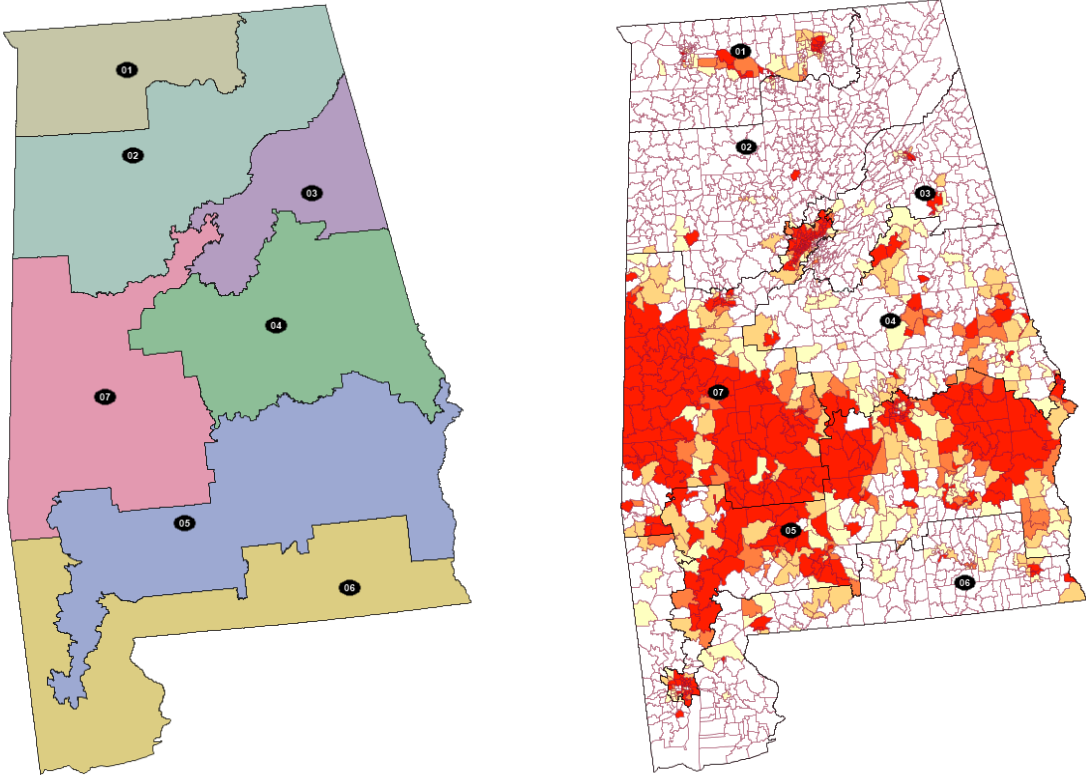


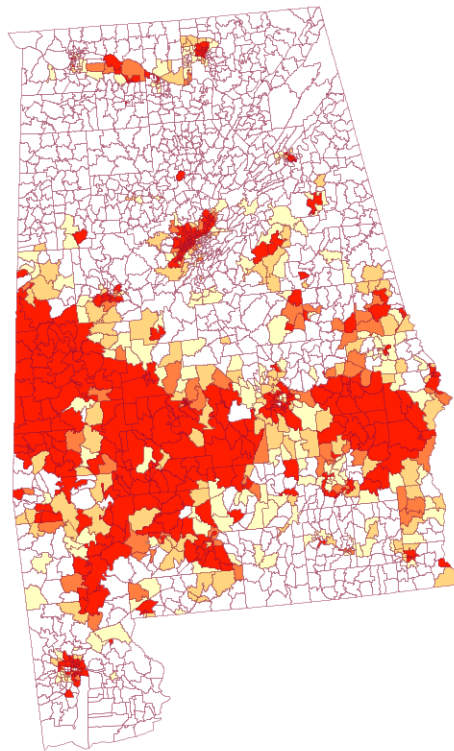
Alabama



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Introduction

This plan seeks to create two majority-Black districts in Alabama while complying with other state districting requirements as closely as possible. Alabama historically has had one majority-Black district that covers the area southwest of Birmingham. A second majority-Black district in Alabama serves to provide the growing Black population in the state with an opportunity to elect their candidates of choice, and it is possible to do so while creating reasonably compact districts that split a minimal number of political subdivisions.



Map 1: BVAP Heatmap—2020 Census¹

¹ All black voting-age population (“BVAP”) heatmap images and percent BVAP statistics rely on the data field “% 18+_AP_Bl.” Heatmap thresholds are [0.2-0.3), [0.3-0.4), [0.4-0.5), and [0.5-1] from light yellow to red. Values below 0.2 are white.

