SC101570

IN THE SUPREME COURT OF MISSOURI

ELIZABETH HEALEY, et al.,

Appellants,

v.

STATE OF MISSOURI, et al.,

Respondents.

From the Circuit Court of Jackson County, Missouri
The Honorable Adam L. Caine, Circuit Judge

# APPELLANTS' BRIEF


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## INTRODUCTION

This Court has provided clear directives on how to apply the Missouri Constitution's "mandatory and objective" compactness requirement. *Pearson v. Koster* ("*Pearson II*"), 367 S.W.3d 36, 48 (Mo. banc 2012). First, a court shall not use measures of "physical shape or size" as "the decisive factor in determining whether a district departs from the principle of compactness." *Id.* at 48–49. Instead, it must consider "the totality of the evidence" to assess whether "each district [is comprised of] 'closely united territory' as may be." *Id.* at 55. "This test involves a determination of whether there is a departure from the principle of compactness in the challenged district and, if there are minimal and practical deviations, whether the district is nonetheless 'as compact . . . as may be' under the circumstances." *Id.* at 48 (citing *Pearson v. Koster*, 359 S.W.3d 35, 40 (Mo. banc 2012) ("*Pearson I*")). Proving that a district is non-compact "is not burdensome on the plaintiff." *Johnson v. State*, 366 S.W.3d 11, 31 (Mo. banc 2012). A plaintiff "needs only to submit maps or other evidence that objectively shows" that the challenged district boundary cannot be explained by "federal laws or other recognized factors" "or that it goes beyond a 'minimal and practical deviation.'" *Id.* Whether the compactness requirement is satisfied "is determined objectively, requiring no proof of the subjective intent" of the legislature. *Id.*

The circuit court ignored each of these directives. It focused exclusively on measures of districts' shape and size to conclude that Districts 4, 5, and 6 of the congressional plan enacted by House Bill 1 ("H.B. 1" or "2025 Plan") do not depart from principles of compactness. *See* D31 p. 24; App 24. It compounded that error by rejecting as "legally irrelevant" the array of additional evidence demonstrating that the challenged

districts do not consist of closely united territory. *See* D31 pp. 26–28; App 26–28. It failed to consider whether the challenged districts' departure from compactness went "beyond a 'minimal and practical' deviation." *See Johnson*, 366 S.W.3d at 31. It improperly interpreted and then applied the *Pearson II* factors related to political subdivision boundaries. *See* D31 pp. 25–26; App 25–26. And it erroneously relied on the hypothetical subjective intent of the General Assembly to discount Appellants' evidence, which showed that the challenged districts depart from compactness and that their configuration is not the result of the *Pearson II* factors. *See* D31 pp. 27–28; App 27–28.

The circuit court committed reversible error by misapplying *Pearson II* and reaching conclusions against the weight of the evidence. Under a correct application of *Pearson II*, Appellants undoubtedly met their burden to prove that the challenged districts violate article III, section 45's compactness requirement. The 2025 Plan dramatically reconfigures the Kansas City area, which for decades had been largely contained in one district, by carving the region across three congressional districts. The result: for the first time in Missouri's history, the long-standing, closely united territory within and around the Kansas City region is fractured and haphazardly combined with areas hundreds of miles away, transforming the districts to span territory that is neither "close[]" nor "united."

Appellants respectfully request that this Court reverse the judgment of the circuit court and enter judgment declaring that the 2025 Plan, H.B. 1, violates the compactness requirement of article III, section 45; declaring that the 2022 Plan, H.B. 2909, remains the state's legally operative congressional map; and permanently enjoining State and Board Respondents from enforcing H.B. 1. Rule 84.14.

## JURISDICTIONAL STATEMENT

This appeal challenges the validity of the congressional redistricting map enacted by the General Assembly as H.B. 1 (codified as §§ 128.345, 128.346, 128.348, 128.471, 128.472, 128.473, 128.474, 128.475, 128.476, 128.477, 128.478, and 128.479) under the compactness requirement contained in article III, section 45 of the Missouri Constitution. Because this case involves "the validity . . . of a statute," it falls within the exclusive appellate jurisdiction of the Missouri Supreme Court pursuant to article V, section 3 of the Missouri Constitution.

Appellants raised their constitutional claim in their Petition, preserved it in the circuit court (as discussed herein), and properly present that claim in this appeal. *See Comprehensive Health of Planned Parenthood Great Plains v. State*, 729 S.W.3d 222, 225 (Mo. banc 2025).

## STATEMENT OF FACTS

### I. H.B. 2909 (the "2022 Plan")

On April 26, 2021, the U.S. Census Bureau released the congressional apportionment results indicating that Missouri was entitled to eight U.S. congressional representatives and certified this result to the Governor of Missouri. PX 87 p. 5; App 37.[1] On August 12, 2021, the U.S. Census Bureau released the 2020 Census redistricting data files which contain the detailed population tabulations used for congressional redistricting. PX 87 p. 5; App 37.

Nine months later, on May 18, 2022, the Governor signed into law a congressional map drawn based on 2020 census data ("H.B. 2909" or "2022 Plan"). PX 87 p. 6; App 38; *see also* PX 43, 44. At the time of its passage, the Governor publicly praised the 2022 Plan as one that "meets our constitutional requirements." PX 50. Throughout the 2022 redistricting process, lawmakers likewise described the proposed configuration of congressional districts as "fair and constitutional" with "common-sense boundaries that everyday Missourians can recognize," drawn in careful compliance with both Missouri and federal law. PX 45; *see also* PX 46, 47 (lawmakers praising the 2022 Plan options as "keeping communities of interest and like-mindedness together"); PX 48 at 1:06:20 p.m. (member of the House Special Committee on Redistricting describing the 2022 Plan as "constitutional" with regard to population equality, compactness, and contiguity).

The 2022 Plan was implemented in time for the August 2022 primary election. *See*

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[1] Pinpoint citations to exhibits and the record refer to the internal page numbers printed on the document itself, rather than the page number of the exhibit's PDF file.

PX 87 pp. 6–7; App 38–39. This was so even though the candidate filing window for the election had closed more than a month *before* the map was enacted into law. PX 87 p. 6–7; App 38–39; *see also* PX 87 p. 7; App 39 (noting there is no requirement under state or federal law that a congressional candidate reside in the district the candidate seeks to represent). After the electronic file representing the district boundaries for the 2022 Plan was transmitted by the Director of Elections for the Secretary of State to local election officials ("LEAs") in mid-May, the LEAs implemented the new district boundaries by May 24, 2022, the final certification date for the primary elections. *See* PX 87 p. 6–7; App 38–39; *see also* PX 35, 36.

The 2022 Plan was used to elect the state's congressional delegation in the 2022 and 2024 primary and general elections. PX 87 p. 7; App 39. No court has ruled that any district in the 2022 Plan violated the federal Voting Rights Act or the Equal Protection Clause of the U.S. Constitution, PX 87 p. 10; App 42, and all parties agree that the federal Voting Rights Act did not necessitate any changes to Districts 4, 5, or 6 in the 2022 Plan, PX 87 p. 10; App 42.

## II. H.B. 1 (the "2025 Plan")

On August 29, 2025, Governor Mike Kehoe issued a Proclamation calling an extraordinary session of the General Assembly. PX 30. The Proclamation indicated the state would reconsider its congressional map, stating that "our congressional delegation should reflect the values of Missourians." *Id.*; *see also* PX 31, 32; PX 87 p. 8; App 40. Along with the Proclamation, the Governor released a congressional map he called the "Missouri First Map." PX 87 p. 8; App 40; *see also* PX 33. The next day, the Governor

posted on the platform X a statement from President Trump that the map "will give the incredible people of Missouri the tremendous opportunity to elect an additional MAGA Republican." PX 33. The Governor's post thanked President Trump, touting the Missouri First Map as furthering "Missouri's conservative, common-sense values . . . at all levels of government." *Id*.

