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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

VONDA THOMPSON-WYNN; **GINO VACCARI**; **EMMA JANE RUBINI**; **SHELBY MCGUIRE-SMITH**; **MARK TABER**; and **SAIGE WISBY**, Plaintiffs, v. **CORD BYRD**, in his official capacity as Florida Secretary of State; the **FLORIDA SENATE**; and the **FLORIDA HOUSE OF REPRESENTATIVES**, Defendants.	Case No. 2026-ca-000925

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY INJUCTION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Pages**

Statutes

Constitutional Provisions

Other Authorities

INTRODUCTION

In 2010, Florida voters overwhelmingly cast their ballots to enshrine an express prohibition on partisan gerrymandering, along with additional redistricting requirements, in the Florida Constitution, seeking "to eliminate the age-old practice of partisan political gerrymandering—where the political party and representatives in power manipulate the district boundaries to their advantage." *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 369 (Fla. 2015) ("*LWVFL*"). The U.S. Supreme Court approvingly cited the Fair Districts Amendment ("FDA") as an example of states "actively addressing the issue [of excessive partisan gerrymandering] on a number of fronts." *Rucho v. Common Cause*, 588 U.S. 684, 719 (2019) (noting that "[p]rovisions in . . . state constitutions can provide standards and guidance for state courts to apply" in protecting against partisan gerrymandering).

Despite Floridians' overwhelming support for the Constitution's express prohibition on partisan gerrymandering and its endorsement from the country's highest court, the Florida Legislature engaged in an unprecedented voluntary mid-decade redistricting to pass a new congressional plan (the "2026 Plan") that blatantly and avowedly violates the FDA. The 2026 Plan—crafted with a total lack of transparency, released to Fox News by Governor DeSantis in partisan red and blue shading before it was even sent to the Legislature, admittedly drawn relying on partisan data, and rammed through the Legislature in just two days' time—was created with the intent to surgically crack and pack Democratic voters to favor one political party (the Republican Party) and its incumbents and to disfavor another (the Democratic Party) and its incumbents. In pursuit of these unlawful partisan aims, the 2026 Plan also violates the Florida Constitution's requirement that districts utilize existing political and geographic boundaries where feasible.

Plaintiffs seek temporary injunctive relief to prevent the implementation and enforcement of the unconstitutional 2026 Plan in the upcoming 2026 congressional primary and general elections. Such relief is warranted because Plaintiffs are substantially likely to succeed on the merits of their claims, there is no adequate remedy at law apart from injunctive relief, Plaintiffs will face irreparable harm absent an injunction, and the temporary injunction is squarely in the public interest.

FACTUAL BACKGROUND

I. The Fair Districts Amendment was overwhelmingly approved by voters.

In 2010, Floridians overwhelmingly, on a 62.9% to 37.1% margin, voted to enact the FDA concerning congressional districts to the Florida Constitution, in Article III, § 20.[1] Ex. 1 at 10 (Dr. Austin Decl.). The FDA provides that, "In establishing congressional district boundaries:"

> (a) No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.
>
> (b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.
>
> (c) The order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to establish any priority of one standard over the other within that subsection.

Art. III, § 20, Fla. Const.

The public record and Florida Supreme Court's precedent make clear that, in passing the FDA, Florida's voters "sought to eliminate the age-old practice of partisan political

[1] Fla. Dep't of State, *Constitutional Amends. Gen. Election Off. Results* (Nov. 2, 2010), https://results.elections.myflorida.com/Index.asp?ElectionDate=11/2/2010&DATAMODE=.

gerrymandering—where the political party and representatives in power manipulate the district boundaries to their advantage—by forbidding the Florida Legislature from drawing a redistricting plan or an individual district with the 'intent to favor or disfavor a political party or an incumbent.'" *LWVFL*, 172 So. 3d at 369. The FDA was crafted and passed in the wake of decades of partisan gerrymandering in Florida while courts threw up their hands and held that although the "raw exercise of majority legislative power" in redistricting was unideal, it was "an unfortunate fact of political life around the country." *See Martinez v. Bush*, 234 F. Supp. 2d 1275, 1297 (S.D. Fla. 2002); Ex. 1 at 5-10. In the lead-up to election day, newspaper editorials endorsing the FDA, spokespeople advocating on behalf of the FDA, and the FDA's own initiative committee all coalesced on the prohibition of partisan gerrymandering as the focal point of the amendment. *Id.* When Floridians went to the polls in 2010, the vast majority cast their ballot to make unconstitutional that "unfortunate fact of political life" in their own state.

In the first redistricting cycle after the passage of the FDA, the Florida Supreme Court dutifully applied the new constitutional standard to invalidate Florida's 2012 congressional map for having been drawn with unconstitutional partisan intent in violation of the FDA. *LWVFL*, 172 So. 3d at 375. In doing so, the Court noted that "[t]here is no question that the goal of minimizing opportunities for political favoritism was the driving force behind the passage of the Fair Districts Amendment." *Id.* at 374 (quoting *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 639 (Fla. 2012) ("*Apportionment I*").

In 2019, the U.S. Supreme Court, in explaining why its decision finding partisan gerrymandering claims nonjusticiable in federal courts "does not condone excessive partisan gerrymandering . . . [or] condemn [such] complaints . . . to echo into a void," approvingly cited the FDA as an example of states "actively addressing the issue [of excessive partisan

gerrymandering] on a number of fronts." *Rucho*, 588 U.S. at 719 (noting that "[p]rovisions in . . . state constitutions can provide standards and guidance for state courts to apply" in protecting against partisan gerrymandering). That is exactly what was intended by Floridians in passing the FDA.

II. The 2022 congressional Plan was endorsed by Governor DeSantis.

The last congressional redistricting in Florida occurred in 2022, following the results of the 2020 decennial census. Because of the state's population growth, Florida was accorded an additional congressional seat as a result of the 2020 decennial reapportionment, bringing its total congressional delegation to 28 members. Following reapportionment, Florida undertook a redistricting process. The Legislature initially passed its own proposed congressional redistricting plan, CS/SB 102, on March 4, 2022.[2] However, on March 29, 2022, Governor DeSantis vetoed the Legislature's congressional plan and called a special session from April 19-22, 2022. *Id.* Ultimately, on April 21, 2022, the Legislature passed SB 2-C, the 2022 congressional map ("2022 Plan") proposed by Governor DeSantis's office, and Governor DeSantis signed SB 2-C into law on April 22. *Id.*

The 2022 Plan was drawn using the population data from the 2020 census and contained 28 equally populated districts. Eight of those districts favored Democrats, and 20 favored Republicans. Ex. 2 (Dr. Rush Decl.) ¶ 34. The 2022 Plan was used in both the 2022 and 2024 congressional elections, and in both years the map resulted in the election of 20 Republicans and 8 Democrats.[3] The 2022 Plan includes 10 districts identical to the ones in the Legislature's original

[2] CB/SB 102 also contained a secondary congressional plan which would go into effect in the event that CD 5 of the initial plan was invalidated. Fla. Redistricting, *Welcome to Fla. Redistricting 2022*, https://www.floridaredistricting.gov/ (last visited May 8, 2026).

[3] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.

plan and 18 new districts created by the Governor's map drawer, including Congressional Districts ("CDs") 9, 10, 11, 12, 13, 14, 15, 16, and 18.[4]

In a presentation on the ultimately-enacted 2022 Plan, the self-identified map drawer, Deputy Chief of Staff for the Executive Office of the Governor Alex Kelly, described 2022 CD 10 as a "very, very Tier II adherent district, very compact, all of those lines are used to define either major roadways or municipal boundaries."[5] He added that he "didn't consider race in any way in the drawing of the seat"[6] and cited "race-neutral principles" as the basis for "changes to the districts in Central Florida, in that region, including District 10."[7]

In addition to CDs 9 and 10, Mr. Kelly also disclaimed any consideration of racial data or intent related to race in the drawing of 2022 CD 14 and the surrounding districts. Mr. Kelly said, "[r]ace and political partisan data in no way related at all to my drawing of districts 13, 14, 15, 16, or any of the districts in the map."[8] Rather, he said 2022 CD 14 was drawn "based on nice, clean, compact lines, lines that adhere to [] major recognizable roadways, and try[ing] to split as few cities as possible in this area."[9]

The 2022 Plan has faced some challenges in court, though no court has issued a ruling concerning CDs 9, 10, 11, 12, 13, 14, 15, 16, and 18, and there are no pending challenges to any of those districts. On July 17, 2025, the Florida Supreme Court issued a decision upholding Florida's 2022 Plan against a challenge to CD 5 under the FDA's racial vote dilution requirements.

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[4] Ex. 3 (S. Comm. on Reapportionment, 2022C Spec. Sess., Apr. 19, 2022), at 20:54-21:05.
[5] *Id.* at 1:16:08-20.
[6] *Id.* at 1:33:03-07.
[7] *Id.* at 15:23-35.
[8] *Id.* at 1:13:35-1:13:46.
[9] *Id.* at 1:04:02-33; *see also id.* at 1:10:43-1:11:02 ("I drew that district, Districts 13, 14, all the districts around it solely based on trying to draw districts that are compact, aesthetically compact, statistically compact, that follow clearly definable political/geographical boundary lines that meet that Tier II test, so I didn't draw a single district in this map based on race.").

In response to a post on X that read "@GovRonDeSantis' 2022 congressional map that added 4 Republican seats, caused Dems to lose 3 seats, upheld by Florida Supreme Court," Governor DeSantis endorsed the 2022 Plan, responding: "[t]his was always the constitutionally correct map —and now both the federal courts and the FL Supreme Court have upheld it." Ex. 1 at 14.

III. The 2025-2026 partisan redistricting wars motivated partisan gerrymandering in Florida.

On July 15, 2025, President Donald Trump began publicly calling for states with Republican-controlled legislatures to conduct mid-decade redistricting to gain additional Republican seats in the U.S. House of Representatives. Ex 1 at 13. President Trump's initial request was focused on Texas, but he added that "there could be some other states. We're going to get another three or four or five in addition . . . we have a couple of other states where we'll pick up seats also." *Id.* Following the President's public call for redistricting, several states redrew their congressional districts "in ways that are predicted to favor the State's dominant political party." *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025); *see* Ex. 1 at 15.

On July 24, 2025, Governor DeSantis said that he thought Florida could engage in mid-decade redistricting, primarily citing a claim that "the state is malapportioned" because of an undercount in the 2020 census as the reason why "it would be appropriate to do a redistricting in the mid-decade." Ex. 1 at 14-15. At the time, Governor DeSantis mentioned a conversation he had with the Commerce Secretary and a claim that a "re-do" of the census could result in an additional congressional seat for Florida.[10] No such recount or reapportionment ever occurred. However, on

[10] Mitch Perry, *DeSantis says it's 'appropriate' to redistrict congressional districts before next election*, Fla. Phoenix (July 24, 2025), https://floridaphoenix.com/2025/07/24/desantis-says-its-appropriate-to-redistrict-congressional-districts-before-next-election/.

August 7, 2025, the House announced the creation of the House Select Committee on Congressional Redistricting. Ex. 1 at 15.

Following Texas's redistricting, President Trump posted on social media on August 20, 2025: "Big WIN for the Great State of Texas!!! Everything Passed, on our way to FIVE more Congressional seats and saving your Rights, your Freedoms, and your Country, itself. Texas never lets us down. Florida, Indiana, and others are looking to do the same thing." *Id.* And on October 29, 2025, Evan Power, the Chairman of the Republican Party of Florida, advocated for Florida to engage in a mid-decade redistricting which he claimed could result in three to five additional Republican congressional seats. *Id.* at 15-16.[11]

On December 1, 2025, Governor DeSantis announced that he would be calling a special session for congressional redistricting in Spring 2026, now citing his postulation that the U.S. Supreme Court might issue a decision in the *Louisiana v. Callais* case that would make Florida "required to do it." Ex. 1 at 16. He said "[t[he issue is that there is a Supreme Court decision that we are waiting on the argument in October about Section 2 of the VRA impacts Florida's maps, so we're going to do it next Spring." *Id.* On December 3, 2025, the Senate followed the lead of Governor DeSantis, with Senate President Ben Albritton sending a Memorandum out to all Senators and Senate professional staff saying that "[t]he Governor has expressed a desire to address this issue next Spring. As such, there is no ongoing work regarding potential mid-decade redistricting taking place in the Senate at this time." Ex. 4 (Dec. 3, 2025 Albritton Mem.) at 1. The

[11] *See also* Capital Tiger Bay Club, *Republican Party of Florida Chairman Evan Power and Executive Director Bill Helmich October 29, 2025* (Oct. 29, 2025), https://capitaltigerbayclub.org/2025/11/03/capital-tiger-bay-club-hosts/; Douglas Soule, *Florida GOP chair believes state could send extra Republicans to Congress through redistricting*, WUSF (Oct. 30, 2025), https://perma.cc/49D2-QH4X.

