

HB 1491 Congressional District – Standards
2020 Legislative Session
Rules and Executive Nominations Committee
Written Testimony
March 2, 2020

Gerrymandering certainly is not new. In 1812, a Boston newspaper editor coined the term when Elbridge Gerry, signer of the Declaration of Independence and then-governor of Massachusetts, approved a redistricting plan, including a notorious salamander-shaped district, that heavily favored his political party. Nowadays, gerrymandering, bolstered by sophisticated computer algorithms and databases, can slice district lines with surgical precision, all designed to keep a political party, or politician, in power despite the will of the voters. Who started it, who most benefits from it begs the question: gerrymandering affects all of us, Republicans and Democrats alike, because the system doesn't work when some are not fairly represented. While the legal arguments can get rather complicated, the principles are simple: each person's vote should count, and each community's voice should be heard. As the *Capital* newspaper recently noted, voters should be choosing their politicians, not politicians choosing their voters. Jimmy DeButts, from the *Capital*, had it right when he said gerrymandering "is killing democracy....it's by design, and it's only escalating divisive political discourse."

According to a report in the Washington Post, Maryland has the dubious distinction of being tied with North Carolina for having the most gerrymandered Congressional districts in the United States. As you know, our current districting process is that, every ten years, ostensibly based on the changes reflected in the most recent census, the Governor and the General Assembly redraw the lines of Maryland's eight Congressional districts. The reality is that many of those lines have recently been drawn so that areas, neighborhoods, and towns that bear little in common geographically or politically are combined to choose their representation in Washington. Following the 2010 census, Governor O'Malley redrew the Congressional district lines and relocated approximately one and a half million voters-approximately a quarter of the state's population- into new Congressional districts, with the obvious purpose to maximize his party's chances of electing Congressional Representatives. Under the current districting scheme, of Maryland's eight Congresspersons, four of them represent some small part of Anne Arundel County, so Pasadena shares a Congressman with Suitland in District 4, Edgewater with Pikesville in District 3, and Brooklyn Park with Aberdeen in District 2. To truly visualize this problem, I urge you to look at a map of our Congressional districts, which The Washington Post likened to "blood spatter at a crime scene" the Supreme Court, a "crazy quilt," and a high school friend of my wife's, a "constipated dragon."

According to a Goucher poll, Marylanders overwhelmingly prefer having an independent commission, not political incumbents, draw district lines. In August 2015, Governor Hogan established a bipartisan committee to address redistricting, which resulted in the Hogan-backed Redistricting Reform Act of 2017. Unfortunately, this redistricting reform did not pass. What did pass was a proposal for a "Mid-Atlantic Regional Compact," which basically says that Maryland will only address redistricting reform

if all of five states - New York, New Jersey, Pennsylvania, Virginia and North Carolina - embrace redistricting reform by 2020. Alexander Williams, Jr., a former U.S. District Court judge and former State's Attorney for Prince Georges County, criticized the Compact in the Baltimore Sun, saying it makes no sense, would not assure a fair, balanced and non-partisan system, and is a "frivolous distraction in place of a willingness to tackle reform seriously." Simply put, while cooperation between states is a laudable goal, waiting to act until five other states act means that, in all likelihood, no action will be taken. Given that the Compact was unlikely to accomplish anything, Governor Hogan vetoed it.

This year I have brought the fight back to the state legislature. Before you is HB 1491 calling for Maryland's Congressional districts to be drawn so that each district would be **"of adjoining territory, be compact in form, and be of substantially equal population,"** with due regard given to **"natural boundaries and the boundaries of political subdivisions."** Maryland's Constitution currently requires that state delegate and senatorial districts be drawn according to these standards, but Maryland's Constitution does not include Maryland's Congressional districts in that requirement. Should this bill pass, a proposed amendment to Maryland's Constitution would be placed on the November ballot, thus placing the gerrymandering issue squarely in the hands of Maryland voters. I believe that if Maryland's Constitution applied the same standards to both state and Congressional districts, that both be compact, include adjoining areas, and respect natural and political boundaries, Maryland's current Congressional district lines would be unconstitutional under Maryland law. In 2002, Maryland's highest court applied these same Maryland Constitutional standards to invalidate gerrymandered districts in numerous areas of Maryland in response to fifteen (15) petitions challenging the map prepared by Governor Glendening and the General Assembly. (*In the Matter of Legislative Districting in the State*, Maryland Court of Appeals 379 Md, 312 (2002)). Similarly, in 2018, Pennsylvania's highest court relied upon its own Constitution, not the United States Constitution, to invalidate politically motivated gerrymandered Congressional districts.

Last year, the Supreme Court resisted involvement in non-racial gerrymandering, believing that the Supreme Court is not the appropriate arena for such disputes. Applying standards that Maryland has already created and interpreted to Congressional districts would give Marylanders better ability to fight gerrymandering without having to rely on the Supreme Court. With this legislation, Maryland would be better able to fix the problems in its own backyard, without negotiating interstate compacts.

HB 1491 has widespread bipartisan support (Sixty-five (65) co sponsors). The entire Republican delegation and Twenty three (23) Democrats have agreed to co-sponsor this bill, including delegates from throughout Maryland. After reviewing HB 1491, Governor Hogan stated that "Maryland has the unfortunate distinction of being one of the most gerrymandered states in the country," said Governor Larry Hogan. "Now is the time for us to come together in a bipartisan fashion to finally ensure fairness in both congressional and legislative districts so that voters choose their representatives – not the other way around. Free and fair elections are what our citizens want, expect, and deserve." As The *Capital's* former editor Jimmy DeButts suggested, let's have our Congressional districts look more like children's building blocks than the monsters in their nightmares. Let's not be lemmings following entrenched political leaders here and in other states off the cliff of excessive partisanship. Let's do the right thing, end GerryMaryland, for all Marylanders.

I ask for you to vote **FAVORABLE on HB 1491**

Delegate Michael Malone