On September 3, 2025, Rep. Dirk Deaton introduced the Missouri First Map as House Bill 1 (2025). PX 87 p. 8; App 40; *see also* PX 40; App 48–175. On September 12, 2025, the General Assembly passed the map, and Governor Kehoe signed it into law on September 28, 2025. PX 87 p. 9; App 41; *see also* PX 40; App 48–175; PX 41; App 176; PX 42.

**III. Appellants' lawsuit**

On September 28, 2025, the day that the 2025 Plan was signed into law by Governor Kehoe, Appellants Elizabeth Healey, Giselle Anatol, Marques Bussey, Mary Sapp, Louie Wright, Sarah Beagle, Kyle Heard, Tom Self, Janet Sorrells, Margaret Wolf Freivogel, Sorin Nastasia, Morton Todd, Colleen Coble, Beverly Rollings, Lane Nichols-Elliott, and Randal McCallian (collectively, the "*Healey* Appellants") filed this lawsuit against the State of Missouri and Secretary of State Denny Hoskins (collectively, the "State Respondents"), as well as the Jackson County Board of Election Commissioners, the Kansas City Board of Election Commissioners, and their respective commissioners and directors (collectively "the Board Respondents"). Two weeks earlier, on September 12, 2025, Terrence Wise, Aimee Riederer Gromowsky, Cynthia Wrehe, and Cynthia Kay Lakin

(collectively, the "*Wise* Appellants") also filed a similar lawsuit against the same respondents.

The *Healey* Appellants alleged that the 2025 Plan—and specifically Districts 4, 5, and 6—violate the compactness requirement in article III, section 45 of the Missouri Constitution. The *Wise* Appellants brought the same compactness claim as to Districts 4 and 5. The *Wise* Appellants also brought two other claims alleging that the "double assignment" of Voting Tabulation District ("VTD") KC 811 in the 2025 Plan: (1) violates section 45's equal population requirement, and (2) violates section 45's contiguity requirement.[2]

On December 10, 2025, the circuit court joined the *Healey* and *Wise* cases for the purpose of future hearings and trials. *See* D12. The Missouri Republican State Committee was also granted intervention that same day ("Intervenor Respondents"). *Id.*

The parties were originally scheduled to go to trial at the end of January 2026. But on January 7, 2026—28 days after intervention was granted and just three weeks before a joint bench trial was scheduled to begin—Intervenor Respondents applied for a change of judge under Rule 51.05(b). *See* D17. The matter was reassigned and trial delayed until late February 2026.

A four-day bench trial was held from February 17 to February 20. The *Healey* Appellants' witnesses in their case in chief included expert witness Dr. Jonathan Rodden,

[2] Both the *Healey* and *Wise* Appellants also brought a claim that the 2025 Plan was an unlawful mid-decade redistricting plan, but both sets of Appellants have since dismissed that claim. *See* D32.

Appellants Giselle Anatol, Louie Wright, and Marques Bussey, and fact witnesses Reverend Mindy Fugarino and Dr. Mary Esselman. *See* D30 pp. 5–7, 11, 13–14. The *Wise* Appellants' witnesses in their case in chief included expert witnesses Dr. Jonathan Cervas, Dr. Ari Stern, Dr. John Cromartie, Plaintiff Terrence Wise, and fact witness Kansas City Mayor Quinton Lucas. *See id*. pp. 5, 9–10, 12–14. The State Respondents called expert witness Dr. Sean Trende and fact witness Shawn Kieffer, a Director of the Kansas City Board of Election Commissioners. *Id.* pp. 15–20; Tr. 684. The Intervenor Respondents called expert witness Dr. M.V. Hood III. D30 pp. 16–17.

On March 12, 2026, the Circuit Court of Jackson County issued an Order and Judgment finding the 2025 Plan is constitutionally compact and denying Appellants' request for relief. The circuit court held that "the 2025 Plan complies with the requirement that 'districts shall be comprised of contiguous territory as compact . . . as may be.'" D31 p. 22; App 22 (quoting Mo. Const. art. III, section 45). The court concluded, based exclusively on statistical metrics of compactness, that Appellants had failed to show that the 2025 Plan or the challenged districts depart from the principle of compactness. D31 p. 24; App 24. In so doing, the court examined "statewide" compactness scores—that is, the average scores of all eight congressional districts—of the 2025 Plan as compared to the statewide compactness scores of earlier plans. D31 pp. 23–24; App 23–24. The court also considered whether the challenged districts "outperform[] the least compact district" in the 2012 and 2022 Plans on various statistical metrics. D31 p. 24; App 24.

The circuit court also concluded that much of the testimony Appellants provided at trial was "legally irrelevant" because, in the circuit court's words, "Missouri law 'does not

recognize . . . maintaining communities of interest' as a factor for the General Assembly to consider when redistricting." D31 pp. 27–28; App 27–28 (quoting *Johnson*, 366 S.W.3d at 30). On this basis, the circuit court dismissed the testimony provided by Appellants' experts demonstrating the disparities in population density, transportation connections, and industry patterns within the challenged districts as a mere "policy preference." D31 p. 28; App 28.

The circuit court further held that "[a]ny 'deviations' from compactness in the challenged districts are 'practical' and justified by the General Assembly's adherence to other requirements and traditional principles in the 2025 Plan statewide." D31 p. 25; App 25 (quoting *Pearson II*, 367 S.W.3d at 48). Once again, the court focused primarily on *statewide* metrics to determine that "the 2025 Plan improved county and municipal splits as compared to the 2022 Plan." D31 p. 25; App 25. It also noted that the 2025 Plan "generally follows state senate boundaries," D31 p. 25; App 25, even though this Court did not mention adherence to state legislative district boundaries as a factor in *Pearson I* or *Pearson II*, *see generally* 359 S.W.3d 35; 367 S.W.3d 36. The court also dismissed Appellants' undisputed expert evidence on population density, positing that "Missouri legislators might have wanted to unite areas with *different* population density in the same district." D31 p. 27; App 27.

Finally, the circuit court held that "[t]he alternative maps advanced by the [Appellants] do not prove the 2025 Plan is unconstitutional." D31 p. 29; App 29. In support, the court explained that "[t]here is no requirement to maximize compactness under Missouri law." D31 p. 29; App 29. The court also noted that Appellants' experts "conceded"

they did not have evidence of "how [the General Assembly] decided to make [certain] tradeoffs" and thus could not "account for the policy preferences the General Assembly made throughout the legislative process and the creation of the 2025 Plan." D31 p. 27; App 27.

Both the *Healey* and *Wise* Appellants appealed the circuit court's decision to this Court. *See* D40; *Wise* D113. Appellants moved under Rule 81.045 to shorten the time in which the circuit court had jurisdiction, *see* D35; D34, and then sought expedited briefing before this Court. *See* Mot. to Expedite Appellate Proceedings and Consolidate Appeals, *Healey v. Missouri*, No. SC101570 (Mar. 24, 2026). Appellants explained that "the final outcome of this litigation will determine which congressional map governs the upcoming elections, Appellants will be prejudiced absent expedition, and there is a strong public interest in establishing certainty and constitutionality of the state's congressional lines before the August 4, 2026 primary elections." *Id.* p. 3.

