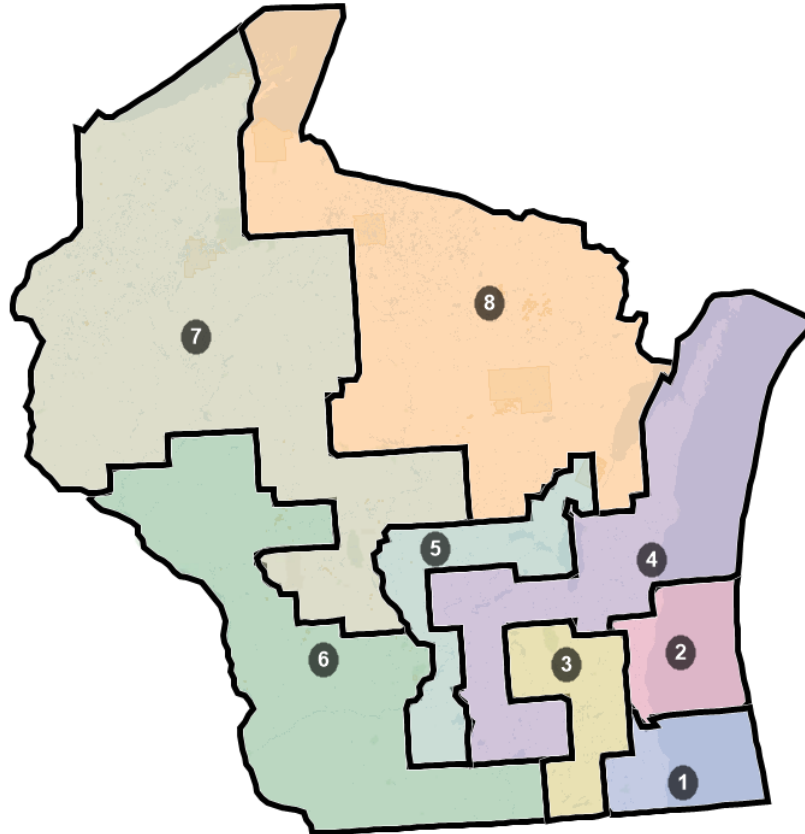


# A COMPETITIVE 2020 CONGRESSIONAL MAP FOR WISCONSIN

*Sherwin Lai\**



## INTRODUCTION

There are many criteria to consider in drawing a Congressional map, and balancing them requires weighing their tensions and tradeoffs. One might prioritize compactness and the preservation of communities of interest, for instance. This plan, however, presents a redistricting plan for Wisconsin's Congressional seats that seeks to maximize partisan

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competitiveness, under the idea that it makes elections more meaningful and requires legislators to better respond to the changing demands of their constituents. Drawing such a plan posed a unique challenge because of the uneven geographical distribution of Republicans and Democrats in Wisconsin. The plan includes 5 safe seats and 3 competitive districts where the margin in the 2020 Presidential Election was within 4 percentage points.

### I. BACKGROUND AND PLAN OVERVIEW

In 2020, Wisconsin Governor Tony Evers, a Democrat, established a nonpartisan redistricting commission consisting of “experts in nonpartisan redistricting” and “members from ‘communities of interest.’”<sup>1</sup> Named the People’s Maps Commission, its task was to draw maps, though its work was nonbinding on the state legislature, which still retained the authority to enact the maps of its choosing. The commission’s proposed maps were rejected by the legislature, but the legislature’s adopted maps were in turn vetoed by the governor.<sup>2</sup>

The redistricting process was then turned over to the Wisconsin Supreme Court, which adopted a “least change” approach to selecting a map.<sup>3</sup> Under that approach, a plan should be drawn to “adhere[] as closely as possible to the current congressional district lines.”<sup>4</sup> The practical effect of embracing a “least change” criterion was to advantage Republicans, who single-handedly adopted the current maps on partisan lines a decade ago.<sup>5</sup> The Wisconsin Supreme Court ended up choosing

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<sup>1</sup> Laurel White, *Gov. Tony Evers Orders Creation Of Nonpartisan Redistricting Commission*, WISCONSIN PUBLIC RADIO (Jan. 27, 2020, 11:05 AM), <https://www.wpr.org/gov-tony-evers-orders-creation-nonpartisan-redistricting-commission>.

<sup>2</sup> Bridgit Bowden, *Evers vetoes Republican-drawn redistricting maps*, WISCONSIN PUBLIC RADIO (Nov. 18, 2021, 1:35 PM), <https://www.wpr.org/evers-vetoes-republican-drawn-redistricting-maps>.

<sup>3</sup> Patrick Marley, *Wisconsin Supreme Court says it would minimize changes to current election maps, handing Republicans an initial redistricting victory*, MILWAUKEE JOURNAL SENTINEL (Nov. 30, 2021, 5:54 PM), <https://www.jsonline.com/story/news/politics/2021/11/30/wisconsin-supreme-court-to-minimize-changes-current-election-maps-called-a-republican-victory/8811621002>.

<sup>4</sup> Nate Persily and Zahavah Levine, *About Draw Congress*, DRAWCONGRESS: STANFORD REDISTRICTING LAB, <https://drawcongress.org/about>.

<sup>5</sup> Marley, *supra* note 3.

Gov. Evers’s maps,<sup>6</sup> which still advantage Republicans but with the chosen Congressional map “mak[ing] the light-red 1st District significantly more competitive than the Republican plan would have.”<sup>7</sup> The U.S. Supreme Court upheld the Congressional map.<sup>8</sup>

The Wisconsin Supreme Court’s adoption of the “least change” standard is sensible in that it recognizes the value in judicial deference to the political branches—to the extent possible—in redistricting. But there are serious questions as to whether such an approach is compatible with the theory of judicial review as an instrument of upending undemocratic entrenchment,<sup>9</sup> for it incentivizes stalemates and bad faith stalling tactics as a means of preserving the status quo. This fox-guarding-the-henhouse problem is particularly pernicious in the redistricting context, where the body responsible for reconfiguring legislative lines is often that legislature itself. In recognizing this shortcoming, the “least change” approach, at least under these circumstances, no longer seems as politically neutral as it appears.