Memorandum also cautioned members about the limitations of legislative privilege related to redistricting. *Id.*

The House Select Committee on Redistricting met twice, on December 4 and 10, 2025, receiving presentations on an introduction to congressional redistricting outlining the basics of redistricting and the legal standards governing redistricting. At the December 4, 2025, meeting, Representative Mike Redondo, the Chair of the Committee, stated that "this committee was formed by the Speaker ahead of the 2026 legislative session, so that if we do decide to propose a new congressional map, we may do so under our traditional process of lawmaking and with enough time to enact a map if passed by our legislature." Ex. 5 (H. Select Comm. on Cong. Redistricting Meeting, 2026 Reg. Sess., Dec. 4, 2025), at 4:02-4:17. He continued:

> Given the fact that we are less than a year away from the election, not to mention the fact that the candidate qualifying period for federal office is in late April, it would be irresponsible to delay the creation and passage of a new map, especially until after session. It would also be irresponsible to any who are called to civil service and, most importantly, it would be irresponsible to the citizens of Florida.

Id. at 4:18-37; Ex. 1 at 17. At the December 10, 2025, meeting, in response to a question about whether Florida would be required to redistrict in response to a decision in the *Callais* case, outside counsel to the House answered that, while Louisiana (the state that is a party to the case) may have no choice but to redistrict in response to the *Callais* decision, "whether Florida chooses to, after *Callais*, to keep its maps in place, await either the next cycle or await litigation or redraw its districts, that will be a judgment call that has to be made when we see the *Callais* decision." Ex. 6 (H. Select Comm. on Cong. Redistricting Meeting, 2026 Reg. Sess., Dec. 10, 2025), at 1:00:00-1:00:17. Also at the December 10, 2025, meeting, Chair Redondo stated that "we will have an opportunity for public comment at future meetings." *Id.* at 1:14:42-1:15:03. The committee did not hold another meeting until April 28, 2026, at which, as discussed below, the committee

provided less than two hours total time for public comment and no changes were made to the map to reflect any public comment. Ex. 1 at 20. On December 11, 2025, the day after the second House Select Committee on Redistricting Meeting in Florida, a proposed bill to redraw the congressional districts in Indiana failed. *Id.* at 17. Two days later, President Trump posted on Truth Social: "Republicans in the Indiana State Senate, who voted against a Majority in the U.S. House of Representatives, should be ashamed of themselves . . . Indiana, which I won big, is the only state in the Union to do this!" *Id.* at 17-18.

Leading up to the mid-decade redistricting, Florida legislators made it clear that a redraw of the congressional map would be for partisan gain. For example, on December 10, 2025, State Senator Gruters reposted a pundit predicting that Florida would add up to five seats through a mid-decade redraw. *Id.* at 17. He also claimed that such a redraw would increase the Republican majority and give President Trump "a full four years." *Id.*

On January 7, 2026, Governor DeSantis issued a proclamation formally announcing the call for a special session for congressional redistricting to take place from April 20, 2026, through April 24, 2026. *Id.* at 18. Governor DeSantis' press release specified that the session was "to ensure that Florida's congressional maps accurately reflect the population of our state and to comply with an upcoming U.S. Supreme Court ruling." Ex. 7 (Press Release, Exec. Off. of the Gov., Jan. 7, 2026); Ex. 1 at 18. The proclamation specifically stated that "the Legislature should wait as long as is feasible for conducting the 2026 elections before redrawing Florida's congressional district boundaries in order to take advantage of any further guidance from the United States Supreme Court, which is expected in early 2026, on the use of race in drawing electoral districts." Ex. 8 (Proclamation, Gov. Ron DeSantis, Jan. 7, 2026), at 2. The U.S. Supreme Court did not issue its

decision in the *Callais* case prior to the beginning of the special session or prior to the drafting of the congressional map introduced at the special session.

Shortly after Governor DeSantis' announcement of a special session, State Rep. Tom Fabricio reposted the Governor's X post about the special session and publicly stated that Florida's congressional redraw, "[d]one correctly . . . will strengthen Republican seats, [and] help keep a GOP majority in Congress . . . ." Ex. 1 at 18.

The original special session was supposed to start on April 20. It was widely known that on April 21, Virginians were voting on a constitutional amendment allowing a redraw of their congressional districts prior to the 2026 election. *Id.* at 18. Prior to this, a number of other states, including Texas, California, Missouri, and North Carolina redrew their congressional maps for the 2026 midterm elections, resulting in a partisan national redistricting war. *Id.* at 15.

On April 13, 2026, CD 19 Republican Representative and gubernatorial candidate Byron Donalds called on the Florida Legislature to engage in a mid-decade redistricting to retaliate against Virginia as a part of the nationwide partisan gerrymandering battle: "You have California and Virginia responding to Texas and we've been watching all this kind of happen in Florida. . . . Because of what now has been done in Virginia, now Florida needs to respond." *Id.* at 18. On April 15, 2026, right before the Virginia election, Governor DeSantis issued another proclamation delaying the special session to April 28, 2026, through May 1, 2026. Ex. 9 (Proclamation, Gov. Ron DeSantis, Apr. 15, 2026); Ex. 1 at 18. On April 21, 2026, the amendment allowing a redraw of Virginia's congressional districts was approved by voters in Virginia. Ex. 1 at 19.

Following the passage of the Virginia amendment, calls for Florida to engage in a retaliatory partisan gerrymander intensified. U.S. House Speaker Mike Johnson encouraged Florida to engage in mid-decade redistricting before the midterm elections. Ex. 1 at 19.

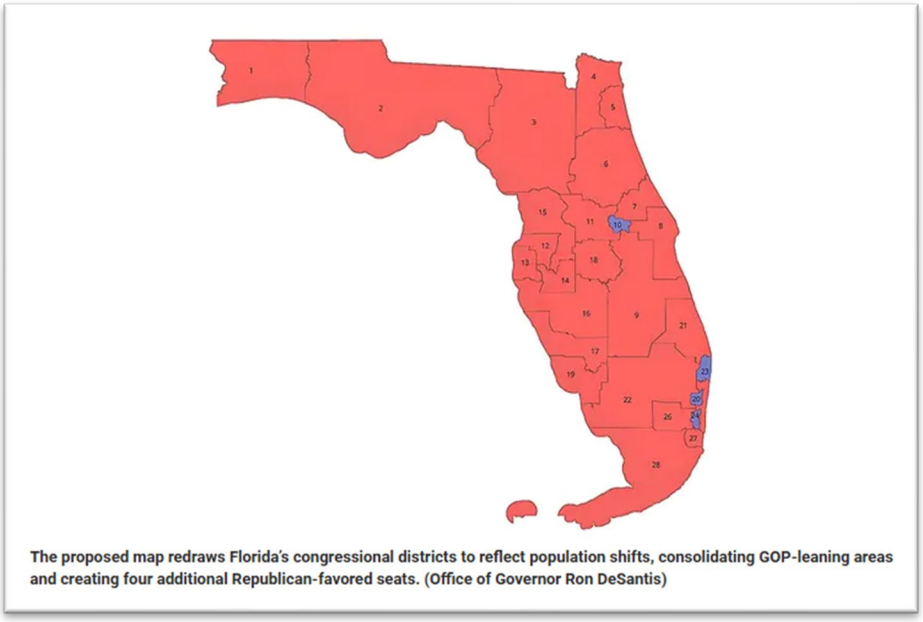
Additionally, Florida CD 3's Republican Rep. Kat Cammack said she believed Florida Republicans could gain two to three seats in mid-decade redistricting while "maintain[ing] compactness and fairness." Ex. 1 at 19.

IV. The 2026 Plan was drafted in secret, in reliance on partisan data.

The 2026 Plan was drawn behind closed doors in a secretive process. The map was drawn by Jason Poreda, the map drawer from Governor DeSantis' office, over the course of just two weeks.[12] Ex. 1 at 20. While details of the process of creating the 2026 Plan remain unclear, it appears that rather than being initially developed by or in consultation with the Legislature or legislative staff, the 2026 Plan was created by the Governor's office. *Id.* at 19-20. According to Mr. Poreda, the only persons with whom he consulted or who reviewed the map prior to the April 27 release were "other [EOG] staff and counsel" that he refused to refer to by name on advice of counsel.[13] Ex. 1 at 20. There was no opportunity for public comment or input during the development of the 2026 Plan. Ex. 1 at 19-20.

The 2026 Plan was not released to the public until April 27, 2026, the day before the special session on congressional redistricting commenced. *Id.* at 19. Governor DeSantis first released the 2026 Plan to Fox News, which published an article at 10:00 a.m. on April 27, 2026, including an image of the 2026 Plan credited as having been provided by the "Office of Governor Ron DeSantis." Ex. 11 (Fox News Article) at 1-2; Ex. 1 at 19. The image, shown below, depicts the 2026 Plan, color coded in red and blue to show the partisan lean of each district.

[12] Ex. 10 (S. Rules Comm. Meeting, 2026D Spec. Sess., Apr. 28, 2026), at 1:26:06-14.
[13] Ex. 10 at 1:35:12-58.



The proposed map redraws Florida's congressional districts to reflect population shifts, consolidating GOP-leaning areas and creating four additional Republican-favored seats. (Office of Governor Ron DeSantis)

The map depicts the four Democratic-leaning districts as drawn in the 2026 Plan, which is a reduction by half of the eight Democratic-leaning districts in the 2022 Plan. In the image, the map was described as "consolidating GOP-leaning areas and creating four additional Republican-favored seats." Ex. 11. The article also included a statement from Governor DeSantis which directly cited partisanship as a reason for the redraw. Governor DeSantis said that since the 2020 Census, Florida has "moved from a Democrat majority to a 1.5 million Republican advantage." *Id.*

Later, on April 27, at 11:15 a.m., the Governor's Office provided the 2026 Plan to the Senate Ethics and Elections Committee and House Select Committee on Congressional Redistricting along with a supporting memorandum from David Axelman, General Counsel to Gov. DeSantis (the "Axelman Memo") and an accompanying data packet. Ex. 12 (Apr. 27, 2026 Albritton Mem.); Ex. 13 (Apr. 27, 2026 Axelman Mem.); Ex. 14 (Apr. 27, 2026 Data Packet). Senate President Ben Albritton then forwarded the materials to all members of the Senate. Ex. 12. The same documents were provided to the members of the House. Ex. 15 (Apr. 27, 2026, Perez Mem.); Ex. 1 at 20.

The following day, April 28, the Legislature held two hearings, one in the House and one in the Senate. At the hearings, the Governor's map drawer Jason Poreda and Mohammad Jazil, redistricting counsel for the Governor's office, presented the 2026 Plan to the respective committees. Ex. 1 at 20. Mr. Poreda and Mr. Jazil asserted, consistent with the Axelman Memo and based on the Governor's unilateral interpretation of the law, that the map drawer was not bound by the FDA's prohibition on drawing districts with partisan intent. *See* Ex. 13 at 3; Ex. 1 at 20. Indeed, Mr. Poreda, the alleged map drawer of the 2026 Plan, openly admitted that partisan data was considered in the drawing of all districts in the 2026 Plan. Ex. 10 at 43:45-44:06; Ex. 1 at 20. Mr. Poreda testified that he "consider[ed] it for every district that [he] drew." Ex. 10 at 1:39:00-31; Ex. 1 at 20.