## POINTS RELIED ON

**Point I: The circuit court erred in concluding that the challenged districts do not depart from compactness under article III, section 45, because it misapplied the law, in that exclusive reliance on statistical measures of a district's physical shape and size contradicts *Pearson II*'s explicit directive that these measures may not be the decisive factor in the compactness inquiry.**

- Mo. Const. art. III, § 45
- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012)

**Point II: The circuit court erred in holding that the challenged districts do not depart from compactness under article III, section 45, because it misapplied the law, in that compactness must be assessed district-by-district, not by statewide averages of compactness metrics, or by comparing the challenged districts to the worst-performing districts in prior plans.**

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**Point III: The circuit court erred in disregarding Appellants' qualitative evidence of compactness deviations as "legally irrelevant," because the court misapplied the law, in that *Pearson II* contemplates consideration of such evidence in assessing whether a district comprises "closely united territory" and Johnson does not hold otherwise.**

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- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012)
- Kurtis A. Kempter, Annotation, *Appl. of Const. "Compactness Requirement" to Redistricting*, 114 A.L.R. 5th 311, Part II, § 3(b) (2003)

**Point IV: The circuit court erred in failing to determine whether the challenged districts' departures from compactness were minimal and practical deviations, because it misapplied the law, in that the Court's precedent requires such a determination to be made under article III, section 45.**

- Mo. Const. art. III, § 45
- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012)

**Point V: The circuit court erred in concluding that the challenged districts' departures from compactness are justified by adherence to political subdivisions, because it misapplied the law, in that *Pearson II* requires a qualitative analysis of subdivision splits that does not include consideration of state legislative districts.**

- Mo. Const. art. III, § 45
- Mo. Const. art. X, § 1
- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Preisler v. Doherty*, 284 S.W.2d 427 (Mo. banc 1955)

**Point VI: The circuit court erred in relying on hypothetical "policy preferences" of the General Assembly to discount Appellants' evidence and justify departures from compactness, because it misapplied the law, in that compliance with article III, section 45's compactness requirement is mandatory and objective, such that the subjective intent of the legislature cannot override the constitutional mandate.**

- Mo. Const. art. III, § 45
- *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012)
- *Pearson v. Koster*, 359 S.W.3d 35 (Mo. banc 2012)
- *Faatz v. Ashcroft*, 685 S.W.3d 388 (Mo. banc 2024)

**Point VII: The circuit court erred in rejecting Appellants' alternative map evidence as failing to account for all of the General Assembly's policy preferences, because it misapplied the law, in that this Court has held that alternative maps must simply demonstrate that challenged deviations from compactness were not necessary to comply with the *Pearson II* factors.**

- Mo. Const. art. III, § 45
- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Faatz v. Ashcroft*, 685 S.W.3d 388 (Mo. banc 2024)
- *Johnson v. State*, 366 S.W.3d 11 (Mo. banc 2012)

**Point VIII: The circuit court erred in its judgment that District 5 does not violate article III, section 45's compactness mandate, because it is against the weight of the evidence, in that Appellants' evidence that the district violates closely united territory in a manner not justified by the *Pearson II* factors overwhelmingly outweighs the evidence regarding quantitative metrics and subjective legislative intent relied upon by the circuit court.**

- Mo. Const. art. III, § 45
- *Pearson v. Koster*, 367 S.W.3d 36 (Mo. banc 2012)
- *Weeks v. City of St. Louis*, 721 S.W.3d 873, 876 (Mo. banc 2025)

# ARGUMENT

**Point I: The circuit court erred in concluding that the challenged districts do not depart from compactness under article III, section 45, because it misapplied the law, in that exclusive reliance on statistical measures of a district's physical shape and size contradicts *Pearson II*'s explicit directive that these measures may not be the decisive factor in the compactness inquiry.**

## A. Standard of Review and Preservation of Error

When reviewing a declaratory judgment, this Court will reverse a lower court's judgment if "it erroneously declares the law" or "it erroneously applies the law." *Luther v. Hoskins*, No. SC101412, 2026 WL 815813, at *2 (Mo. banc March 24, 2026) (quoting *Fletcher v. Young*, 689 S.W.3d 161, 164 (Mo. banc 2024)). This Court reviews *de novo* both "questions of law decided in court-tried cases" and "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 43–44.

Appellants preserved this error. Their compactness challenge was included in their Petition. D2 pp. 27–30. Appellants maintained that claim and urged the circuit court to apply a comprehensive analysis of closely united territory, rather than an inquiry focused on just statistical metrics, in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 pp. 7–15; *id.* pp. 8–9 (explaining that *Pearson II* made clear that metrics are not determinative to the compactness inquiry); D30 pp. 98–105; Tr. 845:10–863:7.

## B. Argument

The circuit court's analysis of Appellants' compactness challenge began with a fundamental legal error. Contrary to this Court's binding precedent in *Pearson II*, the circuit court relied exclusively on measures calculating the size and shape of districts to conclude

that Appellants failed to demonstrate that the challenged districts "depart[] from the principle of compactness." D31 pp. 23–24; App 23–24.

This Court made clear in *Pearson II* that "the word 'compact' does *not* refer solely to physical shape or size." 367 S.W.3d at 48 (emphasis added). Instead, Missouri has long defined the term as referring to "closely united territory, a phrase not necessarily limited to physical dimensions." *Id.* This Court has therefore "reject[ed] the proposition that 'compact' refers solely to physical shape or size." *Id.* The Court recognized that scholars "have developed various statistical measures to be utilized in determining compactness," none of which establishes a "threshold level that can be shown by statistics." *Id.* While these measures are not "completely irrelevant," quantitative metrics "alone do not demonstrate that a map is or is not compact." *Id.* at 49 n.10; *see also id.* at 48–49 (evidence of "physical size and shape . . . , although relevant, is not the decisive factor in determining whether a district departs from the principle of compactness").

The circuit court ignored this clear directive. Although it acknowledged the governing standard eschewing reliance on statistical metrics of physical size and shape, D31 p. 21; App 21, it then embraced those statistical measures to conclude that the 2025 Plan, including the challenged districts, does not depart from compactness principles. The circuit court's analysis began with an examination of "Reock and Polsby-Popper measures." D31 p. 23; App 23 ("The 2025 Plan's Reock and Polsby-Popper scores do not suggest any departure from the principle of compactness."). It stacked up various maps and districts as more or less compact on these metrics, and determined that "[t]he 2025 Plan and even the three challenged districts compare favorably to predecessor plans." D31 p. 23;

App 23. The circuit court then proceeded to examine three additional statistical metrics—Convex Hull, IKIWISI, and Schwartzberg—satisfying itself that "[e]ven though District 5 on some measures scores lower than prior plans, it remains within the range of compactness scores in the 2012 and 2022 Plans." D31 p. 24; App 24. Based on this evidence—*and this evidence alone*—the circuit court concluded that "Plaintiffs have not shown that the 2025 Plan or any of the challenged districts 'depart[s] from the principles of compactness.'" D31 p. 24; App 24.