What if the court had started afresh instead? The plan presented here imagines that alternative. It is drawn specifically to maximize partisan competitiveness, hoping to make elections more meaningful and require legislators to better respond to the changing demands of their constituents. Drawing such a plan poses a unique challenge because of the uneven geographical distribution of Republicans and Democrats in Wisconsin—specifically, Democrats are more concentrated in urban metropolis, while Republicans are less densely populated and spread out across wider geographical terrain.

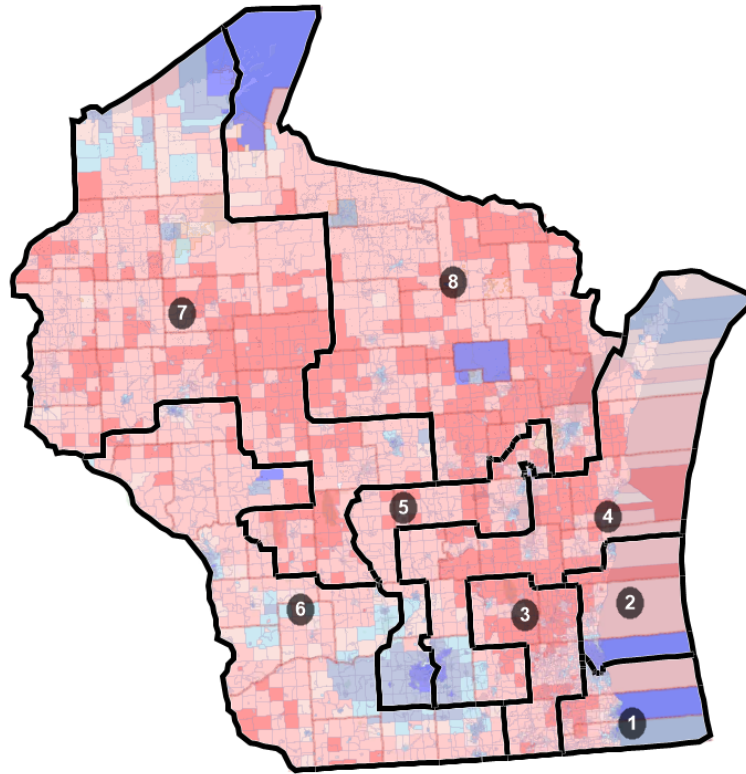
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<sup>6</sup> Patrick Marley, *Wisconsin Supreme Court picks Democratic Gov. Tony Evers’ maps in redistricting fight*, MILWAUKEE JOURNAL SENTINEL (Mar. 23, 2022, 12:57 PM), <https://www.jsonline.com/story/news/politics/2022/03/03/wisconsin-supreme-courts-picks-evers-maps-redistricting-fight/9363175002>.

<sup>7</sup> *What Redistricting Looks Like In Every State: Wisconsin*, FIVETHIRTYEIGHT, <https://projects.fivethirtyeight.com/redistricting-2022-maps/wisconsin/>

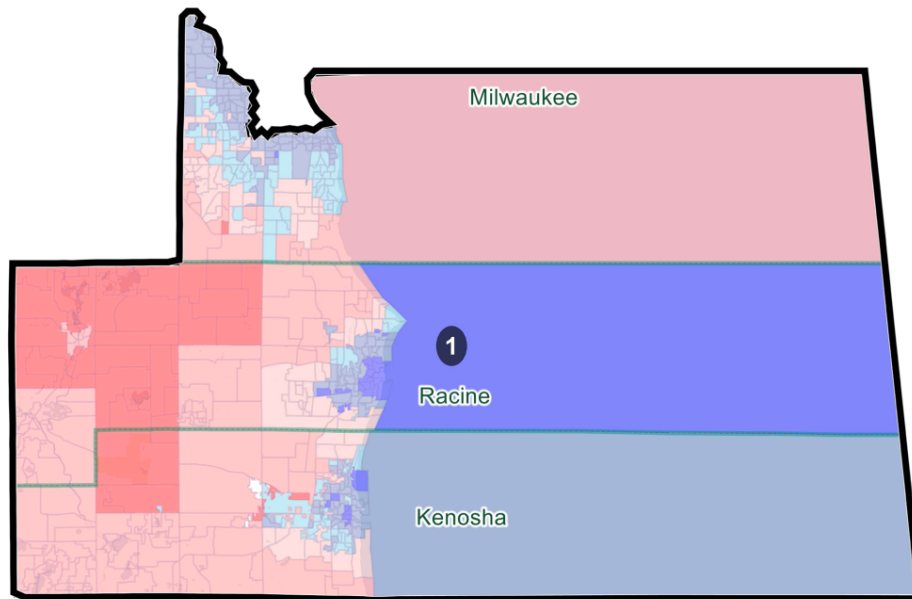
<sup>8</sup> Wisconsin Legislature v. Wisconsin Elections Comm’n, No. 21A471, 2022 WL 851720 (U.S. Mar. 23, 2022) (vacating the governor’s State Assembly and Senate maps but preserving the Congressional map).

<sup>9</sup> *Cf.* United States v. Carolene Prod. Co., 304 U.S. 144, 152 n.4 (1938). *See generally* JOHN HART ELY, DEMOCRACY AND DISTRUST: A THEORY OF JUDICIAL REVIEW (1981).