The two April 28 hearings, held on the same afternoon barely 24 hours after the 2026 Plan had been released, were the only opportunities for public comment and feedback on the Plan throughout the entire process. Ex. 1 at 20; Ex. 10; Ex. 16 (H. Select Comm. on Cong. Redistricting Meeting, Apr. 28, 2026). Less than two hours total were provided for public comment, but those comments were overwhelmingly in opposition to the 2026 Plan. *Id.* Nevertheless, the 2026 Plan passed out of both committees without a single amendment even having been proposed. *Id.*

The same day the maps were presented to the Legislature. Defendant Secretary of State Byrd tweeted a picture of the infamous Elbridge Gerry, who he described as the "nam[e]sake of gerrymandering." Ex. 17 (Lanfranconi X Retweet, Apr. 28, 2026). Alex Lanfranconi, Gov. DeSantis' Communications Director, retweeted it several hours later, adding a laughing-face emoji. *Id.*

The next morning, beginning at 9:30 am on April 29, the House met to briefly debate and vote on the bill. Mid-way through the House's debate on the bill, the U.S. Supreme Court's decision in the *Louisiana v. Callais* case was released. Ex. 1 at 20. The House voted down a proposal to recess for two hours to consider any impact the *Callais* decision might have on the redistricting. Ex. 18 (H. Floor Debate, Apr. 29, 2026) at 44:50-45:35. An hour after the release of the *Callais* decision, the House passed the bill. *Id*. Before doing so, on the floor of the House the sponsor of the 2026 Plan denied that the map was solely the Governor's and proactively adopted it as the Legislature's stating "We are the ones considering the map. We are the ones voting on the map. We have not deferred our duties under the Constitution." Ex. 1 at 20; Ex. 18 at 16:40-16:52. The Senate sponsor echoed the same sentiment. Ex. 1 at 20-21; Ex. 19 (S. Floor Debate, Apr. 29, 2026) at 1:34:54-1:35:12. Shortly thereafter, the bill was debated and passed by the Senate without amendment. Ex. 19. It was signed into law by the Governor on May 4, 2026. Ex. 1 at 21.

It is no surprise that as intended by the Governor and the Legislature, and drawn with the aid of partisan data, the egregious cracking and packing of Democratic voters in the 2026 Plan has

the effect of favoring the Republican Party and disfavoring the Democratic Party. Ex. 2 at 9-17 (¶¶ 34-39, Figures 1-8). As one example, the 2026 Plan systematically carves up Democratic voters in 2022 CDs 9 and 14 in the Tampa Bay and Orlanda areas, fracturing them amongst numerous neighboring congressional districts. *Id*. It accomplishes this partisan goal at the expense of traditional redistricting criteria and needlessly moves millions of Floridians into new districts mid-decade, with no justification. *Id.* at 4, 18-23 (¶¶ 20, 22-23, 40-50, Tables 4-7).

LEGAL STANDARD

"A trial court has wide discretion to grant or deny a temporary injunction." *See, e.g.*, *Briceño v. Bryden Invs., Ltd.*, 973 So. 2d 614, 616 (Fla. 3d DCA 2008) (internal quotation omitted); *T.J.R. Holding Co., Inc. v. Alachua Cnty.*, 617 So. 2d 798, 801 (Fla. 1st DCA 1993). The factors relevant to a motion for temporary injunction are: (a) substantial likelihood of success on the merits, (b) a lack of an adequate remedy at law, (c) irreparable harm absent the entry of an injunction, and (d) that injunctive relief will serve the public interest. *Fla. Dep't of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1110 (Fla. 2021). Plaintiffs meet all these requirements.

ARGUMENT

I. Plaintiffs are substantially likely to succeed on the merits of their claims.

Plaintiffs are substantially likely to succeed on the merits of their claims that the 2026 Plan and the specifically challenged districts violate the FDA. The FDA includes two tiers of requirements for congressional redistricting. The first tier includes the requirement that districts are not intentionally drawn to favor or disfavor any party or incumbent. Art. III, § 20(a), Fla. Const. And the second tier includes several common redistricting criteria including that districts have equal population, be compact, and where feasible utilize existing political and geographic boundaries. *Id.* at § 20(b). The 2026 Plan violates both tiers. On Plaintiffs' claims regarding intent

to favor or disfavor a political party or incumbent (Counts I and II), (1) the political context of Florida's mid-decade redistricting, (2) the irregular and secretive process leading to the 2026 Plan's adoption, (3) the partisan effect of the 2026 Plan, (4) the 2026 Plan's failure to adhere to Tier II criteria, (5) the failure of any of the proffered justifications to explain the configuration of the 2026 Plan or the challenged districts, and, (6) for the claim of incumbency favoring/disfavoring, the core retention data for the 2026 Plan collectively demonstrate overwhelming direct and circumstantial evidence of improper intent. On Count III, the 2026 Plan needlessly disregards political and geographic boundaries, which demonstrates both a violation of Tier II, and is objective evidence of partisan intent, further demonstrating that Plaintiffs are likely to succeed on the merits.

A. The 2026 Plan violates the Florida Constitution's prohibition on partisan intent (Count I).

Plaintiffs are likely to succeed on the merits of their claim that the 2026 Plan and individual CDs 9, 10, 11, 12, 13, 14, 15, 16, and 18 were drawn with the intent to favor Republicans and disfavor Democrats.[14] The Florida Constitution requires that "[i]n establishing congressional district boundaries . . . [n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent." Art. III, § 20(a), Fla. Const. Intent is assessed by examining both direct and circumstantial evidence. *Id.* Direct evidence of intent can include communications, documents, and statements of actors "responsible for drafting districting plans." *LWVFL*, 172 So. 3d at 388 (internal citation and quotation marks omitted). In terms of circumstantial evidence, the "specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes" and "might afford evidence that

[14] Plaintiffs challenge CDs 9, 10, 11, 12, 13, 14, 15, 16, and 18 as unconstitutional partisan gerrymanders, but do not allege the unconstitutional partisan gerrymandering in the 2026 Plan is limited to those districts. Plaintiffs also challenge the 2026 Plan as a whole.

improper purposes are playing a role." *Id.* at 389 (internal citations and quotation marks omitted). Additional evidence of intent includes deviations from the Tier II criteria, as well as the partisan effects of the map. *Apportionment I*, 83 So. 3d at 617, 639-40. In complying with the FDA's prohibition on partisan intent, "there is no acceptable level of improper intent." *LWVFL*, 172 So. 3d at 375. The 2026 Plan, which was openly drawn with the intent to achieve partisan gain for the Republican Party, egregiously fails this standard.

i. The political context of Florida's mid-decade redistricting creates an inescapable inference of partisan intent.

The national and state-level context which led to Florida's mid-decade congressional redistricting provides circumstantial evidence of the improper intent of the Florida Legislature in adopting the 2026 Plan. In assessing a prior FDA case alleging partisan intent, the Florida Supreme Court noted that "circumstantial evidence is often essential in proving a conspiracy—and indeed may be the only type of evidence available." *LWVFL*, 172 So. 3d at 378. Here, as in 2012, circumstantial evidence is significant, because members of the Florida House of Representatives and the Florida Senate were careful to avoid making statements or creating a written record regarding partisan intent in passing the 2026 Plan. But the events of the months leading up to the adoption of the 2026 Plan provide substantial, probative evidence that the Florida Legislature's decision both to undertake the mid-decade redistricting endeavor at all and to adopt the 2026 Plan in particular were motivated by partisan intent.

As outlined above, Florida's passage of the 2026 Plan did not happen in a vacuum. In response to calls from President Trump, states with trifecta Republican control, beginning with Texas, have engaged in blatant partisan gerrymandering, with Democratic states like California and Virginia responding in kind. The national call to redistrict for partisan gain loomed so heavy that Governor DeSantis delayed the Legislature's gerrymandering special session to see what

happened in Virginia first. No Florida politician had even mentioned the possibility of a mid-decade redistricting until after President Trump first suggested it, despite the fact that the first justification offered by Governor DeSantis (adjusting the districts to account for a "miscount" in the 2020 Census) was equally relevant in the three years preceding President Trump's call.

Once President Trump first raised the possibility, he was not alone in calling Florida to pass a congressional partisan gerrymander. The Chairman of the Florida Republican Party and multiple Republican members of U.S. Congress echoed those calls, and, in his release of the 2026 Plan, Governor DeSantis highlighted the partisan impact of the map and justified it by citing to an alleged increase in the number of Republican voters. Each also made clear that the greatest achievement of the redistricting would be to gain additional Republican seats in the U.S. House of Representatives. It strains credulity to believe that the Florida Legislature somehow put on blinders to the context in which they arrived at the 2026 special session, one week after Virginia voters passed their own new redistricting plan and in the midst of subsequent renewed calls for Florida to respond in kind. It is even harder to believe that the Legislature could somehow think the 2026 Plan, originally created by the same Governor's Office that conveniently announced the FDA (including its' partisan intent prohibition) did not apply to the 2026 Plan and who first released a partisan-shaded version of the new map, was free from that context as well.

ii. The irregular and secretive process leading to the adoption of the 2026 Plan creates an inference of partisan intent.

The 2026 Plan was drawn in an extraordinary and unusual process infected with the intent to favor the Republican Party and to disfavor the Democratic Party, as well as intent to disfavor Democratic incumbents. The lack of any regularity or transparency in that process underscores the partisan intent of the Legislature in the plan's adoption.

The Special Session that resulted in the passage of the 2026 Plan was unprecedented; never before has Florida engaged in a mid-decade redistricting effort that was not required by any court order or law, and after multiple elections had already been conducted under the regularly passed plan. Ex. 1 at 13. Apart from its unusual timing, the process itself was shrouded in secrecy and devoid of opportunities for public involvement. The public did not have access to any meetings held to draw the 2026 Plan, and there is no public record of what was discussed during the creation of the 2026 Plan. *Id.* at 20. The public also had no ability to provide input regarding the 2026 Plan's configuration before it was drawn or during the map drawing process. *Id.*

The 2026 Plan was first released to Fox News by the Governor, which displayed a partisan-shaded congressional map attributed to the Governor's office in its reporting, and only after its publication by the news outlet, sent to the Legislature. *Id.* at 19-20; Ex. 11. And just two days after it was released, the 2026 Plan was rammed through the Legislature with only two committee hearings, which provided less than two hours total for public comment. Ex. 1 at 20. This extremely rushed process deviates from past redistricting processes.

Transparency is not just an ideal to strive towards in Florida's redistricting processes. Rather, because of the FDA, "transparency became legally significant under the Florida Constitution." *LWVFL*, 172 So. 3d at 374. In spite of this, the Legislature eschewed any attempts at transparency in the 2026 mid-decade congressional redistricting. The Legislature's full abdication of map drawing responsibility to the Office of the Governor is almost invariably an attempt to misdirect and shield evidence regarding the map's partisan intent from disclosure. But the Legislature cannot shield itself from unconstitutional partisan intent by relying on another party to import that intent into a map—particularly where, as here, the creator of the map does not try to hide its partisan intent. Indeed, the Florida Supreme Court has "stated that the 'existence of a

separate process to draw the maps with the intent to favor or disfavor a political party or an incumbent is precisely what the Florida Constitution now prohibits,' and that evidence of this separate process would 'clearly' be 'important' to help support a 'claim that the Legislature thwarted the constitutional mandate.'" *LWVFL*, 172 So. 3d at 394 (quoting *League of Women Voters of Fla. v. Fla. House of Representatives*, 132 So. 3d 135, 149 (Fla. 2013) ("*Apportionment IV*")).

In 2015, the Florida Supreme Court affirmed a lower court's ruling that the 2012 congressional redistricting ran afoul of the FDA "based extensively on the existence of a 'different, separate process that was undertaken contrary to the [Legislature's public] transparent [redistricting] effort in an attempt to favor a political party or an incumbent.'" *Id*. at 394 (quoting *Apportionment IV* at 149. In that instance, a group of operatives:

> . . . obtain[ed] the necessary cooperation and collaboration from the Legislature to ensure that the redistricting process and the resulting map were taint[ed] with improper partisan intent. Indeed, the trial court specifically found that the operatives were successful in their efforts to influence the redistricting process and the congressional plan under review.

LWVFL, 172 So. 3d at 392 (internal quotations omitted). Based on that evidence, the Supreme Court had "little trouble concluding that competent, substantial evidence of unconstitutional intent exists in the record." *Id*. at 391.