The magnitude of the circuit court's error cannot be overstated. In direct contradiction to this Court's instruction that statistical compactness measures "alone do not demonstrate that a map is or is not compact," *Pearson II*, 367 S.W.3d at 49 n.10, the circuit court used those measures as the "decisive factor" in its determination of "whether a [challenged] district departs from the principle of compactness," *id.* at 49. By relying exclusively on quantitative metrics that measure the size and shape of districts, the circuit court applied the very approach that *Pearson II* "reject[ed]." *Id.*

The circuit court attempted to justify its narrow focus on compactness metrics by citing this Court's discussion of such scores in *Pearson II*. *See* D31 p. 23; App 23 (citing *Pearson II*, 367 S.W.3d at 49 n.10, 53–57). But the circuit court's reading fundamentally misconstrues *Pearson II*. The *Pearson* plaintiffs offered expert testimony based primarily on "statistical measures and [] visual examination" of the challenged district, but agreed that the "statistical tests do not produce a percentage threshold for determining whether a district can be more compact." 367 S.W.3d at 55. Notably, the Court faulted the plaintiffs for their myopic reliance on statistical measures to the exclusion of other evidence that the

district failed to comprise "closely united territory." *See id.* at 55 (noting that the plaintiffs' expert did not consider any other factors, "such as the dispersion of population in a district, when forming his opinion on the compactness of district 5"); *id.* at 56 ("District 5 scored well on the measures of compactness that consider area in combination with population. *Plaintiffs presented no other evidence* regarding population density.") (emphasis added). Consistent with its articulation of the legal standard, the Court determined that these compactness metrics alone were insufficient to establish the plaintiffs' burden that the challenged district is not compact. *Id*. at 54–56.

Accordingly, had Appellants limited their evidentiary showing to the statistical measures relied on by the circuit court, they would have failed to meet their burden under *Pearson II*. That is precisely why they presented a host of additional evidence to demonstrate that the challenged districts failed to encompass "closely united territory," including undisputed evidence that the challenged districts fragment a territory that is closely united in terms of its transit infrastructure, housing patterns, and predominant industrial sectors—along with an analysis of compactness metrics. *See* D30 pp. 56–64. The circuit court, however, erroneously dismissed that evidence as "legally irrelevant." D31 p. 27; App 27; *see infra* Argument, Point III. In short, the circuit court relied exclusively on statistical measures of size and shape—to the exclusion of other evidence demonstrating deviations from compactness—and therefore failed to apply the governing legal standard.

The circuit court's singular reliance on statistical measures to conclude that Appellants had failed to demonstrate that the challenged districts depart from the principle of compactness not only misconstrues the *Pearson II* legal standard—it distorts it beyond

all recognition. *Pearson II*'s holding that statistical compactness measures alone are insufficient to *satisfy* Appellants' burden cannot tolerate an application whereby statistical measures alone are sufficient to *defeat* Appellants' claim.

**Point II: The circuit court erred in holding that the challenged districts do not depart from compactness under article III, section 45, because it misapplied the law, in that compactness must be assessed district-by-district, not by statewide averages of compactness metrics, or by comparing the challenged districts to the worst-performing districts in prior plans.**

### A. Standard of Review and Preservation of Error

This Court reviews *de novo* both "questions of law decided in court-tried cases" and "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 43–44. *See supra* Argument, Point I.A.

Appellants preserved this error. Appellants' compactness challenge was included in their Petition. D2 pp. 27–30. Appellants maintained that claim and urged the circuit court to apply a comprehensive, district-specific analysis of closely united territory in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 pp. 7–16; *id.* pp. 8–9; D30 pp. 98–104, 117–119; Tr. 845:10–863:7; 944:18–945:24.

### B. Argument

The circuit court compounded the error of its reliance on statistical compactness measures by adopting a fundamentally flawed methodology to deploy those metrics. By averaging up compactness scores statewide and lining up the challenged districts' scores against the worst-scoring districts in prior maps, the circuit court both invented and applied a new mathematical threshold for what constitutes "compact," in direct contravention of this Court's precedent.

First, the circuit court erroneously assessed the compactness of the challenged districts by reference to the 2025 Plan as a whole. This Court has made clear that the compactness inquiry under the Missouri Constitution is district-specific. *See Pearson II*, 367 S.W.3d at 48 ("This test involves a determination of whether there is a departure from the principle of compactness *in the challenged district*[.]") (emphasis added); *id.* at 55 (holding that the constitutional compactness standard requires "that *each district* be 'closely united territory' as may be") (emphasis added); *Johnson*, 366 S.W.3d at 24 n.7 ("[T]he determination of the constitutional validity of the map . . . remains focused on whether *each* constitutional requirement is met for *each* district."). Accordingly, Plaintiffs were required to prove "that the boundaries of districts [4], 5, and 6 depart from the principles of compactness," *Pearson II*, 367 S.W.3d at 53, not that the map as a whole is noncompact.

Contrary to this rule, the circuit court assessed and compared "statewide" compactness scores, calculated by averaging scores across all eight congressional districts. *See* D31 p. 23; App 23 ("The 2025 Plan is more compact statewide than the 2012 Plan on both the Reock and Polsby-Popper measures."); D31 p. 24; App 24 ("[T]he 2025 Plan is not unusually non-compact compared to the 2022 Plan that Plaintiffs prefer."); D31 p. 24; App 24 ("The 2025 Plan across all those measures is on average more compact than the 2012 Plan and 2022 Plan."); *see also id.* D31 pp. 6–8; App 6–8. The circuit court's emphasis on the average compactness across statewide maps obscured the departures from compactness in the individual districts Appellants challenge. For instance, under the Polsby-Popper metric, the average statewide compactness score increased 0.05 between the 2022 and 2025 Plans, but District 5's score decreased by more than three times that amount

between those two plans. IX 215 p. 6 & table 3. Similarly, under the Reock metric, the statewide average score saw little change between the 2022 and 2025 Plans, but District 5 saw a sharp decrease in its compactness score. *See id.* pp. 5–6 & tables 1–2.

These figures confirm what Plaintiffs' expert Dr. Rodden explained: "Statewide averages are of limited value in assessing the compactness of the [challenged] districts" because they "can mask the existence of a highly non-compact district in one part of the state with more compact districts elsewhere." PX 28 p. 2. This fundamental observation was not in dispute at trial: State and Intervenor Respondents' experts conceded the point. Tr. 633:6–9 (Dr. Trende); *id.* 757:20–23 (Dr. Hood). By relying on statewide averages, the circuit court adopted a methodology that both contradicts this Court's precedent and obscures the compactness of the districts actually at issue.[3]

Ultimately, if this Court were to endorse the standard applied by the circuit court, it would invite future legislatures to "balance out" the intentional and unjustifiable distortion of boundaries in one district by making unrelated improvements to the boundaries of a different district—all while the statewide average compactness score stays relatively unchanged. The "mandatory and objective" compactness standard articulated by this Court does not allow lawmakers to violate the law in one district by compensating for it in another.

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[3] The circuit court's reliance on Dr. Trende's calculation of statewide average compactness scores for maps stretching back to 1972 further compounds this methodological flaw. *See* D31 p. 24; App 24. As Dr. Trende conceded at trial, the conditions under which each of those older maps were drawn differs significantly from those in existence today. *See* Tr. 668:23–670:7 (Dr. Trende admitting Missouri previously had as many as ten congressional districts, and the state's population has changed and moved over each decennial census).

Second, the circuit court erred as a matter of law in comparing the compactness metrics of individual districts in the 2025 Plan with the lowest-scoring districts from the 2012 and 2022 Plans. *See* D31 pp. 6–7; App 6–7. The court effectively adopted a novel standard of compactness—one that this Court has never endorsed—under which a district is deemed "compact . . . as may be" so long as its score exceeds that of the least compact districts in prior maps. D31 pp. 7–8; App 7–8 (crediting Dr. Trende's assessment that the challenged districts "fall within a range" of previously drawn districts). But that approach says little about whether the district at issue is actually compact. Dr. Trende's comparison illustrates the problem: it contrasts the score of District 5—a district that has historically been among the most compact in Missouri—with districts that, because of "different geographic constraints by virtue of where they are in the state," consistently rank near the bottom of compactness scores. PX 24 p. 3 (Dr. Cervas's Rebuttal Report); IX 215 p. 4 n.5 (Dr. Hood citing a paper that observes comparisons between districts can be inconsequential because of differing initial shapes). By the circuit court's logic, District 5 is a model of compactness compared to, say, districts in the Florida Keys which "necessarily score low on the compactness scales" because of the area's unusual geography. *See In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 635, 646 (Fla. 2012).