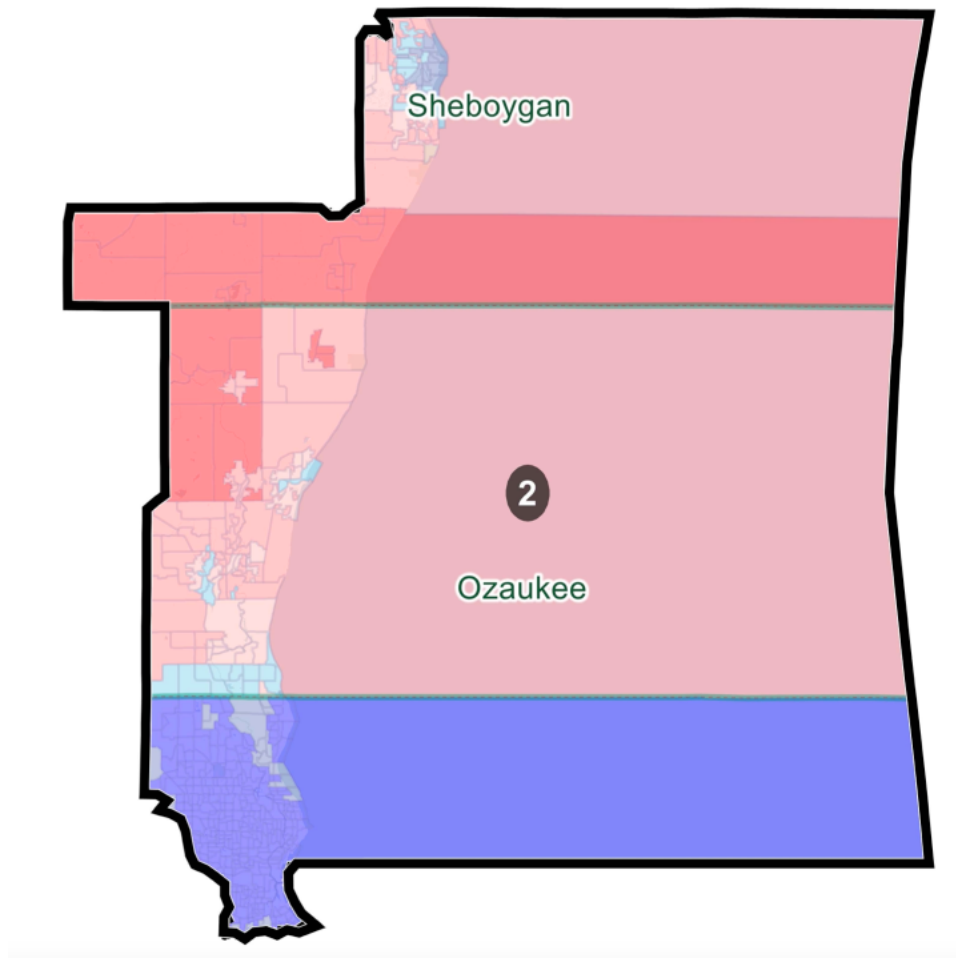
**A. District 1: Competitive—Kenosha, Racine, Milwaukee**

The narrative begins with the district drawn in the southeast of the state to maximize competitiveness. The district takes the entirety of Kenosha and Racine counties and the southern half of Milwaukee, which necessarily needs to be split given its sizeable population. These counties, taken together, include a healthy partisan split. In Kenosha and Racine, Republicans dominate the inland areas, while Democrats sparsely populate the coastal. And Milwaukee contains sparse Republican voting districts as well as heavy Democratic metropolis. The result is a district in which 51.46% of its voted Democratic (Biden) and 48.54% voted Republican (Trump) in the 2020 Presidential Election.



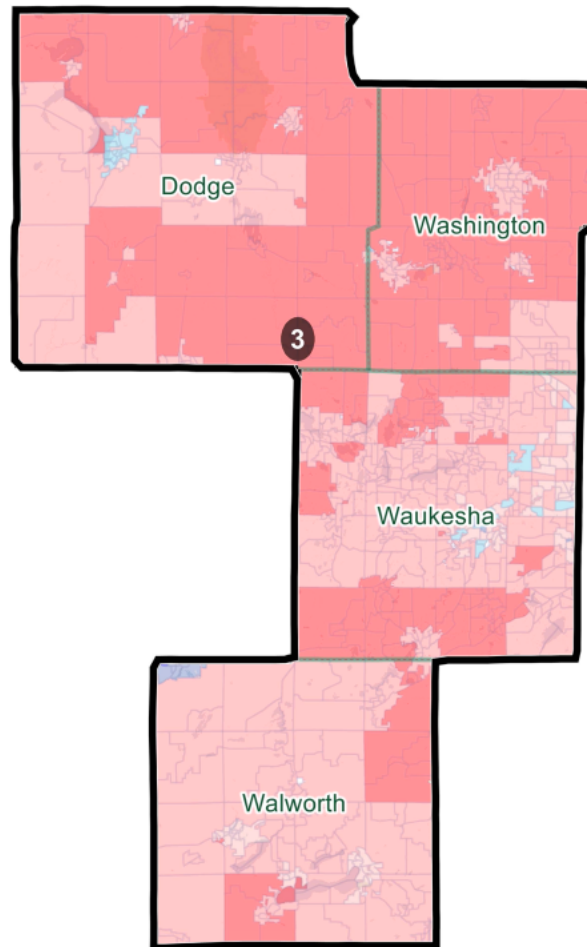
***B. District 2: Safe Democratic—Kenosha, Ozaukee, Sheboygan***

District 2 picks up where District 1 left off with the heavily Democratic northern half of Milwaukee. It then stretches up, including all of Ozaukee County, then taking parts of Sheboygan until its requisite population is reached. The largely Republican population of Ozaukee and Sheboygan counties do little to outweigh the much more populated, immensely Democratic part of Milwaukee, rendering the partisan split of this district 71.76% to 28.24% Democratic to Republican based on 2020 Presidential Election results.