Here there was once again "a separate process to draw the maps with the intent to favor or disfavor a political party or an incumbent," but the evidence of it is even more clear. *Apportionment IV,* 132 So. at 149. In 2026, the redistricting process shielded from the public was the *only* process. The Legislature permitted the Office of the Governor to facilitate the creation of the 2026 Plan with no apparent legislative involvement whatsoever. Thus, there can be no doubt that the crafters of the 2026 Plan "were successful in their efforts to influence the redistricting process and the

congressional plan under review," *id*. at 392, because the Legislature adopted the 2026 Plan wholesale, with no amendments, and as quickly as possible.

In 2012, some of the decisions regarding challenged district configurations were made in a non-public meeting. There was "either conflicting or vague testimony as to why certain decisions were made" and "no official record of the reason for these decisions, which ultimately benefitted the Republican Party." *LWVFL*, 172 So. 3d at 384. Here, *every single redistricting decision* was made in secret with minimal explanations for the underlying reasoning. This deliberate attempt to hide the decision-making process provides compelling evidence that the intent underlying the redistricting was infirm. *See id.* ("the lengths to which the legislators went to avoid triggering the requirements for a public meeting in the final stages of negotiating and making changes to the districts raises questions as to the motivation of the Republican leadership.").

The partisan intent included in the 2026 Plan, which can be inferred by the context in which the mid-decade redistricting was conducted and the effect of the map, *see* Sec. I.A.i, was ultimately openly declared by the map drawer. There is no evidence that the mid-decade redistricting of the entire map, including the districts in the Tampa Bay or Central Florida regions, was done for any purpose related to compliance with the U.S. or Florida constitutions. Indeed, the map adopted by the Legislature was admittedly drawn in open *defiance* to the requirements of the Florida Constitution. The 2026 Plan was created unbound by any restraint on partisan intent with the map drawer testifying that he considered partisan data "for every district that [he] drew." Ex. 10 at 1:39:00-31.

The Legislature was aware of the partisan context in which they engaged in mid-decade redistricting; the open partisan intent of the map drawer; *see* Background Sec. III-IV; and the projected partisan impact of the 2026 Plan, *see* Sec. I.A.iii. The Legislature nonetheless ratified

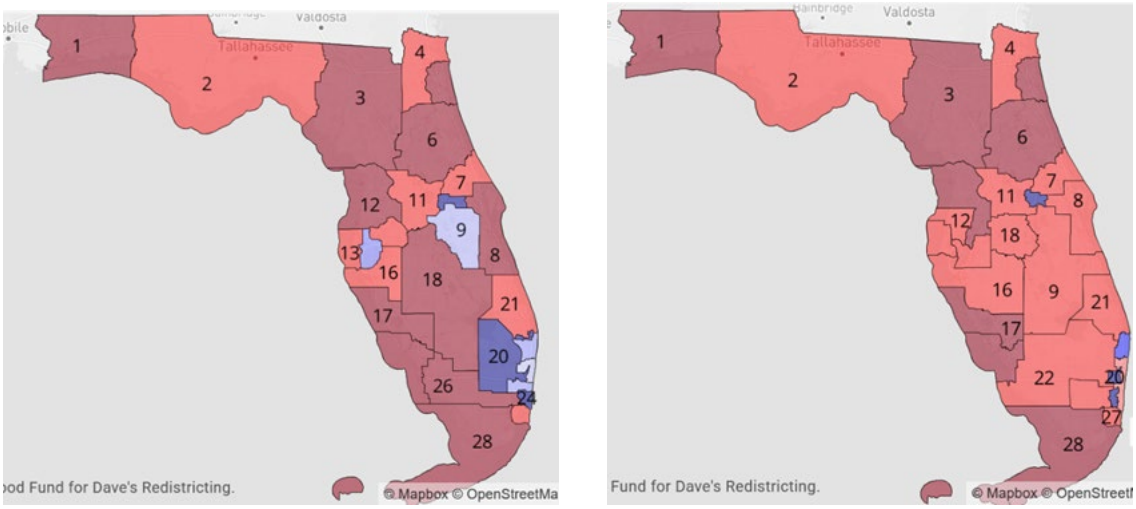
the 2026 Plan, and individual CDs 9, 10, 11, 12, 13, 14, 15, 16, or 18, anyway. The lack of regularity and transparency—and the conscience effort to shield decision-making from the public eye—in the redistricting process that resulted in the 2026 Plan therefore provides powerful circumstantial evidence that the Legislature was motivated by unconstitutional partisan intent.

iii. The partisan effect of the 2026 Plan creates an inference of partisan intent.

The extreme partisan skew of the 2026 Plan as a whole, as well as the intentional cracking of individual districts in the Tampa Bay and Central Florida regions for Republican advantage, provide further compelling evidence of improper partisan intent in the 2026 Plan. While Florida's standard does not require a showing of partisan effect to find a constitutional violation, the Florida Supreme Court has held that "political…effects of the plan, the shape of district lines, and the demographics of an area are all factors that serve as objective indicators of intent." *Apportionment I*, 83 So. 3d at 617; *see also LWVFL*, 172 So. 3d at 400-01 (considering the partisan breakdown of districts based on election results in assessing intent); *Matter of 2021 Redistricting Cases*, 528 P. 3d 40, 92-93 (Alaska 2023) (finding unconstitutional partisan intent in part based on "the contrasting political effects" of combining certain areas in a senate district, including the partisan lean of both). It is no surprise that the 2026 Plan, which was admittedly drawn in reliance on partisan data, drastically reduces the number of Democratic seats in order to favor the Republican Party and disfavor the Democratic Party in the 2026 midterm elections and beyond.

In measuring the partisanship of a district, the Florida Supreme Court has endorsed the use of election results, including recent Presidential election data. *See Apportionment I*, 83 So. 3d at 612, 642 (noting that "actual election results show" how votes "translate[]" into "victories in statewide elections" and that "voter registration is not necessarily determinative"); *LWVFL*, 172 So. 3d at 400-01 (using presidential results to evaluate partisanship of districts). Utilizing this data,

including the most recently available 2024 Presidential results, shows the extreme partisan skew of the 2026 Plan. The 2022 Plan had 20 Republican seats, and 8 Democratic seats. Ex. 2 ¶ 34. In distinct contrast, the 2026 Plan boosted the Republican seats to 24 of 28 seats, while slashing in half the number of Democratic seats to only 4. *Id*. In particular, the 2026 Plan carves up formerly Democratic CDs 9, 14, 22, and 25 into the surrounding areas and flips them into Republican districts. *Id*. at 4, 9-12, 14, 16-18 (Figures 1, 2, 3, 5, 9, Table 4, ¶¶ 20, 37, 39, 41). A comparison of the 2022 and 2026 Plans is included below:



The 2022 Plan (left) compared to the 2026 Plan (right) with 2024 Presidential election results.[15]

Indeed, there can be no doubt about the slanted partisan effect of the 2026 Plan. Governor DeSantis himself released a red and blue color-coded version of the map to Fox News, making the 2026 Plan's intent clear and visually demonstrating its stark reduction of Democratic seats from the prior plan. Ex. 11. Thus, despite the Republican Presidential candidate receiving only 56% of the vote in 2024, the 2026 Plan awards Republicans *86%* of Florida's congressional seats. Ex. 2 ¶

[15] The images of the 2022 and 2026 Plans are taken from Dave's Redistricting Application, a publicly available, reliable, and commonly used mapping software in redistricting litigation.

19. As a result, the 2026 Plan significantly tilts the partisan breakdown of Florida's congressional districts in favor of the Republican Party.

The 2026 Plan's skewed partisan effect was accomplished at the expense of traditional redistricting criteria. In order to crack and pack Democratic voters, the 2026 Plan split more counties more times than the 2022 Plan, and split almost double the number of municipalities. Ex. 16 at 1:01:32-1:02:06. The 2026 Plan also declined in terms of agreement with various boundaries under the Legislature's own metric. *See* Sec. I.A.iv; I.C.

Nor does the 2026 Plan limit its reach in accomplishing its overtly partisan goal. Despite being based on the same Census data as the 2022 Plan, in carving up Floridians to advantage the Republican Party, the 2026 Plan altered 75% the state's congressional districts (21 of 28). Ex. 2 at 18 (Table 4). Moreover, these substantial alterations disparately impacted Democrats. All seven districts that remained untouched between the 2022 and 2026 Plans were Republican. Meanwhile, 100% of the Democratic districts from the 2022 Plan were altered, and at extremely high rates. *Id*. Most extremely, CD 23, a Democratic district, was completely obliterated—it retained *none* of its previous population. *Id*. (showing a 0% core retention for 2026 CD 23). This was no accident—transferring Floridians between districts mid-decade was instead a central component of achieving the 2026 Plan's intended partisan effect.

The 2026 Plan accomplishes its drastic partisan skew through the surgical cracking and packing of Democratic voters in individual congressional districts. For this motion for temporary injunctive relief, Plaintiffs focus on the cracking of 2022 CDs 9 and 14 into surrounding districts in the 2026 Plan, as both were egregiously divided into multiple pieces to create two new Republican districts in the Tampa Bay and Central Florida regions.

Take CD 9—which in the 2022 Plan was visually compact and focused around the Orlando and Kissimmee areas of Central Florida.[16] The district covered only three counties (part of Orange, part of Polk, and all of Osceola Counties). The northwest portion of 2022 CD 9 unified Democratic voters in the Kissimmee, Poinciana, Meadow Woods, and Williamsburg areas into a district.[17] As a result, the Democratic Presidential candidate won in 2022 CD 9 per the 2024 election results. Ex. 2 ¶ 39.

In contrast, the 2026 Plan completely guts CD 9, cracking the district's population into *four* congressional districts and disregarding traditional redistricting criteria in order to flip it from Democratic to Republican.[18] 2026 CD 9 starkly fractures the previously unified Democratic voters in the Poinciana, Kissimmee, Meadow Woods, and Williamsburg areas into CDs 9, 10, 11, and 18.[19] Ex. 2 at 16 (Figure 7). The 2026 Plan then outnumbers Democratic voters in CDs 9, 11, and 18 with Republican voters, while keeping Democrats packed into CD 10, weakening their voting power and flipping CD 9 to a Republican district. *Id*. at 15-18 (Figures 6-8, Table 4, ¶¶ 38-39). What was recently a Democratic-majority district as measured by the 2024 Presidential election results in the 2022 Plan, is now firmly Republican. *Id*. at 16, 18 (¶ 39, Table 4).

To accomplish this cracking, what used to be a compact district was stretched beyond recognition in order to grab Republican voters. 2026 CD 9 now reaches from Orlando all the way to Lake Okeechobee to the south and to the Atlantic coast on its eastern boundary.[20] Mathematical

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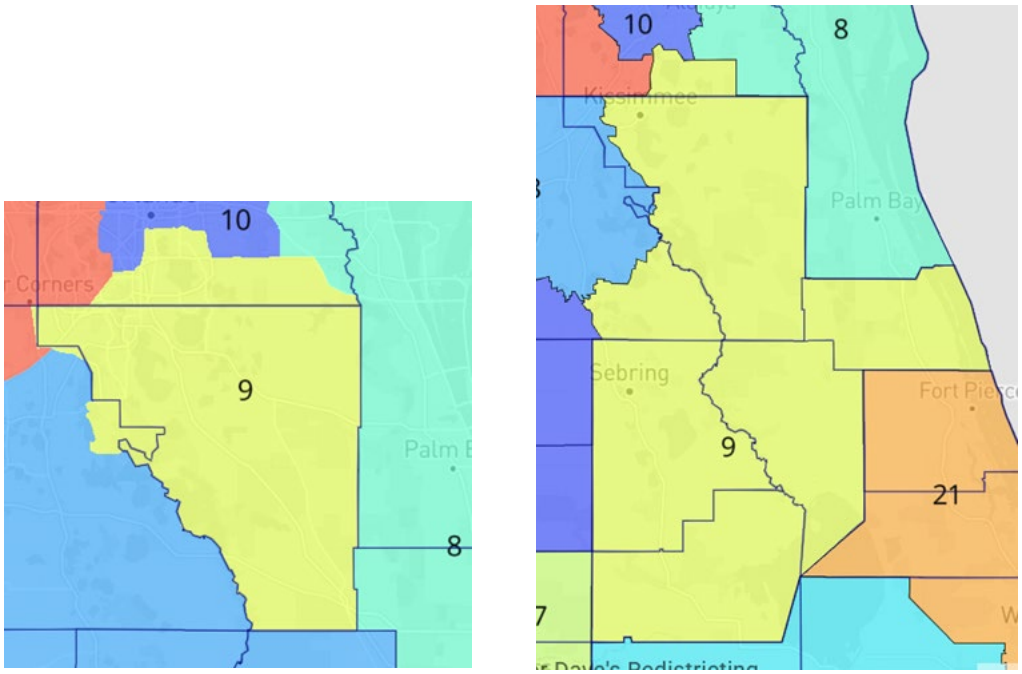
[16] FL 2022 Congressional, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::3a6791b9-a186-4691-a95c-5d51dbb3be1c.
[17] *Id*.
[18] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.
[19] *Id.*
[20] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.