As the circuit court recognized, D31 p. 23; App 23, this Court "has declined to adopt a threshold of compactness" that would obviate the need for plaintiffs to provide—and courts to consider—the "totality of the evidence," *Pearson II*, 367 S.W.3d at 48; *id.* at 49 (noting that "scholars have recognized that 'compactness' is a vague standard" and "there is no threshold level that can be shown by statistics"). The court nonetheless short-circuited

the compactness analysis to invent and then apply a bright-line rule whereby a challenged district is deemed compact *enough* so long as it is more compact on one or more quantitative measures than the least compact district in Missouri history. The circuit court's apples-to-oranges arithmetic finds no support in the law and sheds no light on whether the challenged districts satisfy the constitutional compactness requirement.[4]

**Point III: The circuit court erred in disregarding Appellants' qualitative evidence of compactness deviations as "legally irrelevant," because the court misapplied the law, in that *Pearson II* contemplates consideration of such evidence in assessing whether a district comprises "closely united territory" and *Johnson* does not hold otherwise.**

**A. Standard of Review and Preservation of Error**

This Court reviews *de novo* both "questions of law decided in court-tried cases" and "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 43–44. *See supra* Argument, Point I.A.

Appellants preserved this error. Their compactness challenge under article III, section 45 was included in their Petition. D2 pp. 27–30. Appellants maintained that claim and argued that the challenged districts violate closely united territory based on a host of quantitative and qualitative factors in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 pp. 6–15; Tr. 846:15–849:16; D30 pp. 23–68, 98–105.

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[4] The circuit court's suggestion that District 5 satisfies the compactness requirement because it scores higher than it did in the 2012 Plan fares no better. D31 p. 23; App 23. As set forth above, *Pearson II* faulted the plaintiffs for relying on statistical measures as the "decisive factor" of their compactness claim. 367 S.W.3d at 48–49. It would be a bizarre outcome indeed if that same case were determined to establish a bright-line threshold for compactness based on the very statistical measures the Court found unconvincing.

## B. Argument

The circuit court's emphasis on statistical measures of physical size and shape came at the expense of the required holistic assessment of Appellants' evidence. The circuit court erroneously applied the law by rejecting the totality of evidence Appellants provided as "legally irrelevant." D31 p. 27; App 27.

This Court has warned against distilling the compactness inquiry into a one-dimensional examination of a district's shape and size. *Pearson II*, 367 S.W.3d at 48–49; *see supra* Argument, Point I. Instead, Missouri courts must conduct a substantive analysis using "the totality of the evidence" to assess whether a district is "composed of closely united territory," *Pearson II*, 367 S.W.3d at 51 (quoting Kurtis A. Kempter, Annotation, *Appl. of Const. "Compactness Requirement" to Redistricting*, 114 A.L.R. 5th 311, Part II, § 3(b) (2003)). The redistricting treatise relied on by this Court in *Pearson II* explains that a district is comprised of "closely-united territory" if it is "conducive to communication and interaction among representatives and constituents" by, for instance, being "situated along the chief lines of travel and commerce running through [it]" and "compact in interests as well as in means of intercommunication." Kempter, 114 A.L.R. 5th 311, Part II, § 3(b); *see also id.* (explaining that state constitutional compactness requirements "ultimately concern the ability of citizens to relate to each other and their representatives and the ability of representatives to relate effectively to their constituency"); *id.* (noting that those relationships are "fostered through shared interests and membership in a political community" and "undermined when geographic barriers . . . severely limit communication and transportation within proposed districts"). Compactness under article III, section 45

therefore includes consideration of not only a district's geometry but also whether it keeps proximate and related constituencies together to facilitate representation. *See id.*; *Shayer v. Kirkpatrick*, 541 F. Supp. 922, 934 (W.D. Mo. 1982), *aff'd sub nom. Schatzle v. Kirkpatrick*, 456 U.S. 966 (1982) (recognizing that "grouping urban interests is to some extent necessary to meet the compactness requirement" under the Missouri Constitution). This longstanding construction of compactness reflects its constitutional purpose: to "guard, as far as practicable, . . . against [the] legislative evil, commonly known as the 'gerrymander.'" *State ex rel. Barrett v. Hitchcock*, 146 S.W. 40, 65 (Mo. 1912); *Pearson I*, 359 S.W.3d at 38.

Consistent with this legal standard, Appellants presented a wealth of evidence—nearly all unrefuted—showing that the challenged districts fail to comprise closely united territory under any conceivable metric, including geography, history, population density, and a host of shared interests and concerns. For example, Appellants presented undisputed evidence that the challenged districts fragment the Kansas City region, which is closely united in terms of its transit infrastructure, *see* D30 pp. 56–58; PX 27 pp. 20–21, housing patterns, *see* D30 pp. 58–59; PX 27 pp. 21–22, predominant occupations and industrial sectors, D30 p. 61; PX 27 pp. 22–29, the needs of its underserved communities, D30 pp. 59–60, its shared interest in federal funding for local projects, *id.* pp. 61–62, and its long-established and deeply-rooted relationship with its congressional representative, who has been integral to accessing federal funding, *id.* pp. 61–64. *See also infra* Argument, Point VIII. Similarly, Appellants presented evidence that the challenged districts fragment closely united rural territories that have historically been encompassed in Districts 4 and 6.

*See id.* pp. 64–68. None of this evidence was in dispute. Indeed, the circuit court concluded that, "[t]o be fair, Plaintiffs *have shown* that the 2025 Plan divides a community of interest in Kansas City." D31 p. 20; App 20 (emphasis added); *see also, e.g.*, D31 p. 12; App 12 (describing Appellants' expert testimony addressing "common interests," including "population density," "industrial structure," "occupations," and "transit networks); D31 p. 14; App 14 ("Plaintiffs and lay witnesses called in Plaintiffs' case testified they come from a community with unified interests and they value their current representation"). This evidence, taken as a whole, bears directly on whether the challenged districts are "compact in interests" and on "the ability of citizens to relate to each other and their representatives." *See* Kempter, 114 A.L.R. 5th 311, Part II, § 3(b); *see also* Tr. 774:3–6 (Intervenor Respondents' expert Dr. Hood agreeing that one factor in determining if an area constitutes closely united territory "is whether communities that share similarities are included in a district together").