The population of Alabama grew by 5.1% between 2010 and 2020.² This corresponds to a population increase of 244,543 people, for a total population of 5,024,279.³ During that time, the white population decreased by 1.7%, particularly in Black Belt⁴ counties toward the south of the state such as Perry, Dallas, Montgomery, Barbour, Hale, and Butler Counties.⁵ At the same time, the Black population increased by 6.5%, spread throughout the state but particularly in the northern areas.⁶

Alabama has a history of racial discrimination and violence surrounding voting. This dates as far back as the 1800s, when, for example, Black voters were massacred in Eufaula, Alabama while attempting to vote, resulting in at least six deaths, dozens of injuries, and mass voter suppression in elections to come.⁷ More recently, one of the most notable instances of racism and violence surrounding voting took place on Bloody Sunday—March 7, 1965.⁸ Hundreds of people assembled in a march for voting rights from Selma to Montgomery, Alabama.⁹ While leaving Selma, they were stopped by state troopers, sheriff’s deputies, and others who then attacked those marching, leaving at least 58 people injured.¹⁰

² America Counts Staff, *Alabama: 2020 Census*, UNITED STATES CENSUS BUREAU (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/alabama-population-change-between-census-decade.html>.

³ *Id.*

⁴ The Black Belt is a region of Alabama and the southern United States, originally named for its fertile black soil that attracted cotton plantations which supported the enslavement of numerous people in that area. Today, the Black Belt is home to a large part of Alabama’s Black population. Traditional Black Belt counties include Sumter, Choctaw, Greene, Hale, Marengo, Perry, Dallas, Wilcox, Lowndes, Butler, Montgomery, Crenshaw, Macon, Bullock, Pike, Russell, and Barbour Counties. *See* Center for Economic Development, “Alabama’s Black Belt Counties,” UNIV. OF ALABAMA, http://www.uaced.ua.edu/uploads/1/9/0/4/19045691/about_the_black_belt.pdf (last visited Apr. 3, 2022).

⁵ *Alabama: 2020 Census*, *supra* note 2.

⁶ *Id.*

⁷ *Reconstruction in America: Racial Violence after the Civil War, 1865-1876*, EQUAL JUSTICE INITIATIVE (2020), <https://eji.org/report/reconstruction-in-america/a-truth-that-needs-telling/sidebar/eufaula-alabama/>.

⁸ *Confrontations for Justice*, NATIONAL ARCHIVES: EYEWITNESS, <https://www.archives.gov/exhibits/eyewitness/html.php?section=2> (last visited Apr. 3, 2022).

⁹ *Id.*

¹⁰ *Id.*

Until 1992, there were no districts in Alabama that allowed Black voters to elect the candidate of their choice. In 1992, District 07 was created as a majority-Black congressional district by court order, following a challenge to the existing map under the Voting Rights Act (“VRA”).¹¹ That district has remained largely the same in the subsequent two districting cycles, as it does in this cycle and in this map.¹² Given this history and the disproportionately minor voice of Black voters in Alabama, a second majority-Black district in the state is important.

The enacted 2020 plan does not include a second majority-Black district, however, and as such it is subject to ongoing litigation. *Milligan v. Merrill* challenges the plan under § 2 of the VRA and the Constitution, *Caster v. Merrill* challenges the plan under § 2 of the VRA, and *Singleton v. Merrill* challenges the plan on constitutional grounds.¹³ Each lawsuit proposes an additional majority-Black, or at least Black opportunity, district in the state. Most recently, the Supreme Court granted a motion in *Merrill v. Milligan* to stay a lower court order that the state create a plan with another majority-Black district, leaving the enacted plan in place until the litigation is complete.¹⁴

Legal Compliance

Alabama maps must comply with federal standards from the Constitution and the VRA as well as additional state guidelines. The first Constitutional requirement is the “one person, one vote” requirement, from Article I, § 2.¹⁵ Ideally, maps will have perfect population equality between districts, plus or minus one person, which is achieved here.¹⁶ The next Constitutional requirement is under the Fourteenth Amendment, which generally prohibits the use of race as the

¹¹ *Wesch v. Hunt*, 785 F. Supp. 1491 (S.D. Ala.), *aff’d sub nom.* *Camp v. Wesch*, 504 U.S. 902 (1992).

¹² Complaint at ¶ 32-33, *Milligan v. Merrill*, No. 2:21-CV-01530 (N.D. Ala. Nov. 15, 2021).

¹³ *See* Complaint, *Milligan*; Complaint, *Caster v. Merrill*, No. 2:21-CV-00751 (M.D. Ala. Nov. 4, 2021); Complaint, *Singleton v. Merrill*, No. 2:21-CV-01291 (N.D. Ala. Sept. 27, 2021).

¹⁴ *Merrill v. Milligan*, 142 S.Ct. 879 (2022).

¹⁵ *Karcher v. Daggett*, 462 U.S. 725 (1983).