measures confirm what is visually obvious—2026 CD 9 is markedly less compact than its predecessor. Ex. 2 at 19-20 (Table 5, ¶ 44). A comparison of the 2022 and 2026 versions of CD 9 is below:



2022 CD 9 (left) compared to 2026 CD 9 (right), with county boundaries displayed.[21]

As the visual comparison shows, CD 9 was completely transformed. 2026 CD 9 spreads across territory that includes more than *double* the number of counties (seven total).[22] The new 2026 CD 9 now also splits three counties, including a county that was kept whole by its predecessor (Osceola County).[23] The percentage of 2026 CD 9 that utilizes the Legislature's recognized boundary types also decreases as compared to the 2022 Plan—significantly so in its lack of alignment with road boundaries. *Compare* Ex. 20 *with* Ex. 14 at 49-50. And the extraordinary changes necessary to effectuate the 2026 Plan's partisan redistribution of CD 9 are reflected in the

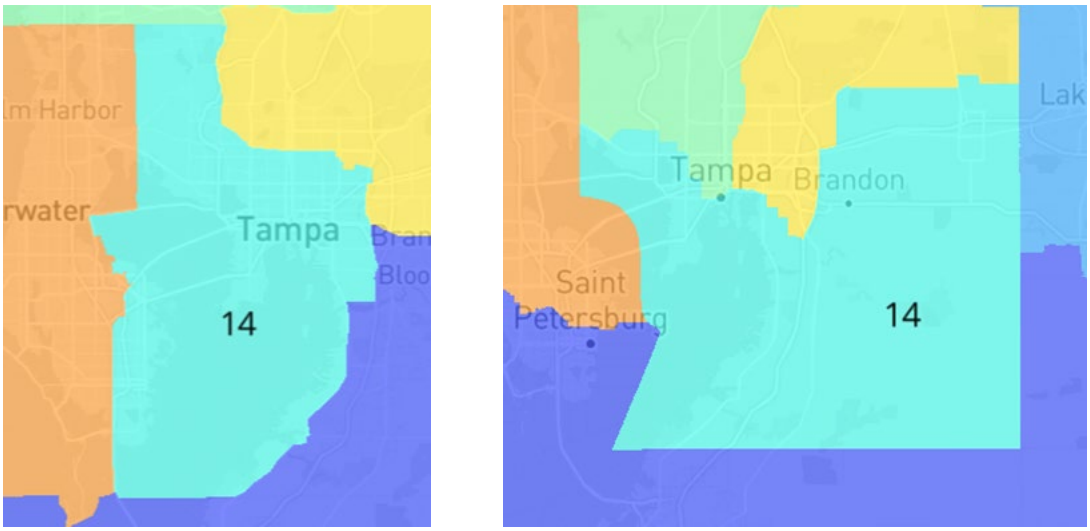
[21] Like the whole plan images above, the region and district-specific screenshots here and following that compare the 2022 and 2026 Plans are from Dave's Redistricting Application.
[22] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.
[23] *Id.*

district's core retention score, which measures the amount of population from the old CD 9 that remains in the new CD 9. Under this metric, CD 9 retains only 57.79% of its population, and altogether over 900,000 Floridians were uprooted from CDs 9, 10, 11, and 18 combined to flip CD 9 to Republican in the 2026 Plan. Ex. 2 at 18 (Table 4).

Moving west, CD 14 and the districts surrounding provide another egregious example of the 2026 Plan's cracking of Democratic voters for partisan gain. In the 2022 Plan, the number of Democratic seats in the Tampa Bay region was consolidated from two to just one—CD 14. Ex. 3. The 2022 CD 14 combined Democratic voters in St. Petersburg and Tampa in a district that voted for the Democratic Presidential candidate in the 2024 Presidential election.[24] Ex. 2 at 11-12 (Figures 1-2).

The 2026 Plan surgically cracks Democratic voters in the Tampa Bay region into *five* districts, to flip CD 14 from Democratic to Republican. *Id*. at 9-13 (Figures 1-4). Thus, 2026 CD 14 completely sheds Democratic voters in St. Petersburg, splitting them into CDs 13 and 16, and overwhelming them with Republican voters in the remainder of those districts. *Id*. 2022 CD 14's Democratic voters in Tampa are then split into three additional districts, 2026 CDs 12, 14, and 15. The result is a 2026 CD 14 that, using the 2024 Presidential election data, flips from majority-Democratic to majority-Republican. *Id*. at 6-8 (Tables 2-3). A comparison of the 2022 and 2026 versions of CD 14 is below, with 2026 CD 14, now resembling a teapot, becoming visually less compact:

[24] FL 2022 Congressional, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::3a6791b9-a186-4691-a95c-5d51dbb3be1c.

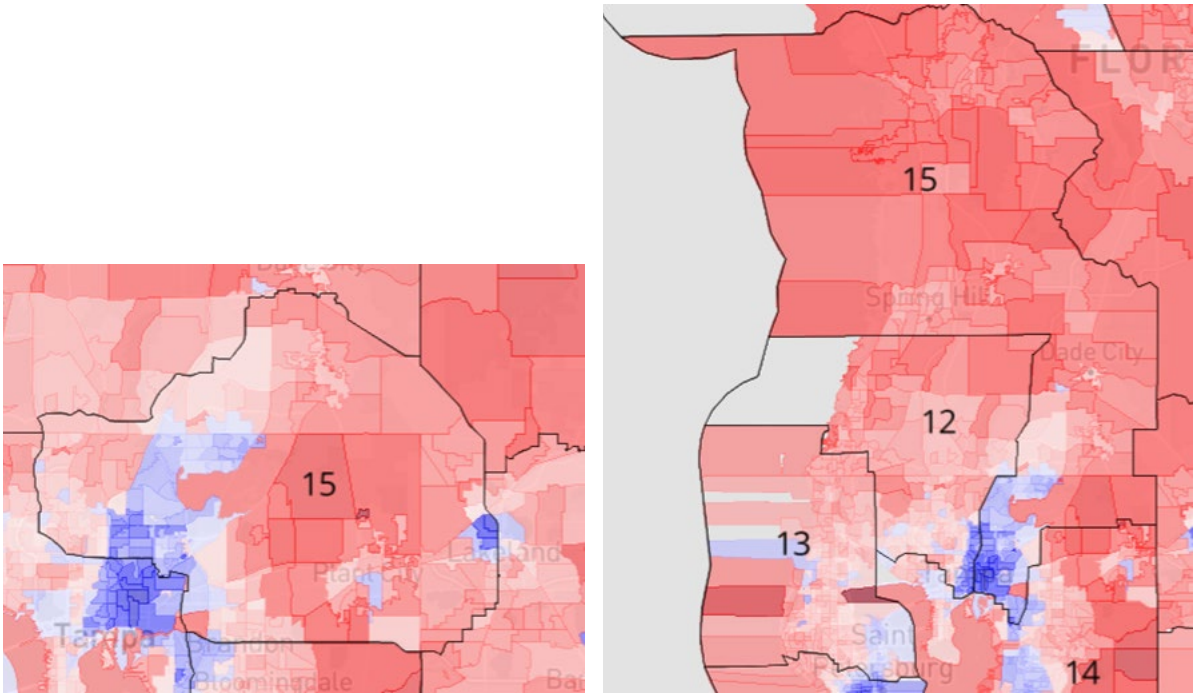


2022 CD 14 (left) compared to 2026 CD 14 (right).

To accomplish this severe partisan restructuring of voters in the Tampa Bay region, an astonishingly large number of Floridians had to be swapped between districts. 2026 CD 14 retains only 31.48% of its former population; CD 15 only 36.21%, and CD 12 only 41.45%. *Id.* at 18 (Table 4). CD 16 fares little better, still retaining only around 52% of its prior population. *Id*. As a result, between CDs 12, 13, 14, 15, and 16 in the Tampa Bay region alone, *over 2 million Floridians* were displaced mid-decade from their previous district in order to flip CD 14 from blue to red. *Id*.

This immense shuffling of population in the Tampa Bay region for partisan gain also decreased the districts' compliance with traditional redistricting criteria. One flagrant example is the compactness of districts in the region. CDs 13, 15, and 16 became visually and mathematically less compact than their 2022 versions. Ex. 2 at 19-20 (Table 5). In particular, CD 15 became significantly less compact, decreasing by 0.32 on the Polsby-Popper measure and 0.25 on the Reock score. *Id*. CD 15's decrease in compactness is the result of cracking Democratic voters previously in CD 14 in Tampa into CD 15 to combine them with Republican areas as far north as

Pine Ridge. A comparison of the vast difference in shape of the 2022 and 2026 CD 15s with partisan shading is below:



2022 CD 15 (left) compared to 2026 CD 15 (right) shaded by 2024 precinct election results.

This textbook cracking of Democratic voters in the Tampa Bay region also led to new county splits. Ex. 2 at ¶ 50. CD 13 used to be contained wholly within Pinellas County in the 2022 Plan. But 2026 CD 13 is now split between Pinellas and Pasco Counties (which in turn results in Pasco County being split three times in the 2026 Plan, as opposed to twice in the 2022 Plan).[25] As another example, CD 16 in the 2022 Plan was split between only two counties—Manatee and Hillsborough.[26] In the 2026 Plan, CD 16 balloons in size, now including territory in *seven counties*,

[25] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.

[26] *See also* FL 2022 Congressional, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::3a6791b9-a186-4691-a95c-5d51dbb3be1c.

including Pinellas, Manatee, Hillsborough, Sarasota, DeSoto, Hardee, and Polk Counties.[27] In doing so, the 2026 Plan introduces a split in Sarasota County that was not there before. *Id*.

In addition, districts in the region also perform poorly with respect to municipal splits. Ex. 2 ¶ 47. For example, in the 2022 Plan, Tampa, the region's population center, was split between two districts (CDs 14 and 15). *Id.* at 10 (Figure 1).[28] In the 2026 Plan, it is now fractured among three (CDs 14, 12, and 15). *I*d.[29] Palm River, Progress Village, and Thonotosassa are also now split between CDs 14 and 15 in the 2026 Plan, whereas they were wholly contained in either CD 14 or 15 before.[30]

This evidence demonstrates the acute partisan intent and resulting effect behind the redrawing of CDs 9 and 14, and the surrounding CDs 11, 12, 13, 15, 16 and 18 in the 2026 Plan. The precise cracking of Democratic voters from CDs 9 and 14 into the neighboring districts, and packing of Democratic voters into CD 10, demonstrates that the flipping of 2022 CDs 9 and 14 to Republican in the Central Florida and Tampa Bay regions was no accident.

Further, this overwhelming evidence of significant partisan effect is particularly probative of intent in this case for several reasons. To begin, the alleged map drawer of the 2026 Plan acknowledged that he considered electoral performance data in the drawing of *every single district*. Ex. 10 at 43:45-44:06. But there was no reason to consider this data *except* to further an improper partisan intent. In *Apportionment I*, the Florida Supreme Court noted that "mere access to political data cannot presumptively demonstrate prohibited intent because such data is a necessary

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[27] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.
[28] *See also* FL 2022 Congressional, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::3a6791b9-a186-4691-a95c-5d51dbb3be1c.
[29] 2026 Florida Congressional Plan from Senate Shapefile, Dave's Redistricting Application, https://davesredistricting.org/maps#viewmap::2427364d-c5a5-4906-a817-fc59416f2031.
[30] *Id.* supra notes 23-24.

component of evaluating whether a minority group has the ability to elect representatives of choice." 83 So. 3d at 619. But the utilization of partisan data for that purpose was expressly disclaimed here. Indeed, the Axelman Memo states that the 2026 Plan "does not take race into consideration at all" and "makes no attempt to adhere to the race-based requirements of the FDA." Ex. 13 at 3. Moreover, the Axelman Memo extraordinarily declares the *entire* FDA unconstitutional, leaving the process and the 2026 Plan free from any restraint on improper partisan intent. *Id.* It is thus no surprise that the evidence categorically shows the 2026 Plan, drawn with partisan data, accomplishes the intended partisan effect. In fact, it would be "even harder to believe in anything else." *LWVFL*, 172 So. 3d at 385-386. The 2026 Plan disfavors only one political party—accomplished through the cracking and packing of Democratic voters to eliminate solely Democratic districts, and significantly so (by 50%)—resulting in an extreme partisan skew in favor of Republicans. Ex. 2 at 3-4, 9-17. As a result, the 2026 Plan's partisan effect could have *only* been the result of an intent to favor the Republican Party and disfavor the Democratic Party.