The circuit court erroneously dismissed all of this probative evidence as "legally irrelevant" on the theory that Missouri law "does not 'recognize . . . maintaining communities of interest' as a factor for the General Assembly to consider when redistricting." *See* D31 p. 27; App 27 (quoting *Johnson*, 366 S.W.3d at 30). This legal error rests on a misinterpretation of this Court's decision in *Johnson*. There, this Court identified which "recognized factors" map drawers may use to "justify variances" in population equality and compactness. *Johnson*, 366 S.W.3d at 29–30. In so doing, the Court named the same factors it listed in *Pearson II*, which was released the same day. *See Pearson II*, 367 S.W.3d at 53; *see also id.* at 49 (citing *Johnson*). The Court further noted that, while

the U.S. Supreme Court has identified "other factors that may justify variances" from the federal population equality standard "such as maintaining communities of interest and avoiding contests between incumbents," Missouri law "does not recognize" those factors as reasons to vary from mandatory state constitutional requirements. *See Johnson*, 366 S.W.3d at 29–30. In other words, *Johnson* limits which factors can justify a map drawer's deviation from compactness. *Id.* at 30. This makes sense, as otherwise map drawers would have free rein to draw distorted districts to advantage preferred communities and disadvantage disfavored communities, leading to the very "evil" the compactness criterion was intended to prevent. *See Hitchcock*, 146 S.W. at 54 (holding that the compactness criterion "show[s] conclusively that it was not the intention of the framers of the Constitution to confer upon the Legislature the unlimited power and discretion to form the districts in such shapes and dimensions as it might, in its own opinion, deem proper").

*Johnson* did not, as the circuit court suggests, hold that evidence related to communities of interest is "legally irrelevant" to assessing whether a district is comprised of closely united territory at all. Indeed, any such reading would be in direct conflict with *Pearson II*—issued the very same day—which specifically instructed plaintiffs to offer evidence of "closely united territory" that is not "limited to physical dimensions" but instead examines whether districts are "compact in interests" as well as geography such that they are "conducive to constituent-representative communication." *Pearson II*, 367 S.W.3d at 48; Kempter, 114 A.L.R. 5th 311, Part II, § 3(b) (cited in *Pearson II*, 367 S.W.3d at 48). The circuit court erred in misreading *Johnson* as prohibiting consideration of exactly

the type of evidence that *Pearson II* indicated is relevant to assessing compactness and that Appellants presented at trial.[5]

In sum, the circuit court erred in rejecting evidence of exactly the sort contemplated by *Pearson II* as "legally irrelevant." *See* D31 p. 27; App 27. Had the circuit court applied the correct "closely united territory" standard to Appellants' unrefuted evidence that the challenged districts starkly divide communities with shared interests and string together geographically distant communities with divergent interests, D30 pp. 54–68, it would have concluded that the challenged districts deviate from section 45's compactness principle.

**Point IV: The circuit court erred in failing to determine whether the challenged districts' departures from compactness were minimal and practical deviations, because it misapplied the law, in that the Court's precedent requires such a determination to be made under article III, section 45.**

**A. Standard of Review and Preservation of Error**

This Court reviews *de novo* both "questions of law decided in court-tried cases" and "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 44. *See supra* Argument, Point I.A.

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[5] Indeed, the circuit court's conclusion that *Johnson* forbids the General Assembly from "placing urban communities of interest in the same congressional district," D31 p. 27; App 27, not only squarely contradicts Missouri precedent, *see, e.g.*, *Shayer*, 541 F. Supp. at 934 (noting the "divergent interests" between "rural and urban areas" and explaining that "the differences among various rural interests are less than the differences between any rural interest and an urban interest" such that "grouping of urban interests is to some extent necessary to meet the compactness requirement"); *Preisler v. Hearnes*, 362 S.W.2d 552, 557 (Mo. banc 1962) (finding "urban conditions may justify" including the heart of Kansas City in a single district), but also is belied by the circuit court's own statement in the very next paragraph, *see* D31 p. 27; App 27 (stating that "the General Assembly could have reasonably concluded that creating three majority-urban districts in Kansas City would have enhanced Kansas City's representation").

Appellants preserved this error. Their compactness challenge was included in their Petition. D2 pp. 27–30. Appellants maintained that claim and urged the circuit court to determine that the challenged districts' significant departures from compactness are neither minimal nor practical in their trial brief, at trial, and in their proposing findings of fact and conclusions of law. D21 p. 11, Tr. 857:6–7, 863:14–864:3, D30 pp. 68, 101, 104, 115.

**B. Argument**

Not only did the circuit court err in concluding that Appellants' challenged districts do not depart from the constitutional standard for compactness, *see supra* Argument, Points I, III, III, it further erred in failing to recognize that the challenged districts' departures from compactness are so significant that they surpass *Pearson*'s allowance for "minimal and practical" deviations resulting from adherence to recognized redistricting factors. *Pearson II*, 367 S.W.3d at 48.

Article III, section 45's requirement that each congressional district be "as compact . . . as may be" inherently recognizes that "compactness . . . cannot be achieved with absolute precision." *Pearson II*, 367 S.W.3d at 49. Nevertheless, this Court has repeatedly recognized that there are limits to how much deviation from compactness is constitutionally permissible—specifically, that any justifiable departures may only be "minimal and practical." *See Johnson*, 366 S.W.3d at 31 (explaining that a plaintiff may establish a violation of constitutional compactness by presenting evidence that any departures go beyond "minimal and practical deviation[s]"). In other words, a district's "departure from the principle of compactness" can be justified by other redistricting factors *only* "*if*" the deviations "are minimal and practical." *Pearson II*, 367 S.W.3d at 53

(emphasis added); *see also id.* at 51 ("If a district seems not to be composed of closely united territory *because of minimal and practical deviations*, the district is still 'as compact . . . as may be' if those deviations are due to mandatory and permissive factors.") (emphasis added). So while the political determinations of the General Assembly may warrant deference where "*minimal and practical* deviations [are] required to preserve the integrity of the existing lines of our various political subdivisions," this Court has never suggested that such deference extends to *any* degree of deviation from compactness. *Pearson I*, 359 S.W.3d at 40 (emphasis added). In fact, this Court in *Pearson II* recognized that boundary lines could be so egregiously drawn that they violate the compactness standard as a matter of law. *Pearson II*, 367 S.W.3d at 55.

Because the circuit court erroneously applied the law to conclude that Appellants had failed to demonstrate departures from compactness, *see* D31 p. 24; App 24; *see supra* Argument, Points I, II, III, it failed to make any determination whatsoever as to whether the deviations were "minimal and practical." Instead, it leapfrogged directly to considering whether other factors could explain the district lines. *See* D31 p. 25; App 25. Had the circuit court properly applied this Court's framework to assess compactness under section 45, *Pearson II*, 367 S.W.3d at 48, it would have concluded that the challenged districts' departures from compactness undoubtedly "go[] beyond a 'minimal and practical deviation,'" and thus cannot be justified or explained away by adherence to recognized factors. *Johnson*, 366 S.W.3d at 31; *see also infra* Argument, Point VIII.

**Point V: The circuit court erred in concluding that the challenged districts' departures from compactness are justified by adherence to political subdivisions, because it misapplied the law, in that *Pearson II* requires a qualitative analysis of subdivision splits that does not include consideration of state legislative districts.**

## A. Standard of Review and Preservation of Error

This Court reviews *de novo* both "questions of law decided in court-tried cases" and "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 44. *See supra* Argument, Point I.A.

Appellants preserved this error. Appellants addressed Respondents' arguments that the 2025 Plan was justified by respect for the boundaries of political subdivisions in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 p. 12, Tr. 870:1–873:22; D30 pp. 119–22.

## B. Argument

The circuit court erroneously applied the law in analyzing whether the challenged districts' deviations from closely united territory result from the application of recognized factors. Specifically, the circuit court once again reduced the analysis to quantitative metrics—tallying up the number of political subdivision splits statewide rather than evaluating the impact or necessity of those splits on the challenged districts. The circuit also added a novel criterion—state legislative district boundaries—to this Court's defined list of "mandatory and permissive factors" to justify the districts' departures from compactness.