¹⁶ *Karcher*, 426 U.S. 725; *Tennant v. Jefferson County*, 567 U.S. 758 (2012).

predominant factor when drawing a district.¹⁷ There are exceptions to this, however, such as the use of race to draw a majority-minority district compliant with the VRA.¹⁸

Section 2 of the VRA allows, and even requires, the use of race to ensure that minority groups have an equal opportunity to elect their candidates of choice when the *Gingles* factors are satisfied.¹⁹ These factors include: (1) a “sufficiently large and geographically compact” minority population; (2) that the population is politically cohesive; and (3) white bloc voting that usually prevents the minority population from electing their candidates of choice.²⁰ In Alabama, the Black population is compact and numerous enough to form two majority-Black districts. Additionally, the courts in Alabama have acknowledged that voting is racially polarized.²¹ As such, this plan is compliant with the Fourteenth Amendment and the VRA in its use of race to create a second majority-Black district.

Finally, the Alabama legislature issues additional guidance for redistricting.²² In 2021, the guidance included compliance with the Constitution, discussed above, as well as several additional criteria, a few of which are highlighted here. Plans should have minimal population deviation, which is achieved in this plan as the maximum deviation is one person. Districts should be contiguous and “reasonably compact.” Importantly, contiguity by water is permissible, which occurs here south of Mobile.²³ Maps should respect communities of interest, which can be “an area with recognized similarities of interests, including but not limited to ethnic, racial,

¹⁷ *Shaw v. Reno*, 509 U.S. 630 (1993).

¹⁸ *Id.*

¹⁹ *See Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986).

²⁰ *Id.*

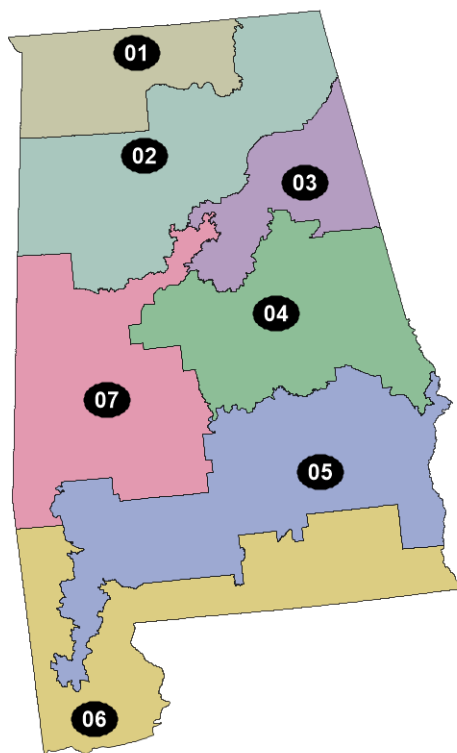
²¹ Cases are reviewed in Complaint at ¶ 92, *Milligan*.

²² ALA. STATE LEG., REAPPORTIONMENT COMMITTEE REDISTRICTING GUIDELINES (May 5, 2021), available at <https://www.legislature.state.al.us/aliswww/reapportionment/Reapportionment%20Guidelines%20for%20Redistricting.pdf>

²³ *Id.* at II(j)(ii).

economic, tribal, social, geographic, or historical identities.”²⁴ This, along with the VRA, forms the basis and justification for drawing two majority-Black districts and keeping counties from the Black Belt together. Finally, maps should seek to preserve cores of existing districts.²⁵

Plan and Process Summary



Map 2: Proposed Plan

The primary goal of this plan is to create two majority-Black districts, which is possible in Alabama and is necessary to allow the Black population of the state to elect their candidates of choice under the VRA. In fulfilling this aim, the plan also achieves partisan representation that is more proportional than seen in previous maps.

The two majority-Black districts, Districts 05 and 07, were drawn by apportioning Black Belt counties into two districts and combining those with the populations of Mobile and

²⁴ *Id.* at II(j)(iii).

²⁵ *Id.* at II(j)(v).

Birmingham. The Black Belt includes Sumter, Choctaw, Greene, Hale, Marengo, Perry, Dallas, Wilcox, Lowndes, Butler, Crenshaw, Montgomery, Macon, Bullock, Pike, Barbour, and Russell Counties.²⁶ Surrounding counties such as Washington, Mobile, Clarke, Escambia, and Monroe Counties also have large Black populations that can be included in that community of interest.²⁷ While it was necessary to split Mobile and Jefferson Counties to include the Black populations in their metropolitan areas in Districts 05 and 07, respectively, as few other counties were split as was practicable.

After creating the two majority-Black districts, the remaining districts—Districts 01, 02, 03, 04, and 06—were drawn, attempting to create districts that were as compact as possible and that minimized county splits, as Alabama emphasizes the importance of keeping whole counties together.