Indeed, these same factors demonstrate that the Legislature was undoubtedly aware of the improper partisanship behind the 2026 Plan, as well as the Plan's skewed partisan effect. Before the special session even began, Governor DeSantis' publicly released, color-coded map of Florida's new congressional districts made the extreme partisan effect—and true aim of the 2026 Plan—obvious to all. Ex. 11. Shortly thereafter, the Legislature then received the Axelman Memo, which simultaneously disclaimed any consideration of the only other viable justification for utilizing partisan election data besides partisan intent, while declaring open season for partisan gerrymandering in the 2026 Plan by disavowing the applicability of governing state law preventing it. Ex. 12 at 3. The alleged map drawer then testified *to the Legislature* about relying on partisan election results to draw every single district in the 2026 Plan. Ex. 10 at 43:45-44:06, 1:39:00-31.

And, if the partisan aim of the 2026 Plan wasn't yet glaringly apparent, in what limited time they were given, the public and Democratic lawmakers testified to the intentional and extreme partisan tilt of the 2026 Plan. Exs. 10, 16, 18, 19. There can be no question that the 2026 Plan was passed with the awareness and intent of favoring Republicans and disfavoring Democrats.

iv. The 2026 Plan's violations of the Tier II requirements create an inference of improper intent.

Failure to adhere to the FDA's Tier II requirements is further evidence of the Legislature's violation of the partisan favoritism prohibition in Tier I. "[T]he goal of the tier-two requirements is 'to guard, as far as practicable . . . against a legislative evil, commonly known as 'gerrymander.'" *Apportionment I*, 83 So. 3d at 639 (citation omitted). Thus, "the extent to which the Legislature complies with the sum of Florida's traditional redistricting principles" in Tier II "serves as an objective indicator of the impermissible legislative purpose proscribed under Tier I (i.e., intent to favor or disfavor a political party or an incumbent)." *Id*. In other words, a violation of the Tier II requirements is both unlawful on its own, and also indicative of a violation of the Tier I intent prohibition, "which Florida prohibits by absolute terms." *Id.* at 640.[31]

Tier I requires that districts "shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries." Art. III, § 20(b), Fla. Const. Adherence to the Tier II requirements is mandatory, and deviation is permissible "only to the extent necessary" for Tier I compliance. *Apportionment I*, 83 So. 3d at 640; Art. III, § 20(b)-(c), Fla. Const. Where Plaintiffs can show "that it was possible for the Legislature to comply with the tier-two constitutional criteria while, at the same time,"

[31] Importantly, a finding of compliance with the Tier II requirements—or only minor deviations therefrom—does *not* rebut an independent finding of a Tier I violation. Tier II violations simply provide additional and independent evidence of a Tier I violation, and a "flagrant" Tier I violation is not required. *See LWVFL*, 172 So. 3d at 399, 407.

complying with the Tier I requirements, "the Legislature's plan becomes subject to a concern that improper intent was the motivating factor for the design of the district." *Apportionment I*, 83 So. 3d at 640. In such an instance, "further inquiry into the Legislature's intent becomes necessary." *Id.* at 641.

The 2026 Plan's lack of adherence to the Tier II factors of compactness and boundary utilization was not necessary for Tier I compliance and gives rise to a presumption of unlawful partisan intent.[32] The existence of alternative plans that achieve compliance with all the constitutional criteria without subordinating the Tier II requirements "demonstrates that it was not necessary for the Legislature to subordinate a standard in its plan." *Id.* at 641. Here, the 2022 Plan performs the same or better on compactness and boundary utilization, *see* Sec. I.A.iv; I.C, thus demonstrating that the 2026 Plan's departures on these metrics were not "necessary" for any Tier I compliance.

The 2026 Plan's lack of compactness was not necessary to comply with any other requirement and supports a finding of unlawful partisan intent. Evaluation of Tier II compliance "takes into consideration both the overall challenges" to the whole map, as well as "analysis of challenges to individual districts." *Apportionment I*, 83 So. 3d at 653. Both bolster improper intent here. "[C]ompliance with the tier-two principles is objectively ascertainable," *id.* at 640, and with regard to compactness, is ascertained via both a "visual assessment of the districts" and by consideration of "quantitative geometric measures." *In re Senate Joint Resol. of Legislative Apportionment 100*, 334 So. 3d 1282, 1287 (Fla. 2022) ("*Apportionment II*").

[32] There is no dispute that all districts are equally populated using the 2020 Census population data, as required by both Florida and federal law.

A "visual inspection" of the 2026 Plan "as a whole" reveals a lack of compactness. *See Apportionment I*, 83 So. 3d at 646. Compared to the 2022 Plan, more districts have winding and irregular boundaries, several districts have become larger and more sprawling, and more districts feature "visually unusual shapes." *Id.* This visual observation is supported by "standard mathematical measurements" of compactness. *Id.* at 636. These include commonly accepted quantitative measures of compactness, including Reock, Polsby-Popper, Convex Hull, and Schwartzberg scores. *Apportionment II*, 334 So. 3d at 1287 (utilizing Reock, Polsby-Popper, and Convex Hull scores). The 2026 Plan's average compactness across all districts saw decreases across all four compactness measures. Ex. 2 at 19-20 (Table 5). Though the decreases on some metrics are relatively minor, the existence of the 2022 Plan demonstrates that higher compactness plan-wide is possible and the Legislature points to no permissible Tier I criterion to justify the worsened compactness.

Examining some of the individually challenged districts demonstrates much the same thing. For instance, as described above, Sec. I.A.iii, the 2022 version of CD 9 was a visually compact district that exploded in size in the 2026 Plan to contain territory from more than double the number of counties. The numbers support what is evident visually: CD 9 in the 2026 Plan scored lower in compactness across all four measures compared to CD 9 in the 2022 Plan. *Id.* at 19 (Table 5).

The same is true with regard to the Tampa Bay region districts, including CDs 12, 13, 14, 15, and 16, *see supra* Sec. I.A.iii. In the 2022 Plan, these districts were visually compact and neatly nested, covering the area between Citrus and Manatee counties along Florida's west coast. The 2026 Plan disrupts this ordered arrangement. The teapot-shaped 2026 version of CD 14 is much less visually compact, and the surrounding districts have likewise been distorted. CD 15, previously a near-oval centered on the northeast part of Hillsborough County, now extends from

the center of the county, snakes up the eastern side of Pasco County, and continues across Hernando and Citrus counties to the north. CD 16, previously covering all of Manatee County and part of Hillsborough, now sprawls across seven counties. CDs 12 and 13 likewise have been stretched and altered to accommodate the changes of the surrounding districts. CDs 13, 14, 15, and 16 have lower compactness scores on nearly every one of the four quantitative metrics than in the 2022 Plan. Ex. 2 at 19-20 (Table 5).

The 2026 Plan's failure to utilize existing political and geographic boundaries where feasible also supports a finding of partisan intent. As described below, the 2026 Plan splits more counties and significantly more cites and utilizes fewer existing boundaries than the 2022 Plan. The 2026 Plan's disregard for the compactness and boundary utilization requirements in Tier II are "indicia of improper intent." *Apportionment I*, 83 So. 3d at 618. With no justification for these deviations, "impermissible intent may be inferred." *Id.* at 619.

v. Neither of the proffered justifications can explain the configuration of the 2026 Plan or the challenged districts.

Two primary justifications have been put forth to explain the configuration of the 2026 Plan. First, that the districts in the 2022 Plan are malapportioned, and second, that the 2022 Plan erroneously took into account the consideration of race in the drawing of certain districts. Both of these claims were laid out explicitly in a memorandum from David Axelman, General Counsel to Gov. DeSantis, that accompanied the transmittal of the 2026 Plan to the Legislature, Ex. 13; were repeated in the presentations of Mr. Poreda and Mr. Jazil to the House and Senate committees, Exs. 10, 16; and were subsequently echoed by the Legislature in the course of its (brief) debate on the plan, Exs. 18, 19. Yet neither of these claims can provide a valid or constitutionally permissible explanation for the configuration of the 2026 Plan or any of the challenged congressional districts.

According to the first justification, the 2026 Plan was needed to remedy malapportionment both because the 2020 Census undercounted Florida's population, Ex. 13 at 1, and to account for the growth in the state's population since the 2020 Census, Ex. 19 at 16:40-16:52. This argument suffers from a simple yet fatal flaw: the 2026 Plan was drawn with *exactly the same population data*—the 2020 Census population data—as the 2022 Plan (as is required by Florida law, § 11.031(1), Fla. Stat. (2025)).

Legislative Defendants may cite the testimony of Jason Poreda, the governor's map-drawer, in which he claimed that, in addition to the 2020 Census data, he used estimated county-level population data from the Office of Economic and Demographic Research ("EDR") to attempt to account for population growth that has occurred in Florida since 2020. However, as Mr. Poreda also noted, the 2026 Plan has the same number of districts as the 2022 Plan, and the districts in the 2026 Plan have *identical population totals*—769,221 people—to those in the 2022 Plan. Ex. 16 at 12:55-13:25, 1:07:40-1:07:58. In calculating and balancing those population totals, Mr. Poreda stated that he "used 2020 Census data *exclusively*" and did not overlay the map with any other population data at any point in the drawing process. Ex. 10 at 1:22:24-31. It is meaningless doublespeak to claim that the 2026 Plan, with the same number of districts, same per district population, and drawn using population data identical to that of the 2022 Plan, can somehow account for any population change of any kind.

Even if one accepts the argument that balancing population growth was one of the primary goals of this redistricting effort, issues with this justification abound. To start, the data shows that the population deviation actually *increased* from the 2022 Plan, which had a deviation of 8.2%, while the 2026 Plan has a deviation of 9.8%. Ex. 2 at 6-8 (¶¶ 30-33, Tables 2-3). Moreover, accounting for population growth mid-decade is not a redistricting criterion under the Florida

Constitution or any other relevant state or federal law. In fact, the U.S. Supreme Court has held that "before the new census, States operate under the legal fiction that even 10 years later, the plans are constitutionally apportioned." *Georgia v. Ashcroft*, 539 U.S. 461, 488 n.2 (2003).

Further undercutting the assertion that the 2026 Plan was drawn to account for population growth, Mr. Poreda admitted in the course of his testimony to the Legislature that he thought it "wasn't necessary" for the 2026 Plan to make any changes to the counties that experienced the most growth (St. John's County) and third most growth (Walton County) from 2020 to 2025. Ex. 10 at 2:13:38-17:31. According to Mr. Poreda, he claimed he left those areas untouched for purposes of maintaining core retention, which is not a consideration recognized by the FDA or any other relevant state or federal law, *id.*, but which is relevant for considering whether the 2026 Plan was drawn to favor the Republican incumbents in those areas.

The 2026 Plan's treatment of the regions which contain the majority of the specifically challenged districts, namely Tampa Bay (CDs 12, 13, 14, 15, and 16) and Central Florida (CDs 9, 10, 11, and 18), also undermines the already baseless malapportionment justification. The Axelman Memo claims that "[t]he most population growth appears to have occurred in the outlying areas surrounding Tampa and Orlando and north of Palm Beach County up the eastern coast" and that the 2026 Plan "attempts to account for these dramatic population changes by reconfiguring districts around the areas of high growth." Ex. 13 at 3. Senator Don Gaetz, the sponsor of the 2026 Plan, similarly claimed in the course of the Senate floor debate on the bill that the map's configuration of the Tampa area was a result of an attempt to account for population growth. Ex. 19 at 1:05:07-06:35. But the 2026 Plan's disparate treatment of high growth areas tells another story.