The circuit court misapplied *Pearson II* in assessing the relationship between district and political subdivision boundaries. This Court has considered "respect for boundaries of political subdivisions" as part of the "totality of the evidence" of whether a district is as

compact "as may be." *Pearson II*, 367 S.W.3d at 39, 50. "[P]reserv[ing] the integrity of the existing lines of our various political subdivisions" recognizes, for instance, that counties are "'important governmental units, in which the people are accustomed to working together.'" *Pearson I*, 359 S.W.3d at 40 & n.1 Likewise, in *Pearson II* this Court highlighted "the legitimate factor of keeping a greater portion of Kansas City in district 5" when discussing the effect of political subdivision boundaries on the 2012 Plan. *See* 367 S.W.3d at 56. In so doing, this Court has assessed the qualitative impact that divergence from political subdivision boundaries has on challenged district lines. *See id.*; *see also Preisler v. Doherty*, 284 S.W.2d 427, 434 (Mo. banc 1955) (noting that "[d]epartures from ward lines in making districts were not used to obtain compactness but instead aided in making them less compact, more irregular, longer and narrower").

The circuit court, however, did no such thing. Similar to its mechanical analysis of compactness deviations, *see supra* Argument, Points I, II, the circuit court transformed the evaluation of political subdivision boundaries into a bean counting exercise, pointing to the 2025 Plan's reduction in the *number* of subdivision splits *statewide* while ignoring the challenged districts' gross and unprecedented distortions from political subdivision boundaries. In so doing, the circuit court incorrectly applied *Pearson II*'s legal standard in at least two ways. First, rather than analyzing the extent to which the challenged districts adhered to political subdivision boundaries, the circuit court simply added up the number of subdivision splits across the state and noted that changes made from the 2022 Plan to the 2025 Plan "track county boundaries" in Districts 1, 2, and 3. *See* D31 pp. 25–26; App 25–26. But this says nothing about the extent to which purported improvements in these

*non*-challenged districts inform or necessitate the compactness deviations in the *challenged* districts, and thus directly conflicts with this Court's statements about how to analyze compliance with the compactness criterion. *See Pearson II*, 367 S.W.3d at 56 (crediting "evidence . . . regarding the effect of political subdivision boundaries on the boundaries for *district 5*" rather than on the map as a whole) (emphasis added).

Second, the circuit court's narrow focus on the overall numbers led it to ignore Appellants' undisputed evidence regarding the substantive *impact* of political subdivision splits. *See, e.g.*, D30 pp. 74–78; 82–84; *Pearson II*, 367 S.W.3d at 48. For example, Appellants presented evidence at trial that: (1) the 2025 Plan's split of Jackson County affects 346,336 Missourians, whereas the previous split of Jackson County affected less than a third of that number; (2) for more than 30 years, District 5 contained more than 87% of the Jackson County population, and that percent fell to 51% under the 2025 Plan; and (3) for more than 30 years, District 5 contained more than 73% of the population of Kansas City, and that number fell to 34% under the 2025 Plan. PX 28 pp. 13–14; PX 22 pp. 4–5; *see also Pearson II*, 367 S.W.3d at 56 (crediting "the legitimate factor of keeping a greater portion of Kansas City in district 5"). Appellants also offered fact witness testimony from the Mayor of Kansas City explaining that not all subdivision splits are created equal. *Compare* Tr. 515:1–519:12 (describing significant impacts of the 2025 Plan's division of Kansas City's Historic Northeast in Jackson County), *with id.* 550:5–551:10 (describing the minimal impact of the 2022 Plan's split in the Cass County portion of Kansas City, given that in "a number of "Kansas City elections . . . only one person from the Cass County portion of Kansas City even voted"). In short, the circuit court erroneously disregarded

evidence of the qualitative nature of subdivision splits in and around the challenged districts in favor of counting up the quantitative number of subdivision splits elsewhere.

Additionally, the circuit court erred by treating state senate districts as political subdivisions that could justify the challenged districts' boundaries. *See* D31 pp. 25–26; App 25–26. Under *Pearson II*, the constitutional compactness criterion "permits consideration of," among other things, "the boundaries of political subdivisions, including *counties, municipalities, and precincts*." *Pearson II*, 367 S.W.3d at 50 (emphasis added). This Court has made clear that the list of recognized factors is finite and exhaustive, *Johnson*, 366 S.W.3d at 28 n.10 ("Nothing in this opinion should be construed as expanding the list of factors beyond those recognized in this Court's precedent.")—and "state legislative districts" are not included.

Missouri law makes clear that the term "political subdivision" generally refers to government entities that possess independent taxing power or a suite of other government functions traditionally associated with municipal governance. *See, e.g.*, *Hitchcock*, 146 S.W. at 61 (referring to "counties or subdivisions of counties (when counties may be divided)"); *Hearnes*, 362 S.W.2d at 556 (noting importance of counties as "government units[]in which people are accustomed to working together"). Article 10 of the Missouri Constitution expressly refers to the taxation power exercised by "counties and other political subdivisions." Mo. Const. art. X, §§ 1, 11(a); *see also id.* § 15 ("The term 'other political subdivision,' as used in this article, shall be construed to include townships, cities, towns, villages, school, road, drainage, sewer and levee districts and any other public subdivision, public corporation, or public quasi-corporation having the power to tax.").

Indeed, one Missouri statute explicitly distinguishes state legislative districts from "political subdivisions" that have taxation power. *See* § 32.310(1)–(2), RSMo. (providing for mapping feature "that displays sales and use tax information of political subdivisions of this state that have taxing authority" and "also ha[s] the option to superimpose state house of representative districts and senate districts over the political subdivisions"); *see also id.* § 70.210(3) (listing political subdivisions, including school and fire districts, that have the power to tax); *id.* § 115.013(19); D29 26:20–27:11 (Deposition Designations of Sara Zorich) (explaining precincts' relationship to school, fire, and water districts). Unlike county and municipal subdivisions, state legislative districts are not independent governing units, they do not have the power to tax or exercise any other government functions individually, and are, as experts on both sides agree, redrawn at least once every decade and bound by different constitutional criteria. *See Pearson II*, 367 S.W.3d at 49 (quoting *Hearnes*, 362 S.W.2d at 556); *see also* Tr. 341:2–9 (Dr. Rodden explaining that legislative districts are frequently redrawn and not typically considered political subdivisions); Tr. 638:16–18; 638:24–639:2 (Dr. Trende admitting he has no opinion on whether state senate districts are political subdivisions and agreeing that those lines change every ten years).

**Point VI: The circuit court erred in relying on hypothetical "policy preferences" of the General Assembly to discount Appellants' evidence and justify departures from compactness, because it misapplied the law, in that compliance with article III, section 45's compactness requirement is mandatory and objective, such that the subjective intent of the legislature cannot override the constitutional mandate.**

**A. Standard of Review and Preservation of Error**

This Court reviews *de novo* "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 44. *See supra* Argument, Point I.A.

Appellants preserved this error. Appellants argued that the *Pearson II* standard is objective, and therefore subjective legislative preferences cannot justify compactness deviations, in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 p. 8; Tr. 946:8–25; D30 pp. 94–95, 122–23.