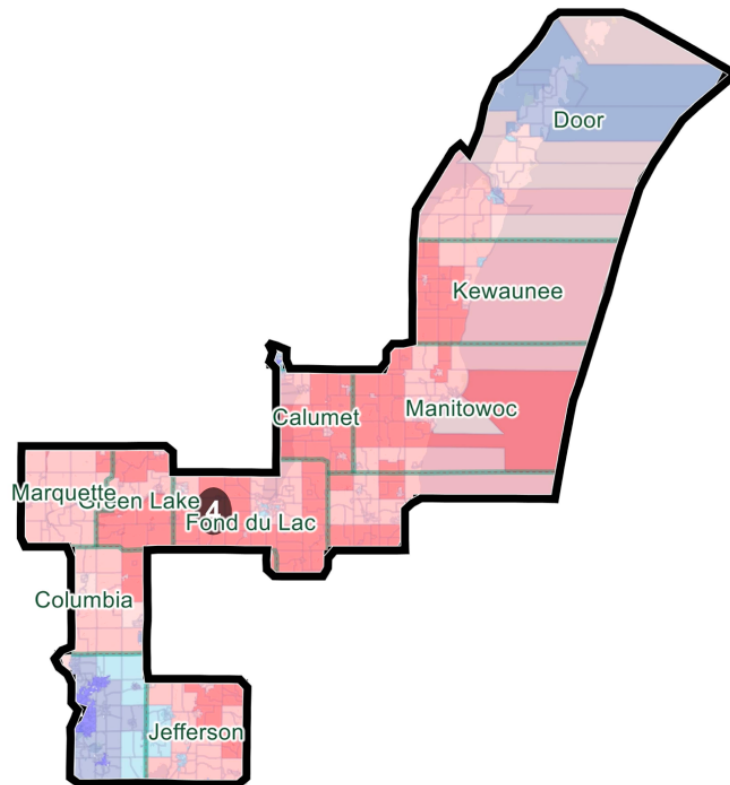
**C. District 3: Safe Republican**—*Walworth, Waukesha, Washington, Dodge*

The third district lies west of Districts 1 and 2. It contains Walworth, Waukesha, and Washington counties in their entirety, as well as most of Dodge County (the remaining piece of it goes to District 4 to comply with one person, one vote). The vertical, rectangularish-yet-not-quite-rectangular shape of this district is due to the need to preserve the counties to the west like Rock, Jefferson, and Dane for other competitive districts. All the counties in District 3 are solidly Republican, making this district a safe Republican seat with 62.65% of its population voting for Trump in 2020.



**D. District 4: Competitive**—Jefferson, Dane, Columbia, Marquette, Green Lake, Fond du Lac, Sheboygan, Calumet, Manitowoc, Kewaunee, Door (and small portions of Dodge, Outagamie)

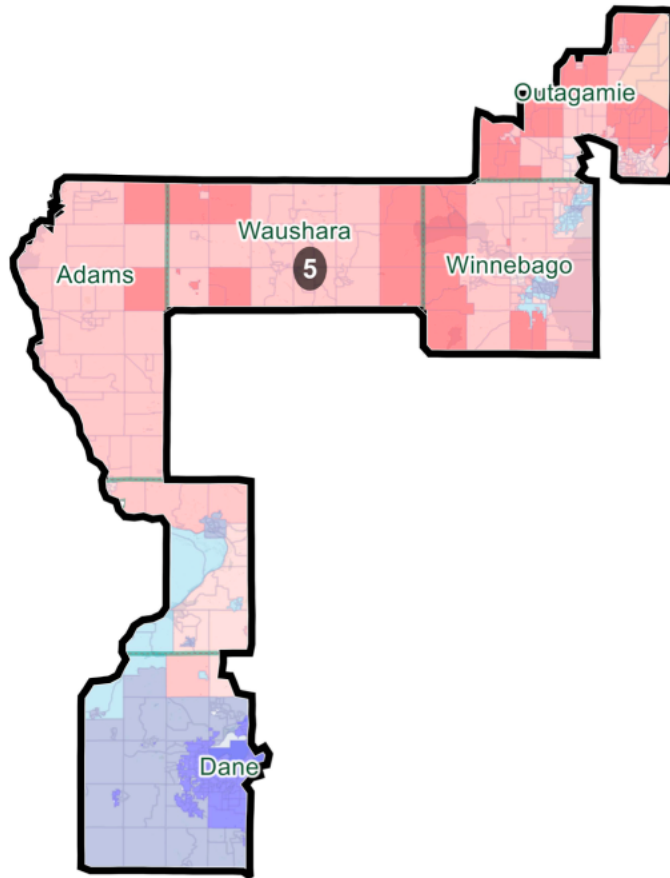
District 4 is drawn to be competitive and includes many counties to be so. Importantly, the very populous and very Democratic Dane County (which includes Madison) is split in two. Half of it is scooped into this district to establish a Democratic base of voters against which to balance with Republican voters to make competitive; the other half is placed in District 5, a safe Democratic seat. Similarly, Columbia County, which is far less populous but very competitive, is split between Districts 4 and 5. The district also includes several less populous Republican counties: Jefferson, Marquette, Green Lake, Fond du Lac, Sheboygan, Calumet, Manitowoc, and Kewaunee. It also includes Door County on the far northeast of the state, another small but competitive county. Finally, the district loops in a tight enclave of Democratic voters from Outagamie County to even out the partisan split and brings in a small sliver of Dodge County to reach the requisite population. The result is a competitive district with a 49.42% Democratic to 50.58% Republican partisan split based on 2020 Presidential Election results.





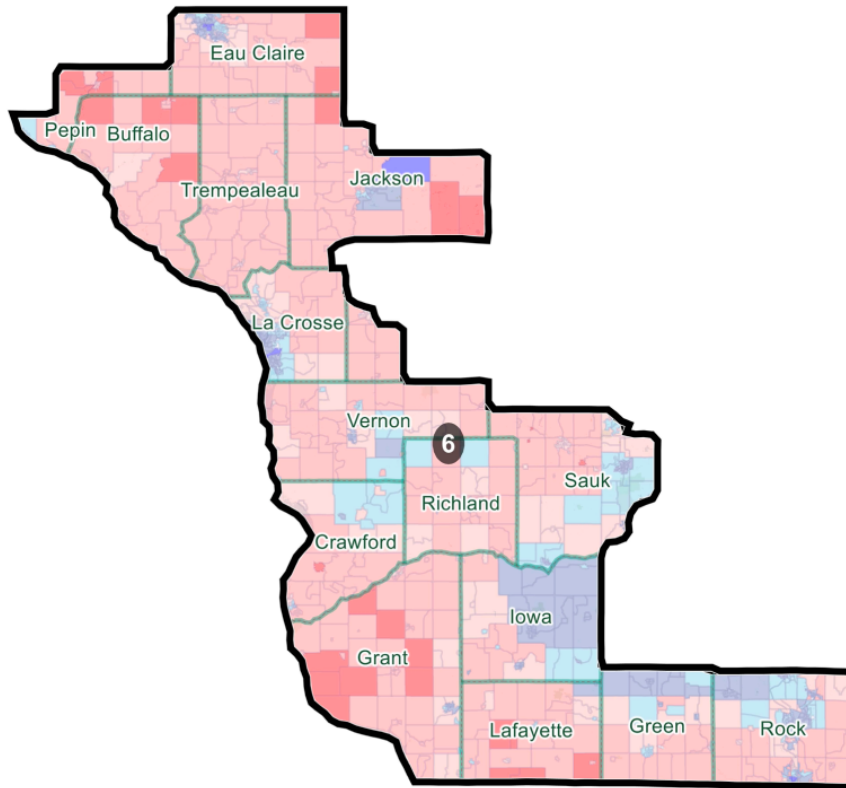
***E. District 5: Safe Democratic***—Dane, Columbia, Adams, Waushara, Winnebago, Outagamie

