

# Law Forward: Wisconsin voters file challenge to Wisconsin gerrymandered legislative maps

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Today, 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.

“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 existing maps are the exact same maps that the governor vetoed in November of 2021, a veto which the Legislature tried and failed to override. By making them the maps we use for elections, the Court violated Wisconsin's separation-of-powers principle and the governor's constitutional authority to veto bills.

Wisconsin's constitution requires that all districts be contiguous—meaning they cannot be made up of separate pieces of detached territory. Over half of Wisconsin's current districts violate this basic provision of adjoining communities.

“The extreme partisan gerrymander in Wisconsin hurts its voters and is unconstitutional,” said Election Law Clinic at Harvard Law School Director Ruth Greenwood. “No voter should be favored or disfavored based on their political viewpoints. We look forward to litigating this case in favor of fairer maps and equal representation for all Wisconsinites.”

“Gerrymandering is a stain on our democracy no matter which party does it. It's common sense: Voters should pick their politicians, not the other way around,” Mark Gaber, senior director of redistricting at Campaign Legal Center. “For far too long, Wisconsinites have had their voices illegally silenced by extreme gerrymandering. When districts are drawn fairly, all Wisconsin voters will have an equal chance to elect leaders who will best serve their communities. Wisconsin's courts can help make sure every vote counts and every voice is heard.”

“Those of us who grew up in Wisconsin remember a time when politics in the legislature might have been partisan, but legislators on both sides of the political aisle were committed to passing laws that sought to promote the general welfare of all Wisconsinites,” said Doug Poland. “That ended in 2011, when a legitimately elected partisan majority deliberately set out to capture control of the legislature for an entire decade and beyond, and to govern solely for their own benefit, the will of the electorate be damned. We hope that this lawsuit will result in a fairly elected and truly representative legislature that will finally take up the policies a vast majority of Wisconsinites want to see enacted, including expanding health care coverage, enshrining reproductive rights, implementing nonpartisan redistricting, protecting our drinking water, and funding our public schools.”

“The State of Wisconsin continues to operate under a partisan gerrymander that violates numerous provisions of the Wisconsin Constitution. We are proud to join with our co-counsel and clients to make sure the voters of Wisconsin are able to vote in free and fair elections and that the state’s legislative body more accurately represents the people of Wisconsin,” said John A. Freedman, Arnold & Porter, Porter’s Senior Pro Bono Counsel.

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.

### **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