The partisan results of this map are consistent with voting trends. Creating two majority-Black districts serves to create two Democratic districts. In 2020, 36.6% of voters in Alabama voted for President Biden.²⁸ As such, the map provides more proportional representation than past maps.²⁹ According to PlanScore, the efficiency gap for this plan is only 5.5% Republican, which is much lower than the 11.7% Republican efficiency gap in the current proposed 2020 plan.³⁰

²⁶ “Alabama’s Black Belt Counties,” *supra* note 4.

²⁷ See Complaint at ¶ 41, *Caster*.

²⁸ *Alabama Election Results*, NY TIMES: 2020, <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-alabama.html> (last visited Apr. 3, 2022).

²⁹ The full PlanScore report for this proposed plan can be accessed at this link: <https://planscore.campaignlegal.org/plan.html?20220401T142536.187403633Z>.

³⁰ *Alabama Congressional Draft Second Special Session 2021*, PLANSCORE (Nov. 8, 2022), <https://planscore.campaignlegal.org/plan.html?20211108T152938.272220230Z>.

2010					This Plan				
	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper		Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
Sum	N/A	N/A	N/A	N/A	Sum	N/A	N/A	N/A	N/A
Min	0.22	1.80	1.87	0.13	Min	0.23	1.45	1.54	0.11
Max	0.49	2.45	2.76	0.29	Max	0.45	2.77	3.04	0.42
Mean	0.38	2.11	2.34	0.19	Mean	0.34	2.08	2.29	0.22
Std. Dev.	0.08	0.26	0.33	0.06	Std. Dev.	0.08	0.46	0.53	0.11

District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper	District	Reock	Schwartzberg	Alternate Schwartzberg	Polsby-Popper
1	0.42	2.18	2.48	0.16	01	0.39	1.45	1.54	0.42
2	0.49	1.90	2.11	0.22	02	0.34	1.75	1.91	0.27
3	0.36	1.91	2.12	0.22	03	0.36	2.24	2.43	0.17
4	0.36	2.12	2.34	0.18	04	0.45	1.81	2.03	0.24
5	0.22	1.80	1.87	0.29	05	0.26	2.50	2.85	0.12
6	0.43	2.43	2.70	0.14	06	0.23	2.77	3.04	0.11
7	0.38	2.45	2.76	0.13	07	0.36	2.04	2.25	0.20

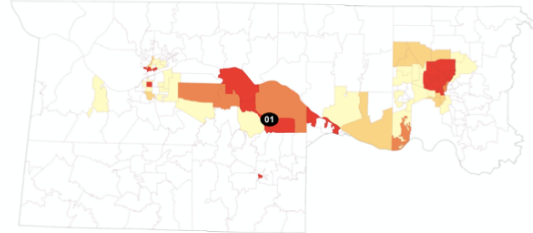
Figure 1: Measures of Compactness 2010 (left) and this plan (right)

This plan did not have to compromise greatly on principles such as compactness and minimizing subdivision splits. While compactness was not a primary consideration, this plan is reasonably compact. The mean Reock score for this map is 0.34, as compared to 0.38 for the 2010 map, where a score of 1 is more compact. Other measures of compactness cut the other way, however, indicating that this plan is more compact than the prior plan. This is supported by, for example, the Alternate Schwartzberg measure (2.29 here and 2.34 in 2010, where 1 is most compact) and the Polsby-Popper measure (0.22 here and 0.19 in 2010, where 1 is most compact). Additionally, this plan reasonably minimizes county splits. Here, eight counties and 19 voting districts are split, with one county split three ways. In the 2010 map, 7 counties and 80 voting districts are split, also with one county split three ways.

This plan does not attempt to adhere to the Alabama guideline that plans should seek to preserve the cores of existing districts. This plan is intended to challenge the status quo and create a second majority-Black district rather than to act consistently with past practice, which requires compromise on this point.

District Summary

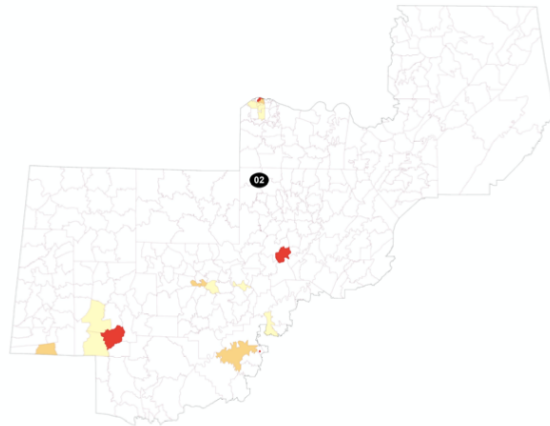
District 01



Map 3: District 01 Hybrid View and BVAP Heatmap

District 01 sits in the northwest corner of the state. It is a Republican district,³¹ with 62.3% Republican votes in the 2020 presidential election. This is a majority-white district, with a voting age population that is 70.1% non-Hispanic white³² and 19.1% Black.