District 5 is drawn to be a safe Democratic seat. It contains the remaining half of deep blue Dane County as well as the western (more Democratic) half of Columbia County. The Democratic population from these counties easily outweigh the less populous Republican counties of Adams, Waushara, Winnebago (which is competitive), and Outagamie. Under the theory that it is preferable to split one county multiple ways than to split multiple counties one way, Outagamie County is split amongst three districts to comply with one person, one vote and to make District 4 as competitive as possible. District 5 is safely Democratic by a margin of 62.80% to 37.20% based on 2020 Presidential Election results.



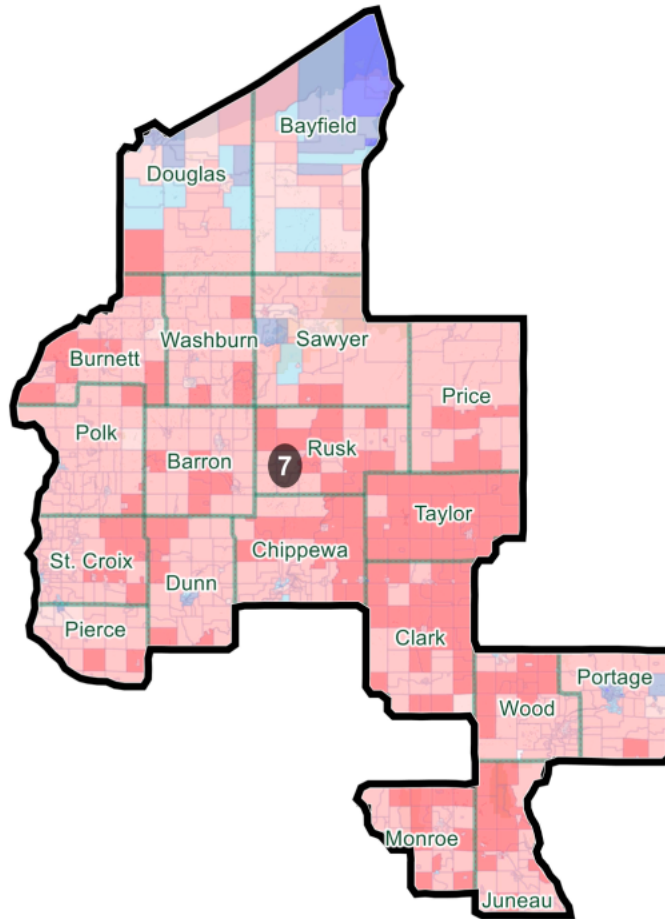
**F. District 6: Competitive**—Rock, Green, Lafayette, Iowa, Grant, Crawford, Richland, Sauk, Vernon, Monroe, La Crosse, Jackson, Trempealeau, Buffalo, Pepin, Eau Claire

District 6 is the third competitive district created by joining several blue counties (Rock, Green, Iowa, Sauk, Le Crosse, Eau Claire) with a collection of red counties (Lafayette, Grant, Crawford, Richland, Vernon, Monroe, Jackson, Trempealeau, Buffalo, Pepin) in the southwestern part of the state. The only county that is split to comply with one person, one vote is Monroe, which is shared with District 7. The result: a 51.72% to 48.28% Democratic to Republican split based on 2020 Presidential Election results.



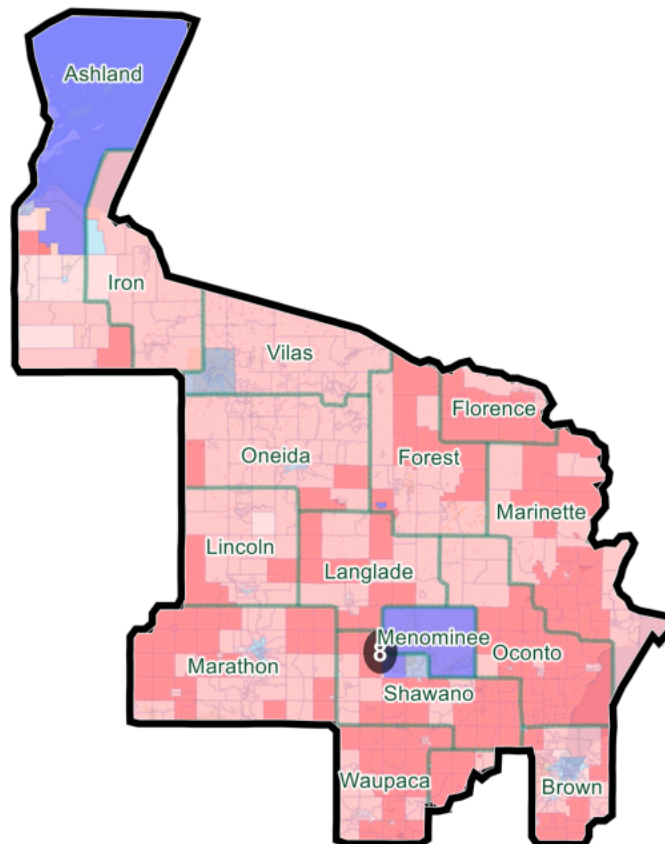
**G. District 7: Safe Republican**—*Monroe, Juneau, Portage, Wood, Clark, Taylor, Chippewa, Dunn, Pierce, St. Croix, Polk, Barron, Rusk, Price, Sawyer, Washburn Burnett, Douglas, Bayfield (and small portion of Adams)*

District 7 is a safe Republican district (58.69% in 2020) located in the northwestern part of the state. Apart from Douglas and Bayfield counties, all its counties are Republican. There are only two county splits: Monroe County (a portion is placed in District 6 to comply with one person, one vote and to create competitiveness) and Adams County (this district contains a tiny portion to comply with one person, one vote).



