	11
Seattle	WA	12	Unr
Stockton-Modesto	CA	13	9
Washington	DC	14	Unr
Hartford	CT	15	15
Tampa Bay	FL	16	Unr
Fresno	CA	17	7
Austin	TX	18	5
Bakersfield	CA	19	18
Philadelphia	PA	20	Unr

Source: 2025 PODS Moving Trends Report