

The Virginia and US Supreme Court Cases

Wait! What??

The Virginia Case: The Chronology

The six newly redistricted states:

- Texas (Aug 25)
- Missouri (Sep 25)
- North Carolina (Oct 25)
- Ohio (Oct 25)
- Utah (Nov 25)
- California (Nov 25)

The state that has begun redistricting:

- Florida (Passed, sent to Gov)

The three states that have introduced redistricting legislation:

- South Carolina (Dec 25)
- Maryland (Feb 25)
- Washington (Jan 26)

Some states where litigation is pending:

- Alabama
- Louisiana
- North Dakota
- Wisconsin
- Virginia (Apr 27 oral arguments)

What is the projected impact of the 2026 redistricting on the House?

Current party balance:

Majority: 218 (217 R, 1 I)

Minority: 217 (214 D, 3

Vacant)

- Texas: +5 R
- Missouri: +1 R
- North Carolina: +1 R
- Ohio: +2 R
- Utah: +1 D
- California: +5D

Total: +3 R, -3 D

Resulting party balance:

Majority: 221 (220 R, 1 I)

Minority: 214 D

What would Virginia's impact be?

Virginia's delegation could change from 6 D, 5 R to 10 D, 1 R

- Virginia: +4 D

Total: +4 D, -4 R

Resulting party balance:

Majority: 218 D

Minority: 217 (216 R, 1 I)

Virginia could change control of the House of Representatives from Republican to Democratic

How We Got Here

- October 27-31, 2025: Virginia General Assembly Special Session
- October 31, 2025: Preliminary approval of proposed amendment
- November 4, 2025: State general election
- January 16, 2026: Final approval of proposed amendment, referendum date set
- **January 27, 2026: Judge Hurley rules that the amendment is unlawful, blocks ballot**
- February 13, 2026: SCOTVA permits referendum to proceed
- **February 19, 2026: Judge Hurley rules amendment process unlawful, blocks ballot**
- March 2, 2026: SCOTVA delays ruling on merits, permits ballot to proceed
- April 21, 2026: Referendum approves amendment (51.69%Y-48.31%N)
- **April 22, 2026: Judge Hurley issues injunction barring certification of vote**
- April 27, 2026: SCOTVA hears oral arguments
- April 28, 2026: SCOTVA denies request to stay Hurley's injunction on certification

The Arguments Before SCOTVA

Scott v McDougal

Plaintiff (Commonwealth):

1. Referendum was a valid expression of voter will to counter nationwide gerrymandering.
2. Participation in voting does not constitute the election itself.
3. A single county court clerk refusing to post the necessary notice cannot negate a constitutional amendment
4. The intervening election requirement was met because early voting is not the election.

Defendant (GOP):

1. General Assembly improperly used a special budgetary session to propose a constitutional amendment without the necessary 2/3 majority to introduce new business.
2. Virginia's Constitution requires an intervening general election between the required two General Assembly votes, and early voting began on January 6, 2026, before the second vote.
3. The legislature failed to follow all amendment rules that require public postings on courthouse grounds.
4. The language on the ballot was intentionally deceptive by not stating that the amendment would remove the Virginia Redistricting Commission from the redistricting process.

The Voting Rights Act of 1965

A History Lesson

13th Amendment (1866): Slavery prohibited nationwide.

14th Amendment (1868): Birthright citizenship, equal protection under the law.

15th Amendment (1870): Voting rights cannot be denied due to race, color, previous servitude, Congress can enforce.

Enforcement Acts, including the **Civil Rights Act of 1871**, criminalized obstruction of voting, provided federal supervision of elections, authorized use of military force, allowed suspension of habeas corpus. Unconstitutional in 1874. Troops withdrawn in 1877.

Jim Crow Era: 1898-1908, Statutes and new constitutions enshrine white supremacy.

Civil Rights Act of 1957: Creates DOJ Civil Rights Division and Commission on Civil Rights.

Civil Rights Act of 1960: Allows court-appointed referees to register voters. Precipitates massive resistance.

Civil Rights Act of 1964: Outlawed discrimination, barred unequal application of voter registration requirements.

Voting Rights Act of 1965: Most significant change in federal-state relationships since Reconstruction.

1. Nationwide protection of voting rights.
2. Prohibits loss of vote on race, color, or language minority group (Sec 2) (permanent law)
3. Bans literacy and other discriminatory tests
4. Establishes “special provisions” for certain jurisdictions (Sec 5)
5. Reauthorized and expanded in 1970, 1975, 1982, 1992, 2006

SCOTUS Hacking Away at the Voting Rights Act

2013

Shelby County v Holder: Coverage formula outdated and obsolete

- Rendered Sec 5 “special provisions” unenforceable
- Purges of voter rolls followed

2021

Brnovich v DNC: Reinterpreted Sec 2 to narrow “totality of circumstances”

- Fears of election fraud, not evidence of fraud, could justify new voting rules

2026

Louisiana v Callais: Further weakens Sec 2

- Restricts use of race in VRA lawsuits because Sec 2 does not strictly require second majority Black district
- Requires “disentanglement” of race and partisanship to establish violations
- Highlights inherent conflict between 14th Amendment (no racial discrimination) and VRA (no racial vote dilution)

DO YOUR OWN HOMEWORK

Online expert analysts you trust
Nonpartisan news sources (Ground News)
Select nonpartisan government sources
Inquiries to your representatives
Use your judgement

The screenshot shows the CONGRESS.GOV website. At the top, there are navigation links for "Advanced Searches" and "Browse". A search bar contains the text "Examples: hr5, sres9, 'health care'". Below the search bar, there are links for "Citation", "Subscribe", "Share/Save", and "Site Feedback". The main content area is titled "The Voting Rights Act: Historical Development and Policy Background". A sidebar on the left provides details about the CRS Product (Library of Congress) for this report, including the product type (Reports), product number (R47520), referenced legislation (H.R. 4), topics (Congressional Administration & Elections), publication date (04/25/2023), and author (Garrett, R. Sam). At the bottom, there are links to "Download PDF (2MB)" and "PDF Version History", and a "Listen" button.

The screenshot shows the LEGISLATIVE INFORMATION SYSTEM (LIS) website. At the top, there are navigation links for "Session Information", "Bills & Resolutions", "State Budget", "Virginia Law", and "Reports to the General Assembly". A search bar contains the text "Search for keyword, chapter, or bill number". Below the search bar, there are filters for "2026 Regular Session", "Bills by Subject", "Bills by Member", and "Bills Introduced by Day". The main content area is divided into three columns: "Bills & Resolutions", "2026 Session Information", and "Upcoming Schedule". The "Bills & Resolutions" column lists links for "2026 Session: Bills by Category", "All Legislation", "Budget Bill: State Budget", "Bill Indexes: Cumulative Index", and "LOBBYIST in a BOX". The "2026 Session Information" column lists links for "Session dates: January 14, 2026 - March 14, 2026", "Reconvened: April 22, 2026", "Delegates & Senators", "Standing Committees", "Daily Floor Calendars", "Communications", "Minutes: House | Senate", "Video: House | Senate", "Committee Statistics: House | Senate", and "Session Statistics: By Status". The "Upcoming Schedule" column lists events for "May 1, 2026" (State Board of Elections) and "May 4, 2026" (Joint Legislative Audit and Review Commission).