*H. District 8: Safe Republican*—*Outagamie, Waupaca, Brown, Oconto, Shawano, Marathon, Menominee, Langlade, Lincoln, Oneida, Forest, Marinette, Florence, Vilas, Iron, Ashland*

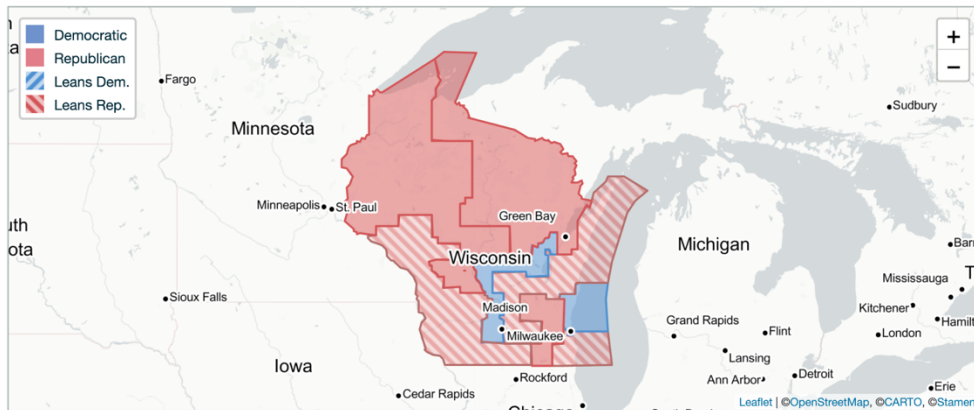
District 8 is the final safe Republican district (59.47% in 2020) in the northeastern part of the state. Except for the very sparsely populated Menominee and Ashland counties, all counties are Republican. Only one county split is necessary to form this district: Outagamie, split for the third time, to comply with one person, one vote.



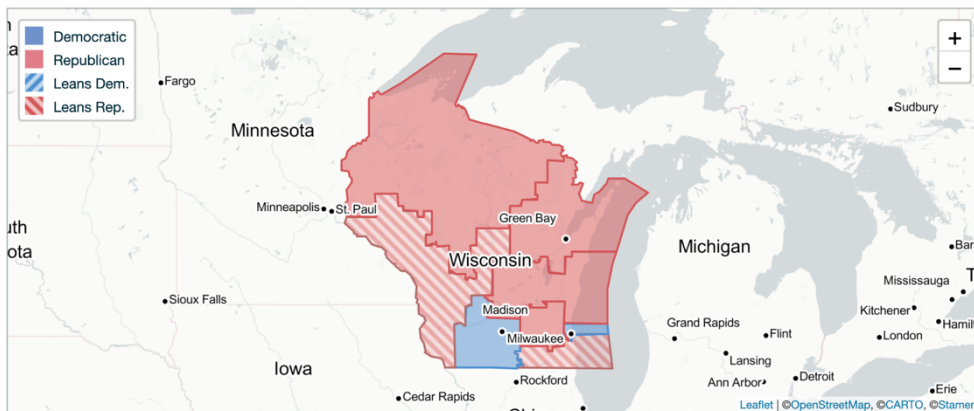
II. REDISTRICTING PRINCIPLES, METRICS, AND TRADEOFFS

A. Political Considerations—Comparative Analysis:  
Proposed vs. Adopted Plan

Proposed Plan



Adopted Plan



As explained *supra*, this plan was drawn with partisan data in mind to maximize the number of competitive seats. The adopted plan contains 2 safe Democratic seats, 4 safe Republican seats, and 2 competitive seats. This proposed plan, by contrast, contains 2 safe Democratic seats, 3 safe Republican seats, and 3 competitive seats. And the competitive seats in this plan are more competitive—based on 2020 Presidential Election results, the adopted plan’s competitive seats have a partisan differential of 4.76% R and 2.04% R, respectively, while this proposed plan’s competitive districts are 2.92% D, 1.16% R, and 3.44% D. (The predicted vote

shares,<sup>10</sup> however, project a slight Republican advantage in all three of the seats.) Both plans favor Republicans on the metrics, but this plan is significantly less skewed.

## Proposed Plan

Dist #	2020 Pres Election % Dem (Biden)	2020 Pres Election % Rep (Trump)	Predicted Vote Shares
1	51.46%	48.54%	49% D / 51% R
2	<b>71.76%</b>	28.24%	69% D / 31% R
3	37.35%	<b>62.65%</b>	35% D / 65% R
4	49.42%	50.58%	47% D / 53% R
5	<b>62.80%</b>	37.20%	60% D / 40% R
6	51.72%	48.28%	49% D / 51% R
7	41.31%	<b>58.69%</b>	39% D / 61% R
8	40.53%	<b>59.47%</b>	38% D / 62% R

## Adopted Plan

Dist #	2020 Pres Election % Dem (Biden)	2020 Pres Election % Rep (Trump)	Predicted Vote Shares
1	48.98%	51.02%	47% D / 53% R
2	<b>71.17%</b>	28.83%	68% D / 32% R
3	47.62%	52.38%	45% D / 55% R
4	<b>76.87%</b>	23.13%	74% D / 26% R
5	38.39%	<b>61.61%</b>	36% D / 64% R
6	42.04%	<b>57.96%</b>	40% D / 60% R
7	39.86%	<b>60.14%</b>	37% D / 63% R
8	42.13%	<b>57.87%</b>	40% D / 60% R

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<sup>10</sup> Based on PlanScore's Unified District Model, which "use[s] the correlation between the presidential vote on the one hand, and state legislative and congressional votes on the other, to predict how new districts will likely vote and so how biased a plan will be." The "correlations come from the last 10 years of elections, and factor in both any extra advantage incumbents might have as well as how much each state's results might differ from others." *Unified District Model*, PLANSCORE (Dec. 2021), <https://planscore.campaignlegal.org/models/data/2021D/>.