District 02



Map 4: District 02 Hybrid View and BVAP Heatmap

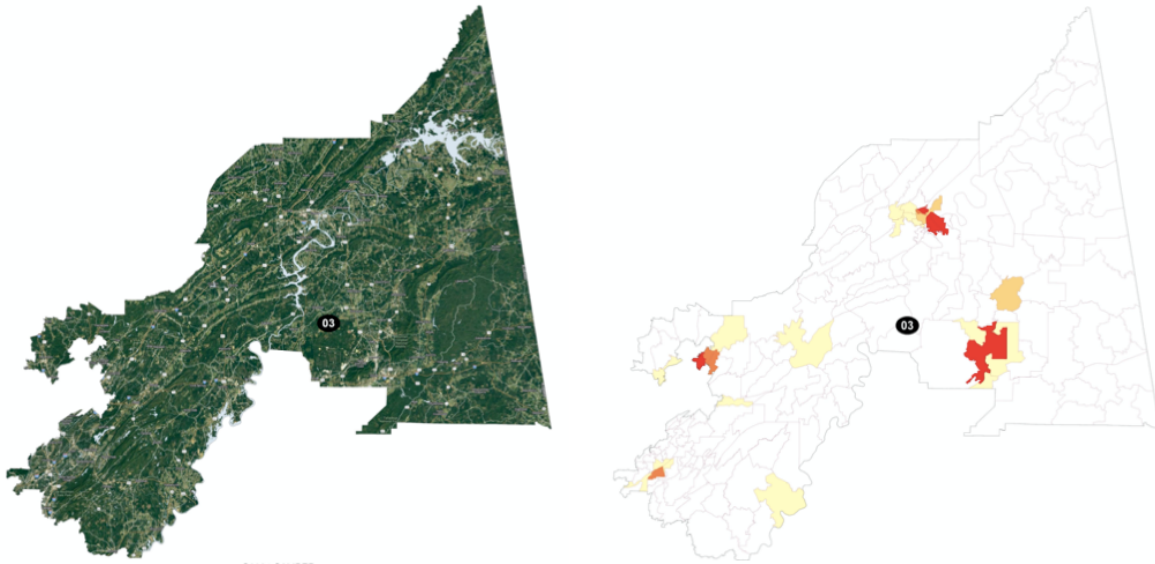
District 02 covers a large portion of northern Alabama, spanning the whole state into the northeast corner. It is a Republican district, with 84.8% Republican votes in the 2020 presidential

³¹ Partisan determinations in this section are from the PlanScore report, *supra* note 29.

³² Non-Hispanic white voting age population statistics rely on the data field “% NH18+ _ Wht.”

election. It is a majority-white district, with a voting age population that is 84.6% non-Hispanic white.

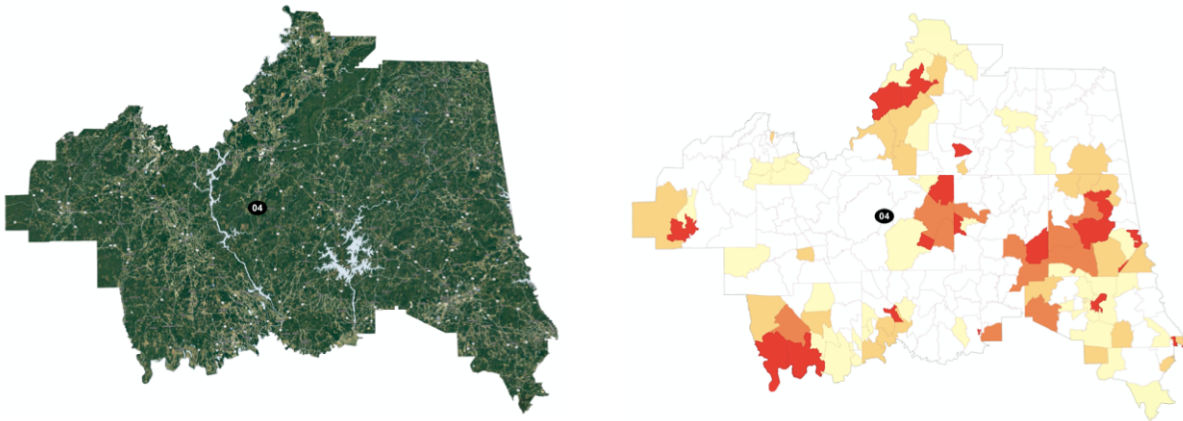
District 03



Map 5: District 03 Hybrid View and BVAP Heatmap

District 03 covers the area east of Birmingham in the central part of the state. It is a Republican district, with 71.6% Republican votes in the 2020 presidential election. It is a majority-white district, with a voting age population that is 76.4% non-Hispanic white and 14.7% Black. District 03 is slightly irregular in shape as this plan prioritizes keeping counties intact over other secondary considerations. The portion of District 03 that wraps over District 07 is intended to pull necessary population from Jefferson County, which is already split and included partially in District 03.

