



## Gerrymandering Reform Hits An Unfamiliar Obstacle In Maryland: Democrats

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A party with firm control of the state legislature strengthens its grip on power by drawing electoral boundaries that makes it extremely difficult for members of the opposition party to win.

Since 2010, that's largely been the story of Republicans, who had overwhelming control of the redistricting process in 2011 and ruthlessly drew district lines to make it hard for Democrats to win legislative and congressional races. It's an approach that accounts for 16-17 Republican seats in Congress, according to the Brennan Center for Justice. Facing that severe disadvantage, Democrats have led a strong push to fight partisan gerrymandering in the courts and through ballot measures that would make the mapmaking process more fair.

But in Maryland, Democrats who want to rein in the unfair process face a dilemma. The party controls the state legislature and benefits from gerrymandering, holding seven of the state's eight seats in Congress. Democrats have stymied efforts by Maryland Gov. Larry Hogan (R) to pass legislation that would require a more neutral process for drawing maps, saying it is an effort to flip a Democratic seat in Congress to Republicans. Hogan said on Wednesday he would push for legislation to implement an independent commission to oversee redistricting for the fourth year in a row.

The situation in Maryland underscores a difficult question facing Democrats and left-leaning groups who are pushing for reform ahead of the next round of redistricting in 2021. Will Democrats, disadvantaged by gerrymandering for so long, support reform in places where it means conceding some of their power?

Del. Kirill Reznik (D), a lawmaker who has introduced his own redistricting legislation, questioned why Democrats should give anything up.

"Democrats are always expected to do the political right thing, but then when we expect Republicans to follow, I have this image of them walking off to another room and giggling and pointing at us," Reznik said in an interview. "Democrats are expected to act and then Republicans do not follow. They claim they will follow, but they don't follow."

He noted that California, a Democratic stronghold, had adopted an independent redistricting commission, but Republican states like Texas and Ohio had not followed suit.

Reznik has opposed Hogan's proposal for a bipartisan redistricting panel, but last year introduced legislation to adopt a more neutral redistricting process as long as five other states — New York, New Jersey, Pennsylvania, Virginia and North Carolina — did so as well. The idea behind the compact was to make sure any congressional representation Democrats in Maryland lost in a new redistricting process was offset by concessions in other states.

Reznik described the idea as “unilateral disarmament,” but Hogan vetoed the legislation in May, calling it a “phony bill” setting reform conditions so difficult they would never happen.

Ashley Oleson, the administrative director for the Maryland chapter of the League of Women Voters and a member of Hogan's redistricting reform commission, was skeptical six states could agree to do something together about gerrymandering.

“Given the challenges each state has to do their redistricting process, a compact between six states would not be very realistic to get the job done for this next Census, let alone the one following that,” she said in an interview. “Getting six states to do something substantially similar in this process would take a ton of time and not really get the job done.”

Reznik said he's open to a smaller pact between Maryland and Virginia.

In 2015, a bipartisan redistricting commission established by Hogan offered a series of recommendations to make mapmaking fairer in Maryland. Instead of having lawmakers draw the maps, they suggested appointing a nine-member bipartisan panel. To prevent political gerrymandering, the commission recommended the panel not be able to consider past voter information or the addresses of candidates, and should make the data available to the public. The only two members of the commission who didn't support the recommendations were the Democratic appointees from the legislature, said Walter Olson, a senior fellow at the Cato institute and one of the commission's co-chairs.

Hogan did not respond to an interview request and Maryland House Speaker Michael Busch and Senate President Thomas Miller, both Democrats, did not respond to request for comment. When Hogan vetoed Reznik's legislation in May, Busch and Miller released a joint statement saying Hogan's redistricting efforts were a ploy to get more Republicans elected to Congress.

Patrick Rodenbush, a spokesman for the National Democratic Redistricting Committee, a group led by former Attorney General Eric Holder that is focused on redistricting reform, declined to comment on Hogan's proposals, saying the group was still evaluating them.

Damon Effingham, the legal and policy director of Common Cause Maryland, a public interest watchdog that supports redistricting reform, said it was a difficult conversation with Democrats in the state, who support it in theory, but are leery of ceding power when Republicans have used the process so strongly to their advantage in other states.

“It's a very tough discussion because it's always that two step process. ‘We want to get rid of it, but we also don't want to give up this at this moment,’” he said in an interview.

Registered Democrats outrank Republicans nearly 2 to 1 in Maryland and Effingham frequently tells Democrats a more neutral redistricting process would probably only result in the party

giving up one Congressional seat. With Hogan's high popularity, Effingham has also tried to tell Democrats it might be to their advantage to have a bipartisan redistricting process if Hogan wins reelection and is in office during the next round of redistricting.

Still, he said, some Democrats are unconvinced.

“Some Democrats, I think more entrenched in the general assembly, probably still think they have a good deal of control over the process no matter who's the governor after 2018, which is somewhat true,” he said. “They just double back to the idea this is done much worse in other states by Republicans and until something happens there, they don't want to give up the one place that has this.”

The U.S. Supreme Court could also impact the way maps are drawn in Maryland. In a surprise move last week, the court agreed to hear a challenge to one of Maryland's congressional districts in which the plaintiffs argue Democrats violated their First Amendment rights, effectively punishing them for their support of Republican candidates by placing them in a Democratic district. Combined with a case out of Wisconsin, in which Democrats are challenging a Republican-drawn map for the Wisconsin assembly, the high court could for the first time set a standard to determine when partisan gerrymandering violates the U.S. Constitution.

Richard Hasen, an election law expert at the University of California, Irvine, speculated the court may have taken the Maryland case to show that egregious gerrymandering is a problem for both Democrats and Republicans. The high court may want to show, Hasen hypothesized, it is not siding with one party or the other by striking down a gerrymandered map.

Olson, the co-chair of Hogan's commission, said he frequently reminds Republicans who control state houses now that they won't be in power forever and that refusing to fix a problem voters are increasingly frustrated with will only further sap their enthusiasm.

“It is power here that seems to be the corrupting factor. Both parties, when in power, have done a whole lot of this,” Olson said. “The best time to be principled is when you're being magnanimous and no one is forcing this out of you. People remember when you've done the right thing before you had to.”