## Metrics

Metric	Proposed Plan	Adopted Plan
Efficiency Gap <sup>11</sup>	7.8% Pro-Rep	16.5% Pro-Rep
Declination <sup>12</sup>	0.15 Pro-Rep	0.4 Pro-Rep
Partisan Bias <sup>13</sup>	5.9% Pro-Rep	17.3% Pro-Rep
Mean-Median Difference <sup>14</sup>	1.5% Pro-Rep	4.9% Pro-Rep

*B. Demographic Considerations*

No majority-minority district is drawn. No majority-minority district *can* reasonably be drawn. Given that Wisconsin’s Black population comprises merely 7.7% of Wisconsin’s population and Hispanic 7.6%,<sup>15</sup> there

<sup>11</sup> “The efficiency gap is calculated by taking one party’s total inefficient votes in an election, subtracting the other party’s total inefficient votes, and dividing by the total number of votes cast. It captures in a single number the extent to which district lines crack and pack one party’s voters more than the other party’s voters.” *Efficiency Gap*, PLANSCORE, <https://planscore.campaignlegal.org/metrics/efficiencygap>.

<sup>12</sup> “The declination metric treats threshold-related asymmetry in the distribution of votes across districts as indicative of partisan gerrymandering. To calculate declination, we take the angles of the lines between each party’s mean vote share in the districts they won and the point on the 50% line between the mass of points representing each party. We then take the difference between those two angles and divide by  $\pi/2$  to convert the result from radians to fractions of 90 degrees. We then do a further adjustment to account for differences in the number of seats across legislative chambers.” *Declination*, PLANSCORE, <https://planscore.campaignlegal.org/metrics/declination>.

<sup>13</sup> “Partisan bias is the difference between each party’s seat share and 50% in a hypothetical, perfectly tied election. . . . To calculate partisan bias, the observed vote share in each district is shifted by the amount necessary to simulate a tied statewide election. Each party’s seat share in this hypothetical election is then determined. The difference between each party’s seat share and 50% is partisan bias.” *Partisan Bias*, PLANSCORE, <https://planscore.campaignlegal.org/metrics/partisanbias>.

<sup>14</sup> “The mean-median difference is a party’s median vote share minus its mean vote share, across all of a plan’s districts. . . . When the mean and the median diverge significantly, the district distribution is skewed in favor of one party and against its opponent. Conversely, when the mean and the median are close, the district distribution is more symmetric.” *Mean-Median Difference*, PLANSCORE, <https://planscore.campaignlegal.org/metrics/meanmedian>.

<sup>15</sup> *WISCONSIN: 2020 Census*, UNITED STATES CENSUS BUREAU (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/wisconsin-population-change-between-census-decade.html>.

is simply not enough minority population to draw a majority-minority district. Race was not considered as a factor in the drawing of the map. Both the proposed and adopted plans contain a district where the Black population hovers around 30%.

Proposed Plan

<b>Dist #</b>	<b>Black CVAP</b>	<b>Hispanic CVAP</b>	<b>Asian CVAP</b>
1	7.0%	8.6%	2.0%
2	31.4%	8.6%	3.2%
3	1.6%	3.3%	1.7%
4	2.2%	2.7%	1.8%
5	3.4%	3.0%	3.0%
6	2.0%	2.1%	1.6%
7	1.0%	1.5%	1.0%
8	1.2%	2.3%	1.8%

Adopted Plan

<b>Dist #</b>	<b>Black CVAP</b>	<b>Hispanic CVAP</b>	<b>Asian CVAP</b>
1	6.3%	7.2%	1.6%
2	4.0%	3.1%	3.1%
3	1.3%	1.5%	1.8%
4	32.3%	10.4%	2.9%
5	1.8%	3.3%	1.9%
6	1.9%	2.6%	1.9%
7	0.8%	1.3%	1.4%
8	1.4%	2.7%	1.7%

*C. Geographic Considerations and Political Subdivisions*

Compactness was considered in the construction of this map but, unlike competitiveness, not the top priority. The rectangular-ish shape of Wisconsin's counties certainly help with compactness, but the emphasis on drawing competitive districts required grouping some geographically unideal combinations of counties together to form districts. The results of that decision are reflected in the measures of compactness below:



District	Reock <sup>16</sup>	Schwartzberg <sup>17</sup>	Alternate Schwartzberg <sup>18</sup>	Polsby-Popper <sup>19</sup>
<b>Mean</b>	<b>0.36</b>	<b>1.86</b>	<b>1.93</b>	<b>0.31</b>
<b>Std Dev</b>	<b>0.14</b>	<b>0.42</b>	<b>0.45</b>	<b>0.15</b>
1	0.54	1.32	1.39	0.52
2	0.57	1.39	1.40	0.51
3	0.42	1.58	1.58	0.40
4	0.22	2.23	2.27	0.19
5	0.20	2.56	2.69	0.14
6	0.26	1.99	2.03	0.24
7	0.38	1.98	2.05	0.24
8	0.32	1.86	2.02	0.25

District	Area/Convex Hull <sup>20</sup>	Ehrenburg <sup>21</sup>	Perimeter <sup>22</sup>	Length-Width <sup>23</sup>
<b>Sum</b>	—	—	<b>4,727.80</b>	—
<b>Mean</b>	<b>0.70</b>	<b>0.36</b>	—	<b>28.02</b>
<b>Std Dev</b>	<b>0.14</b>	<b>0.17</b>	—	<b>20.31</b>
1	0.91	0.51	232.79	23.19
2	0.87	0.64	240.52	3.89
3	0.75	0.29	279.85	29.73
4	0.57	0.19	765.99	13.09
5	0.49	0.14	552.03	28.36
6	0.65	0.30	744.38	14.05
7	0.67	0.36	1,010.19	68.27
8	0.66	0.43	902.05	43.55

County splits were discussed and justified in greater detail in Part I of this paper. In general, there was an effort to avoid splitting counties whenever possible. But there were still more county splits than strictly necessary to comply with one person, one vote, due to the desired goal of

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<sup>16</sup> The measure is always between 0 and 1, with 1 being the most compact.