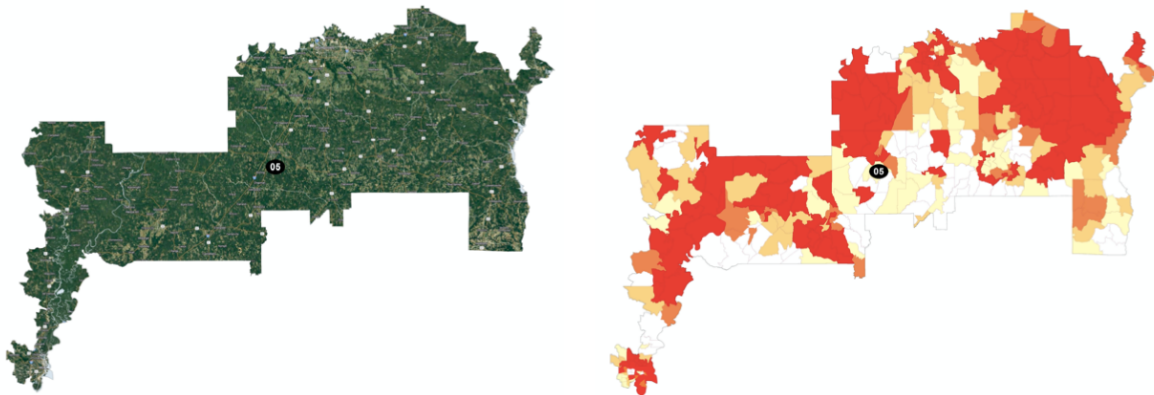
District 04



Map 6: District 04 Hybrid View and BVAP Heatmap

District 04 covers an area in central Alabama to the eastern edge of the state. It is a Republican district, with 68.3% Republican votes in the 2020 presidential election. It is a majority-white district, with a voting age population that is 69.1% non-Hispanic white and 22.6% Black.

District 05



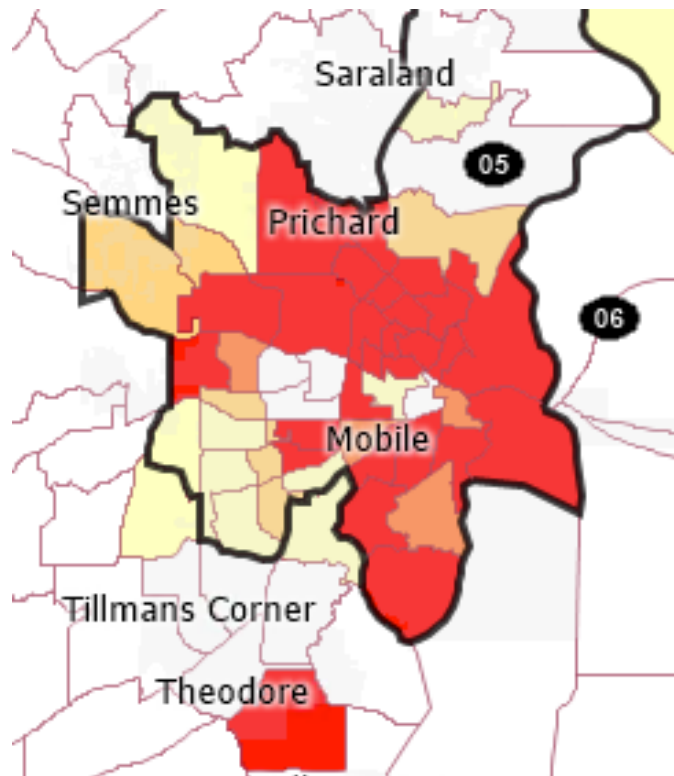
Map 7: District 05 Hybrid View and BVAP Heatmap

District 05 covers an area in southern Alabama that spans from Mobile, through the Black Belt, to the eastern edge of the state. This is a Democratic district, with 57.7% Democratic votes in the 2020 presidential election. It is a majority-Black district, with a voting age

population that is 50.7% Black and 42.6% non-Hispanic white. District 05 represents a second majority-Black district relative to the prior 2010 and enacted 2020 plans. Creating the majority-Black district required compromising on county splits and compactness as the district extends into Mobile. However, those compromises were worth the opportunity for the Black community in this portion of Alabama to elect its candidate of choice.