The source cited in the Axelman Memo identifies the top cities in Florida by population change from 2020 to 2025: the six cities with the greatest population growth are Jacksonville, Port St. Lucie, Miami, Orlando, Cape Coral, and Tampa.[33] Of these, the 2026 Plan leaves the districts around Jacksonville—which was already split between two Republican districts in the 2022 Plan—entirely unchanged and continues to keep both Port St. Lucie and Cape Coral intact in one Republican district each. However, rather than leaving untouched or further coalescing districts around the high-growth cities of Orlando and Tampa, the 2026 Plan instead needlessly splits both of those cities, which are both below the total population size of a congressional district. In fact, Mr. Poreda testified that the *only* two large cities in the state that were split into three districts in the 2026 Plan were Tampa and Orlando. Ex. 10 at 1:31:39-33:05. And, as with the 2026 Plan as a whole, the deviation for the specifically challenged districts *increased* as compared with the 2022 plan. Ex. 2 at 8 (¶ 33, Table 3). The 2026 Plan's configuration of these areas thus cannot be explained by efforts to account for population growth.

The second justification of a need for a race-neutral map similarly lacks explanatory efficacy. According to this justification, the prior congressional plan was "distorted by considerations of race," due to the FDA's Tier I requirement that "districts shall not be drawn . . . with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process." Ex. 13 at 1. Senator Gaetz also cited a need for a "race-neutral congressional plan" in his defense of the 2026 Plan during the Senate floor debate on April 29. Ex. 19 at 55:38-43.

[33] Bureau of Econ. and Bus. Rsch., Univ. of Fla., *Florida Estimates of Population 2025*, at 40 (Apr. 1, 2025), https://perma.cc/XR5W-Y7YE.

The Axelman Memo specifically cited CD 20 and other districts in the southeastern part of Florida as districts whose drawing was influenced by considerations of race. Ex. 13 at 2. But no court has found CD 20 or any other congressional district in southeastern Florida to be in violation of federal law, and Governor DeSantis himself—less than a year ago—publicly stated that the 2022 Plan is constitutional. Moreover, racial considerations have *no bearing* on the reconfiguration of CDs 9, 10, and 14 (or the surrounding CDs 11, 12, 13, 15, 16, and 18), because the map drawer of those 2022 districts explicitly disclaimed the consideration of race in their creation. *See, e.g.*, Ex. 3 at 1:10:43-1:11:02.

The Axelman Memo is clear that the 2026 Plan "does not take race into consideration at all" and "makes no attempt to adhere to the race-based requirements of the FDA." Ex. 13 at 3. However, to the extent the 2026 Plan seeks to "remedy" districts from the 2022 Plan that were drawn based on racial criteria, Mr. Poreda testified that those efforts were limited to the 2022 Plan's CDs 20, 26, 27, and 28. Ex. 10 at 58:02-23. As such, the Tier I requirements related to racial vote dilution cannot justify the configuration of CDs 9, 10, 11, 12, 13, 14, 15, 16, and 18 in the Tampa Bay and Central Florida regions.

Perhaps most tellingly, after outlining the two deficient justifications, the Axelman Memo unilaterally declares that, because Governor DeSantis does not believe the race-related provisions of the FDA to be lawful, there is no need for the Legislature to comply with any portion of the FDA. The Axelman Memo states:

> "The race-based requirements of the FDA also cannot be severed from the other requirements of the FDA. The FDA was sold to the voters as a package. There was no severability provision included in the FDA when it was presented to the voters. And because one part is unconstitutional, there's little reason to think that voters would have approved the remaining parts by themselves."

Ex. 13 at 3. To support this proposition, the Axelman Memo cites two comments made by the Chief Justice of the Florida Supreme Court during an oral argument related to a challenge to CD 5 based on the racial vote dilution provisions of the FDA. But no court, including the Florida Supreme Court, has held that any portion of the FDA is unconstitutional, let alone the entire provision. The Governor's unilateral declaration that a constitutional provision passed by Florida's voters is unlawful is the reverse of how the process works—courts review laws or statutes enacted by the Legislature and signed by the Governor for their constitutionality.

Moreover, there is no reason to believe that, even if the single provision of the FDA concerning race was invalidated, the remainder of Article III, § 20 would be too.[34] The Florida Supreme Court has held that, because "the initiative power of fully informed citizens to amend the Constitution must be respected as an important aspect of the democratic process," courts "must afford [] deference to constitutional amendments initiated by our citizens and uphold the amendment if, after striking the invalid provisions, the purpose of the amendment can still be accomplished." *Ray v. Mortham*, 742 So. 2d 1276, 1281 (Fla. 1999); *see also Apportionment I*, 83 So. 3d at 640 ("[T]he Court's obligation is to ensure that 'every clause and every part' of the language of the constitution is given effect where 'an interpretation can be found which gives it effect.'") (quoting *In re Apportionment Law Senate Joint Resol. No. 1305, 1971 Regular Session*, 263 So. 2d 797, 807 (Fla. 1972)).

The overarching purpose of the FDA could still be accomplished if Tier I were limited to a ban on partisan intent and the contiguity requirement along with the Tier II requirements. The Florida Supreme Court has said that "[t]here is no question that the goal of minimizing opportunities for political favoritism was the driving force behind the passage of the Fair Districts

[34] Plaintiffs do not concede that any provision of the FDA is unconstitutional.

Amendment." *Apportionment I*, 83 So. 3d at 639. The Court has also specifically referenced "the intent of the framers and voters who passed the Fair Districts Amendment to outlaw partisan political gerrymandering." *LWVFL*, 172 So. 3d at 415. These holdings by the Florida Supreme Court are supported by voluminous sources evidencing the voters' understanding of the FDA that the amendments were primarily targeted at ending partisan gerrymandering. Ex. 1 at 5-11. Therefore, the Governor and Legislature's preemptive abdication of the FDA is a violation of Floridians' constitutional rights.

In the end, the justifications put forth to explain the configuration of the 2026 Plan crumble in the face of the slightest scrutiny, and fail to provide a valid or constitutionally permissible explanation for the configuration of the 2026 Plan as a whole or any of the challenged congressional districts.

B. Plaintiffs are substantially likely to succeed on the merits of their claim that the 2026 Plan and the specifically challenged districts were drawn with the intent to disfavor incumbents from the Democratic Party and favor incumbents from the Republican Party (Count II).

Plaintiffs are substantially likely to succeed on the merits of Count II, which argues that the 2026 Plan and the specifically challenged districts were drawn with the intent to disfavor incumbents from the Democratic Party and correspondingly favor incumbents from the Republican Party.

The Florida Constitution requires that, "[i]n establishing congressional district boundaries . . . [n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor . . . an incumbent." Art. III, § 20(a), Fla. Const. The provision "explicitly requir[es] that lines not be designed to help or handicap particular candidates based on incumbency or membership in a particular party." *Apportionment I*, 83 So. 3d at 618. Especially in the case of the latter, Article III, § 20(a)'s prohibitions on partisan intent and intent to favor an incumbent are

closely linked; courts regularly evaluate the two standards in tandem and often consider evidence of one as evidence of both. *See, e.g.*, *id.* at 615-19. As a Tier I requirement, once incumbent favoritism is shown, the burden shifts to the Legislature "to justify its decisions in drawing the congressional district lines," with no deference afforded to the Legislature's decisions. *LWVFL*, 172 So. 3d at 396-397, 400.

The Florida Supreme Court has held that "[w]hile . . . th[is] standard does not prohibit political effect, the effects of the plan . . . are [] factors that serve as objective indicators of intent." *Apportionment I*, 83 So. 3d at 617. For establishing intent to favor incumbents in both the plan as a whole and with regard to individual districts, prior cases have considered, *inter alia*, levels of core retention as relevant and compelling circumstantial evidence. *Id.* at 618-619, 654; *id.* at 662, 669 (citing core retention rates of individual districts between 69.7% and 86.1% supporting a finding incumbent favoritism). And as with partisan favoritism, deviation from the criteria in Tier II can provide further supporting evidence. Ultimately, when analyzing a challenge based on incumbent favoritism, courts "must ensure that [they] do[] not disregard obvious conclusions from the undisputed facts." *Id.* at 619.

To start, the direct and circumstantial evidence described *supra*, regarding the political context, process, and partisan effect of the 2026 Plan, which supports a finding of intent to disfavor the Democratic Party, also supports a finding of intent to disfavor Democratic incumbents. Additionally, the Tier II deviations that support a finding of partisan intent to disfavor the Democratic Party, also described above, similarly support a finding of intent to disfavor Democratic incumbents.

The 2026 Plan's core retention numbers add further support for a finding of intent to disfavor Democratic incumbents (and to favor Republican incumbents) for both the plan as a whole

and for the specifically challenged districts. Regarding the plan as a whole, districts that leaned Republican in the 2022 Plan have an average core retention of 82.74%. Ex. 2 at 17-18 (¶ 41, Table 4). This high core retention percentage provides an "[o]bjective indicator[] of intent," because it reflects "the drawing of [] new district[s] so as to retain a large percentage of the incumbent's former district" for Republican incumbents in particular. *Apportionment I*, 83 So. 3d at 619. In contrast, districts that leaned Democratic in the 2022 Plan have an average core retention of just 41.35%, *less than half* the Republican-leaning districts' core retention. *Id.* at. Notably, of the seven districts left unchanged from the 2022 Plan, *all seven* have Republican incumbents. *Id*.

With regard to the challenged districts, those with Republican incumbents have a higher rate of core retention than those with Democratic incumbents. *Id.* at 17-18 (¶¶ 40-41, Table 4). For the challenged districts in the Central Florida region, the 2022-Republican-leaning districts, CDs 11 and 18, have core retentions of 84.60% and 63.31% respectively. *Id.* at 18 (Table 4). Meanwhile, the core retention score of the formerly Democratic-leaning CD 9 was just 57.79%, the lowest of the challenged districts in the region.[35] *Id*.

Moving to the challenged districts in the Tampa Bay region, the overall core retention rate is lower due to the massive shifts in population that were necessary to crack the formerly Democratic-leaning CD 14, but the districts that were Republican-leaning in 2022 nonetheless all had higher core retention scores than the sole Democratic-leaning district. *Id*. The 2022-Republican-leaning CDs 12 and 15, which were both substantially reconfigured to split the core Democratic voters in the Tampa area, have core retention rates of 41.45% and 36.21% respectively, while 2022-Republican-leaning CDs 16 and 13 have higher rates of 51.96% and 78.83%

[35] The relatively high 76.89% score of the 2022-Democratic-leaning CD 10 is unsurprising, because the harm associated with CD 10 was packing rather than cracking. Ex. 2 at 15 (¶ 38, Figure 6).

respectively. *Id*. The formerly-Democratic-leaning CD 14 has the lowest core retention score in the region of just 31.48%. *Id.*

This core retention data—combined with the direct and circumstantial evidence surrounding the political context, irregular and secretive process, partisan effect, and Tier II deviations of the 2026 Plan and the specifically challenged districts—is more than sufficient for Plaintiffs to meet their burden. And, as noted above, neither of the Legislature's purported justifications can explain the configuration of either the map as a whole or the challenged districts. As such, Plaintiffs' have shown a substantial likelihood of success on the merits of Count II.

C. Plaintiffs are substantially likely to succeed on the merits of their claim that the 2026 Plan fails to utilize existing boundaries where feasible (Count III).