<sup>17</sup> The measure is usually greater than or equal to 1, with 1 being the most compact.

<sup>18</sup> The measure is usually greater than or equal to 1, with 1 being the most compact.

<sup>19</sup> The measure is always between 0 and 1, with 1 being the most compact.

<sup>20</sup> The measure is always between 0 and 1, with 1 being the most compact.

<sup>21</sup> The measure is always between 0 and 1, with 1 being the most compact.

<sup>22</sup> The Perimeter test computes one number for the whole plan, with a smaller total perimeter being more compact.

<sup>23</sup> A lower number indicates better length-width compactness.

maximizing competitiveness. For example, Dane and Columbia counties were split vertically between a safe and a competitive district. Likewise with respect to Milwaukee, but horizontally.

County Splits	
County	Districts
Adams	5, 7
Columbia	4, 5
Dane	4, 5
Dodge	3, 4
Milwaukee	1, 2
Monroe	6, 7
Outagamie	4, 5, 8
Sheboygan	2, 4

### III. LEGAL COMPLIANCE

#### A. State Law

The Wisconsin Constitution specifies certain requirements like compactness, contiguity, and bounding by county lines for state legislative maps, but does not mandate more than what federal law requires for Congressional maps.<sup>24</sup>

#### B. Federal Law

##### 1. One Person, One Vote

“Legislators represent people, not trees or acres.”<sup>25</sup> Under the Equal Protection Clause, each district must contain the same number of people so that one’s vote is not “unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living on other parts of the State.”<sup>26</sup> With respect to Congressional districts, no “*de minimis* level of population differences [is] acceptable,” and the Supreme Court has “required that *absolute* population equality be the paramount objective of apportionment . . . in the case of congressional districts.”<sup>27</sup>

<sup>24</sup> Justin Levitt, *Wisconsin*, ALL ABOUT REDISTRICTING (Mar. 3, 2022), <https://redistricting.lls.edu/state/wisconsin>.

<sup>25</sup> Reynolds v. Sims, 377 U.S. 533, 562 (1964).

<sup>26</sup> *Id.* at 568.

<sup>27</sup> Karcher v. Daggett, 462 U.S. 725, 731–33 (1983). *But see* Tennant v. Jefferson Cty. Comm’n, 567 U.S. 758, 763 (2012) (per curiam) (allowing population deviations if “necessary to achieve some legitimate state objective” (quoting *Karcher*, 462 U.S. at 470)).

The plan presented here comports with that requirement; it achieves perfect population equality amongst its districts according to 2020 Census data  $\pm$  one person:

District	Population (2020 Census)
1	736,715
2	736,715
3	736,715
4	736,715
5	736,714
6	736,715
7	736,715
8	736,714

## 2. Racial Gerrymandering

“[A] plaintiff challenging a reapportionment [scheme] under the Equal Protection Clause may state a claim by alleging that [it] rationally cannot be understood as anything other than an effort to separate voters into different districts on the basis of race, and that the separation lacks sufficient justification.”<sup>28</sup> If, “either through circumstantial evidence of a district’s shape and demographics or more direct evidence going to legislative purpose,” a plaintiff demonstrates “that race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district,”<sup>29</sup> the plan is presumptively unconstitutional.

This plan is not vulnerable to such a challenge. Racial data was not used in its drawing. Nor is there evidence that the plan “subordinated traditional race-neutral districting principles, including but not limited to compactness, contiguity, and respect for political subdivisions or communities defined by actual shared interests, to racial considerations.”<sup>30</sup>

To the extent that the use of partisan data affected the racial balance among districts, the plan can still be sustained where there is an articulable “legitimate political explanation” and where “the voting population is one in which race and political affiliation are highly correlated.”<sup>31</sup> This principle is especially relevant here, where partisan, not racial, considerations were predominant.

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<sup>28</sup> *Shaw v. Reno*, 509 U.S. 630, 649 (1993).

<sup>29</sup> *Miller v. Johnson*, 515 U.S. 900, 916 (1995).

<sup>30</sup> *Miller*, 515 U.S. at 916.

<sup>31</sup> *Easley v. Cromartie*, 532 U.S. 234, 242 (2001).

### 3. Voting Rights Act

Section 2 of the Voting Rights Act prohibits the “denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”<sup>32</sup> It is violated when “it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a [protected] class of citizens . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”<sup>33</sup> The Supreme Court has established that to demand that a majority-minority district be drawn under § 2, a plaintiff must first establish the following conditions: (1) that “the minority group . . . is sufficiently large and geographically compact to constitute a majority in a single-member district,” (2) that it “is politically cohesive,” and (3) that “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.”<sup>34</sup> After these requirements are satisfied, “a court [then] proceed[s] to analyze whether a violation has occurred based on the *totality of the circumstances*.”<sup>35</sup>

No minority group satisfies the first *Gingles* factor. As noted in Part II.B, *supra*, Wisconsin’s Black population comprises merely 7.7% of Wisconsin’s population, and the Hispanic population 7.6% of the total population. Neither minority group is sufficiently large—not to mention sufficiently large *and geographically compact*—to comprise a majority in a single-member district. Thus, a majority-minority district is not required—indeed, is impossible—to be drawn. No viable VRA § 2 can be brought against this plan.

### CONCLUSION

While the Wisconsin Supreme Court’s adoption of the “least change” approach to this redistricting cycle purported to minimize judicial interference in the political process, it inevitably led to a political outcome. Declining to disturb the status quo incentivizes partisan stalemates that entrench the political party in power. The plan presented in this report sought to imagine a different scenario, in which competitiveness was prioritized. It contains 3 out of 8 competitive seats (as opposed to 2 in the adopted plan), with partisan differentials of 2.92% D, 1.16% R, and 3.44% D, respectively, based on based on 2020 Presidential Election results.

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<sup>32</sup> 52 U.S.C. § 10301(a).

<sup>33</sup> 52 U.S.C. § 10301(b).

<sup>34</sup> *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

<sup>35</sup> *Bartlett v. Strickland*, 556 U.S. 1, 12 (2009) (emphasis added).