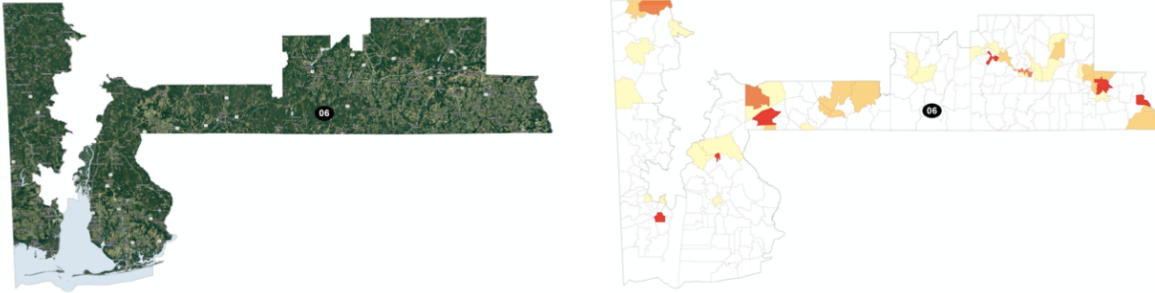
This district includes only half of Russell County, one of the traditional Black Belt counties. Though the plan sought to keep Black Belt counties intact, it was necessary to split the county to achieve equal population.

The Black population in Mobile was essential to create a majority-Black voting age population district. The distribution of Black voters in that region and between Districts 05 and 06 is seen in Map 8, below.



Map 8: Mobile Area BVAP Heatmap

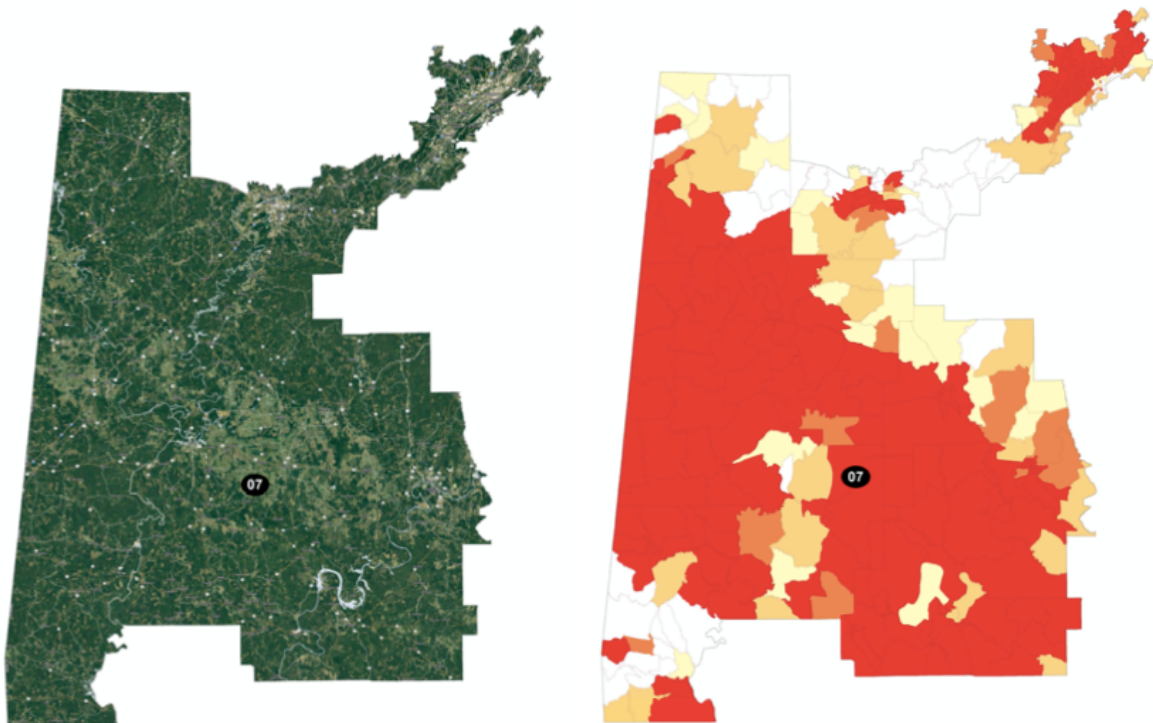
District 06



Map 9: District 06 Hybrid View and BVAP Heatmap

District 06 covers the southern edge of Alabama. It is a Republican district, with 76.8% Republican votes in the 2020 presidential election. It is a majority-white district, with a voting age population that is 75.9% non-Hispanic white. This district is contiguous only by water, which is technically permissible in Alabama. Such contiguity resulted from extending District 05 into Mobile.