Plaintiffs are substantially likely to succeed on the merits of their claim that the 2026 Plan fails to utilize existing boundaries as required by the FDA. "[T]he Legislature's obligation is to draw [] districts that comport with all of the requirements enumerated in Florida's constitution," including the Tier II requirements of the FDA. *Apportionment I*, 83 So. 3d at 615. "Strict adherence" to these standards is required, yielding only to the requirements in Tier I. *Id.* at 628.[36]

Among the Tier II standards is the requirement that "districts shall, where feasible, utilize existing geographic and political boundaries." Art. III, § 20(b), Fla. Const. "[T]he term 'political boundaries' primarily encompasses municipal or county boundaries." *Apportionment I*, 83 So. 3d at 637. The term "geographical boundaries" refers to those "that are easily ascertainable and commonly understood, such as 'rivers, railways, interstates, and state roads.'" *Id.* at 638. The use of the modifying phrase "where feasible" with reference to the boundary utilization requirement

[36] In addition to being grounds for Count III's independent challenge to the map, the 2026 Plan's failure to utilize existing boundaries where feasible also provides "indicia" from which the "impermissible intent" alleged in Counts I and II "may be inferred." *Apportionment I*, 83 So. 3d at 618-19.

indicates some degree of flexibility, but does not relieve the legislature of the obligation to adhere to this requirement. *See id.* at 636. "Feasible" is generally defined as "capable of being done, executed or effected." 4 Jones on Evidence § 21:21 (7th ed. 2025). The word has been similarly construed by courts in this state. *See, e.g.*, *Sw. Fla. Water Mgmt. Dist. v. Charlotte Cnty.*, 774 So. 2d 903, 916 (Fla. 2d DCA 2001) ("feasible" has a "plain and ordinary meaning" of "capable of being brought about") (quoting *The American Heritage College Dictionary* 499 (3d ed. 1993)). Use of the word "feasible" in the FDA allows some flexibility; it does "not vest unbridled discretion." *Sw. Fla. Water Mgmt. Dist.*, 774 So. 2d at 919.

Taken together, the boundary utilization clause thus requires that, where it is capable of being done, district lines must follow the boundary lines of municipalities, counties, significant roadways, waterways, and rail lines, and avoid the excessive splitting of municipality and county boundaries. The 2026 Plan fails to abide by this requirement.

The 2026 Plan exhibits an excessive splitting of municipalities and counties, that is unexplained by any permissible factor. According to the 2026 Plan's own map drawer, the 2026 Plan splits 19 counties 32 times, whereas the 2022 Plan splits only 17 counties 29 times. Ex. 16 at 1:01:32-1:02:06. The municipality splits in the 2026 Plan are even worse. The new district configuration splits 30 municipalities, a significant increase from the 2022 Plan which split only 16 municipalities. *Id.*

The 2026 Plan also features a lower utilization of political and geographic boundaries than the 2022 Plan, using the data and analysis provided by the Legislature. A lower percentage of district lines in the 2026 Plan follow existing boundary lines of municipalities or counties, or the recognized roads and waterways as compared to the 2022 Plan. Utilization of these boundary lines dropped by approximately 1.4% in the 2026 Plan. Ex. 14 at 50-51; Ex. 20. The 2026 Plan performs

slightly better than the 2022 Plan only on its utilization of rail lines as district boundaries, with a modest increase of less than half a percent. Overall, the 2026 Plan saw a 2.8% increase in the amount of its district boundaries that follow no existing political or geographic boundary. Ex. 14 at 50-51; Ex. 20.

The same decrease in boundary utilization is evident with regard to many of the specifically challenged districts. For instance, CD 9 saw a 0.8% decrease overall, including a 19% decrease in use of road boundaries; CD 12 saw double-digit decreases in its utilization of multiple different boundary types and a 12% increase in district lines that followed no pre-existing boundary lines; CDs 13 and 14 saw increases of 9% and 7% respectively in the amount of their district lines that followed no pre-existing political or geographic boundaries; and CD 18 saw a 24% increase on the same metric, the highest of any district in the 2026 Plan. Ex. 14 at 50-51; Ex. 20. The existence of the superior boundary utilization metrics in the 2022 Plan shows that the 2026 Plan failed to adhere to this criterion where feasible, thus violating Art. III, § 20(b), Fla. Const.

No Tier I standards or other Tier II standards explain the failure of the 2026 Plan to utilize existing boundaries where feasible. While the Tier II standards of compactness and boundary utilization must be balanced, and while courts must remain "sensitive to the complex interplay" of various redistricting considerations, *Apportionment I*, 83 So. 3d at 639, no such tradeoff can explain the district lines in the 2026 Plan. Indeed, the 2026 Plan features reduced compliance with *both* compactness *and* boundary utilization—in addition to the Tier I violations of improper partisan and incumbent intent. Because of the substantial evidence that the 2026 Plan fails to utilize existing political and geographic boundaries where it is feasible to do so, Plaintiffs have also demonstrated a likelihood of success on the merits of Count III.

II. The remaining factors support a preliminary injunction.

To obtain a preliminary injunction Plaintiffs must satisfy the following elements: first, that they lack "an adequate remedy at law;" second, that there is a "likelihood of irreparable harm" absent a preliminary injunction; and third, that injunctive relief "will serve the public interest." *Scott v. Trotti*, 283 So. 3d 340, 343 (Fla. 1st DCA 2018). Plaintiffs easily meet these standards.

A. There is no adequate remedy at law available.

Plaintiffs lack an adequate remedy at law absent their requested injunctive relief. *See id.* There is no adequate remedy at law for harm where monetary damages are difficult, if not impossible to prove. *Smart Pharmacy, Inc. v. Viccari*, 213 So. 3d 986, 990 (Fla. 1st DCA 2016) (finding no "adequate remedy at law for the irreparable harm . . . because 'monetary damages are difficult to prove with any certainty and . . . even if provable, would not adequately compensate for all aspects of the violation.'") (quoting *King v. Jessup*, 698 So. 2d 339, 340 (Fla. 5th DCA 1997)). Voting rights injuries raise considerable difficulties when searching for an adequate remedy, as time constraints limit options for legal remedies in the face of the immovable timing of elections. For that reason, "irreparable injury is presumed when [a] restriction on the fundamental right to vote is at issue" because "[o]nce the election comes and goes, there can be no do-over and no redress." *League of Women Voters of Fla., Inc., v. Detzner*, 314 F. Supp. 3d 1205, 1223 (N.D. Fla. 2018) (internal quotations omitted). Harms targeting constitutionally protected voting rights and injuries to voters in particular are routinely viewed as causing irreparable injury; once an election takes place, relief is virtually impossible. *See League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *see also Detzner*, 314 F. Supp. 3d at 1223 ("[t]his isn't golf: there are no mulligans.") (internal citation omitted).

Furthermore, as discussed *supra*, the 2026 Plan plainly violates the Florida Constitution and prevents Florida voters from exercising their right to vote in districts free from overt partisan

intent. If Florida's congressional primary and general elections are allowed to proceed under the 2026 Plan, Plaintiffs will suffer a severe constitutional harm with no legal remedy. Plaintiffs lack a legal remedy at law when there is a violation of a constitutionally protected right without pre-enforcement redress. *See Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243, 1264 (Fla. 2017) (where law is "likely unconstitutional, there is no adequate legal remedy at law for the improper enforcement"), *overruled on separate grounds by Planned Parenthood of Sw. and Cent. Fla. v. State*, 384 So. 3d 67 (Fla. 2024). Plaintiffs, therefore, lack an adequate remedy at law absent the requested injunctive relief.

B. Plaintiffs face likely irreparable harm absent an injunction.

Plaintiffs will inevitably suffer irreparably harm absent an entry of preliminary injunctive relief preventing the 2026 Plan from being used in the upcoming elections. *Trotti*, 283 So. 3d at 343. Irreparable injury is presumed when there are potential restrictions on voting rights. *See Detzner*, 314 F. Supp. 3d 1205, 1223-24; *see also League of Women Voters of N.C.,* 769 F.3d at 247. Issues of elections and voting are unique in that "once the election comes and goes, 'there can be no-do over or redress." *Detzner*, 314 F. Supp. 3d at 1223-24 (internal quotations omitted). Absent a preliminary injunction, the Florida primary and general elections, scheduled for August and November of this year respectively,[37] will move forward under the unconstitutional 2026 Plan. After these elections take place, Plaintiffs have no opportunity for relief and must live with the results of an election that took place under an unconstitutionally gerrymandered map. *Id*. (quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987) ("An injury is 'irreparable' only if it cannot be undone through monetary remedies.") This harm of moving forward with elections under the 2026 Plan is irreparable.

[37] Fla. Dep't of State, *Election Dates* (Aug. 22, 2025), https://perma.cc/M8FH-3Q5B.

C. A preliminary injunction is in the public interest.

Granting a preliminary injunction barring the state from utilizing the 2026 Plan in the upcoming congressional elections is in the public interest. Public interest mandates this Court issue an injunction preventing the use of the unconstitutional 2026 Plan for the 2026 Florida congressional elections. Issues involving the fundamental right to vote are almost always presumed to be in public interest. *See League of Women Voters of N.C.* 769 F.3d at 247. Further, "[t]he vindication of constitutional rights…serves[s] the public interests almost by definition." *Detzner*, 314 F. Supp. 3d at 1224. (internal quotations omitted); *see also Gainesville Woman Care, LLC*, 210 So. 3d at 1263-64; *Green v. Alachua Cnty.*, 323 S. 3d 246, 254-55 (Fla. 1st DCA 2021); *Newsom v. Albemarle Cty. Sch. Bd*., 354 F.3d 249, 261 (4th Cir. 2003) ("Surely, upholding constitutional rights serves the public interest.").

Preventing the unconstitutional implementation and use of the 2026 Plan is of particular public interest. The people themselves, exercising the "power to propose . . . revision or amendment" of their Constitution adopted the Fair Districts Amendment at the ballot box. Art. XI, § 3, Fla. Const.[38] The People's interest in obedience to their constitutionally enacted command cannot be easily discarded. The Fair Districts Amendment, approved by 62.9% Florida voters,[39] signaled that the People were ready to "[a]ddress the problem of partisan gerrymandering" and "restore the core principle of republican government, namely that the voters should choose their representatives, not the other way around." *LWVFL*, 172 So. 3d at 370 (citation modified). The People's intention to end partisan gerrymandering was clear and made manifest in the Constitution. *Id*. at 374 ("[T]here is no question that the goal of minimizing opportunities for political favoritism

[38] Fla. Dep't of State, *Constitutional Amends. Gen. Election Off. Results* (Nov. 2, 2010), https://results.elections.myflorida.com/Index.asp?ElectionDate=11/2/2010&DATAMODE=.
[39] *Id*.

was the driving force behind the passage of the Fair Districts Amendment."); Ex. 1 at 5-11. Thus, the public interest is served in honoring the People's intent in passing the Fair District Amendment.

In contrast, while Plaintiffs would suffer irreparable harm should elections move forward under the 2026 Plan, any burden and harm to the state is minimal. And strong deference is afforded in balancing interests when a party seeks to preserve voting rights. *See Gonzalez v. Governor of Ga*., 978 F.3d 1266, 1272-73 (11th Cir. 2020).

Here, temporary injunctive relief is feasible without undue hardship. While Defendants may argue they have little time to implement injunctive relief, the relief itself is simple, and only requires "the revival" of the prior map. *League of Women Voters of N.C.*, 769 F.3d at 248. ("[F]or some of the challenged changes…systems have existed, do exist and simply need to be resurrected."). Utilizing the 2022 Plan rather than the 2026 Plan poses little to no burden. The 2022 Plan has been in place for years and was previously used for congressional elections in the state; whereas the 2026 Plan was hastily adopted and its implementation will require more change and work on the part of the state and local election officials to implement, in addition to the additional burden imposed on voters.

The 2026 primary elections are approximately three months away. While this deadline is quickly approaching, it is far from too soon to implement changes. *See League of Women Voters of Fla., Inc. v. Fla. Sec'y of State*, 32 F.4th 1363, 1372 n.7 (11th Cir. 2022). If the State of Florida found no issue with implementing an entirely new map in early May, reviving a map that has already been in place for years should pose minimal burdens.

CONCLUSION

Plaintiffs respectfully request that this Court temporarily enjoin the implementation of HB 1-D, the 2026 Plan as *void ab initio*, which will revive the 2022 Plan for the 2026 congressional

primary and general elections. In light of the impending deadlines for the primary election, Plaintiffs request that this Court expedite consideration of this emergency motion and set it for hearing at the same time as the related hearing already scheduled before this Court on May 15 at 10:00 AM in *Equal Ground Education Fund, Inc., et al.*, *v. Byrd*, Case No. 2026-ca-000914 to ensure that a remedy will be in place in a timely manner and the 2026 congressional elections will be conducted under a lawful plan.

Respectfully submitted this 8th day of May, 2026,

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*motions for admission *pro hac vice* pending
**motion for admission *pro hac vice* forthcoming

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record through the Florida Courts E-Filing Portal on this 8th day of May, 2026.

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