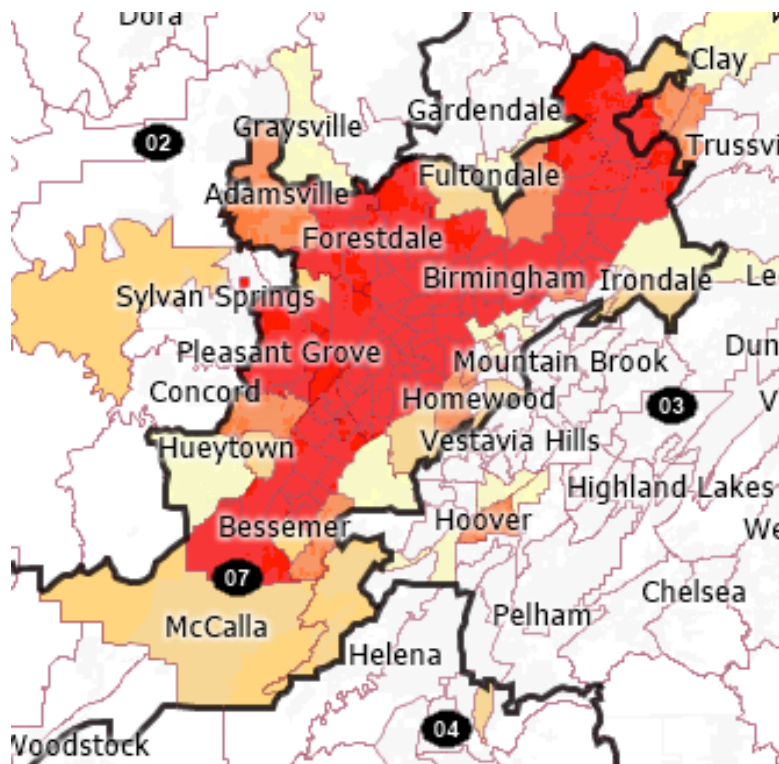
District 07



Map 10: District 07 Hybrid View and BVAP Heatmap

District 07 covers the central part of the state from the western edge up into Birmingham. It is a Democratic district, with 67.3% Democratic votes in the 2020 presidential election. It is a majority-Black district, with a voting age population that is 53.4% Black and 39.8% non-Hispanic white. This district is similar to the former and enacted District 07, which has historically been a majority-Black, VRA district.³³ As such, this plan seeks to preserve the core of that district more so than any other.

The Black population in the Birmingham area is essential to create a majority-Black voting age population district here. The distribution of Black voters in that region and between Districts 07, 02, 03, and 04 is seen in Map 11, below.



Map 11: Birmingham Area BVAP Heatmap

³³ Complaint at ¶¶ 32-33, *Milligan*.

Comparison to Existing and Enacted Plan Geography³⁴

The 2010 and enacted 2020 plans are very similar to one another.³⁵ Each plan has six Republican districts and one Democratic district, and the district boundaries have moved only slightly.³⁶ The enacted 2020 plan appears to be, essentially, a least change plan from 2010 that preserves the cores of existing districts and in doing so, continues to minimize the voice of Black voters. The difference between this plan and those plans derives, at its core, from the grouping of Black Belt counties into District 05 to create a second majority-Black district.

The districts in the 2010 and enacted 2020 plans vary significantly from those in this plan. While District 07 is similar in shape in each plan, the enacted 2020 plan, for example, includes less of the Black population around Birmingham, allocating a share of Black voters into its District 06, while capturing more of the Black population in Lowndes County and extending south to include Clarke County as well.³⁷ The remainder of the Black population in the Black Belt is split between the enacted Districts 01, 02, and 03.

In this plan, District 07 does not extend into Clarke County, and instead groups Clarke County with other Black Belt counties and Mobile to create a second majority-Black district. The northern region of the state is allocated differently in this plan as well. Instead of a district that sits in the top right corner, such as enacted 2020 District 05, there is a district that sits in the top left corner, District 01. Here, District 03 extends from Birmingham to the eastern edge of the state rather than wrapping around more of the Birmingham area and District 07, as enacted District 06 does.

³⁴ For a comparison on plan metrics, see the Plan Summary section.

³⁵ *What Redistricting Looks Like In Every State: Alabama*, FIVETHIRTYEIGHT, <https://projects.fivethirtyeight.com/redistricting-2022-maps/alabama/> (Apr. 1, 2022, 9:25 PM).

³⁶ *Id.*

³⁷ *Alabama*, ALL ABOUT REDISTRICTING, <https://redistricting.ils.edu/state/alabama> (last visited Apr. 3, 2022).

Conclusion

This plan creates a second majority-Black district in Alabama, which gives Black voters an opportunity to elect their candidates of choice in proportion to their population. While it was necessary to compromise in some areas, this plan is generally compact and complies with state, federal, and Constitutional requirements. Additionally, it serves to move Alabama toward proportional representation in Congress, as the second majority-Black district is also Democratic.

Attachments

1. State Cover Photo
2. BVAP Heatmap—Full State
3. Hybrid Mapbook
4. BVAP Mapbook
5. Mobile Area Zoom
6. Birmingham Area Zoom
7. Demographic Data
8. Measures of Compactness
9. Political Subdivision Splits—County
10. Community of Interest—County/District
11. Community of Interest—City/Town
12. Block Equivalency File
13. GeoJSON
14. PlanScore Report