**B. Argument**

This Court has made clear that "the duty to draw" districts "as compact . . . as may be is one that is mandatory and objective, not subjective." *Pearson I*, 359 S.W.3d at 40. "[T]he existence of good faith in the legislature or lack thereof is irrelevant." *Pearson II*, 367 S.W.3d at 46, 48; *see also Johnson*, 366 S.W.3d at 30 ("[T]he issue of whether the constitutional requirements are satisfied are determined objectively, requiring no proof of subjective intent." (citing *Pearson I*, 359 S.W.3d at 40)). This is because "[a] subjective test is difficult to apply, especially in relation to the General Assembly, whose members' respective motives may be several and divergent. Equally troublesome is an attempt to apply a subjective test to a mandatory constitutional duty." *Pearson I*, 359 S.W.3d at 39. Moreover, the General Assembly's "deliberations, thought processes, or other potential redistricting maps considered are not relevant in determining whether [a district plan] violates the constitution." *Faatz v. Ashcroft*, 685 S.W.3d 388, 406 (Mo. banc 2024), *reh'g denied* (Apr. 2, 2024).

The circuit court disregarded this directive by relying on the hypothetical subjective intent of the General Assembly as reason to disregard Appellants' evidence and to conclude that the 2025 Plan complies with section 45's compactness requirement. The circuit court repeatedly faulted Appellants and their witnesses for "conced[ing] they do not know which

traditional factors the General Assembly considered, how it balanced those various factors, which trade-offs it made among them, and how it decided to make those trade-offs." D31 p. 27; App 27; *see also* D31 p. 10; App 10 (finding Appellants' witnesses "conceded that they did not speak with any Missouri legislator or any map drawer about the factors the General Assembly considered in enacting the 2025 Plan"); D31 p. 16; App 16 ("Plaintiffs' experts conceded that they did not consider all the factors that the General Assembly weighed in enacting the 2025 Plan."). It then discounted Appellants' expert evidence demonstrating how the challenged districts depart from closely united territory in a manner that cannot be justified by the *Pearson II* factors, because, in the court's words, "[t]heir various analyses and opinions cannot account for the policy preferences the General Assembly made throughout the legislative process and the creation of the 2025 Plan." D31 p. 27; App 27. The court committed legal error in preferencing its speculation as to the General Assembly's subjective intent over objective evidence presented by Appellants.

The circuit court's discussion of population density is illustrative of this error. Under this Court's precedent, a congressional plan may feature minimal and practical deviations from compactness due to considerations of "population density; natural boundary lines; the boundaries of political subdivisions . . . ; and the historical boundary lines of prior redistricting maps." *Pearson II*, 367 S.W.3d at 50. For each of these recognized factors, it is clear that the Constitution permits keeping the referenced feature *intact*. For instance, "consideration" of the permissible factors means "*preserving*"—not destroying—the integrity of the existing [political subdivision] lines," *Pearson I*, 359 S.W.3d at 40 (emphasis added), and "*recogni*[*zing*]"—not disregarding—"historical district boundary

lines," *Pearson II*, 367 S.W.3d at 50 (emphases added). Likewise, "[t]his Court [has] also recognized that population density may affect boundary lines" since "population density of the state is, of course, uneven." *Id.* at 50 (quoting *Preisler v. Kirkpatrick*, 528 S.W.2d 422, 425 (Mo. banc 1975)). This framing presumes that areas of similar population density may be kept together in the same district where possible, including in ways that may lead to minimal and practical departures from compactness. *See Kirkpatrick*, 528 S.W.2d at 426 (acknowledging that because of uneven population density in metropolitan areas, a "good faith effort to adhere to all constitutional requirements will still produce some districts . . . which will have a stair-step shape as well as the straight lines of urban blocks"); *Hearnes*, 362 S.W.2d at 557 (finding "[u]rban conditions may justify" concentrating the Jackson County portion of Kansas City into one district).

In line with this precedent, Appellants provided extensive—and undisputed—evidence that respect for population density cannot explain the configuration of the challenged districts. In particular, Appellants presented evidence that the 2025 Plan splits the densest neighborhoods in Kansas City between three districts and combines them with sparsely populated areas far away, in an extreme departure from historical norms. PX 27 pp. 18–21; Tr. 63:3–19; 318:19–321:25; PX 84; *see also* D30 p. 27–38.

The circuit court did not disagree with this evidence or conclusion. Instead, it found it failed in the face of the Missouri General Assembly's hypothetical intent to *divide* areas with similar density patterns, noting that Dr. Rodden's analysis "failed to account for the possibility that Missouri legislators might have wanted to unite areas with *different* population density in the same district." D31 p. 27; App 27. The court's decision to credit

the (entirely speculative, unproven) motivations of the General Assembly runs headlong into both this Court's precedent, *see Johnson*, 366 S.W.3d at 11 ("[T]he issue of whether the constitutional requirements are satisfied is determined objectively, requiring no proof of the subjective intent of the [map-drawing body]."), and a commonsense understanding of the unified nature of the recognized factors. The circuit court's speculation "that the General Assembly could have reasonably concluded" it would rather slice Kansas City across three districts, D31 p. 28; App 28, cannot outweigh the objective evidence Appellants provided on the considerations actually recognized by this Court.

In allowing the hypothetical subjective intent of the legislature to defeat Appellants' objective evidence, the circuit court erected an impossible standard to establish violations of section 45's "mandatory and objective" requirement. After all, a plaintiff can never establish that a challenged district's deviation from compactness did not "occur as a result of . . . population density" if the General Assembly *could have* intended to keep similarly dense areas together *or* to keep them apart. By the same logic, a legislature *could* intend to split political subdivisions *or* keep them whole and *could* intend to adhere to historical boundary lines *or* break new ground. Under the circuit court's application of the law, a plaintiff's evidence will always fail if they are fighting the specter of theoretical legislative intent that can lean in any number of directions on the recognized factors.

In short, the circuit court erred in misapplying the objective and mandatory *Pearson II* standard and instead preferencing its speculation as to the General Assembly's intent.

**Point VII: The circuit court erred in rejecting Appellants' alternative map evidence as failing to account for all of the General Assembly's policy preferences, because it misapplied the law, in that this Court has held that alternative maps must simply demonstrate that challenged deviations from compactness were not necessary to comply with the *Pearson II* factors.**

**A. Standard of Review and Preservation of Error**

This Court reviews *de novo* "the application of the law to th[e] facts." *Pearson II*, 367 S.W.3d at 44. *See supra* Argument, Point I.A.

Appellants preserved this error. Appellants argued their alternative maps provided evidence that the challenged districts violate article III, section 45 in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 p. 11–12, Tr. 867:6–13; D30 pp. 69–81, 102.

**B. Argument**

This Court's precedent explicitly contemplates plaintiffs' presentation of alternative maps to support a constitutional compactness challenge—specifically, to show that "greater . . . compactness is feasible in one or more districts" and "that federal laws or other recognized factors did not affect the district boundary." *Johnson*, 366 S.W.3d at 30–31. This Court has specifically stated that "[t]his showing is not burdensome on the plaintiff: the plaintiff needs only to submit *maps* or other evidence that objectively shows that the county lines, political subdivisions, or historical boundary lines were not a basis for the district boundary or that it goes beyond a "minimal and practical deviation[.]" *Id.* (emphasis added); *see also Faatz*, 685 S.W.3d at 404 n.10 ("[A] plaintiff may satisfy this objective standard by presenting evidence—such as proposed maps—demonstrating that the alleged violation was not necessary to achieve the same compliance with other constitutional

requirements.”). This Court did not require alternative maps to account for every one of the “policy preferences” of the General Assembly—and rightfully so, as the subjective intent of the redistricting body is irrelevant to assessing adherence to objective constitutional compactness requirements. *Johnson*, 366 S.W.3d at 30.

Pursuant to this standard, Appellants properly put forth several alternative maps—including, first and foremost, the 2022 Plan that has been in effect for the last two congressional cycles and which aptly demonstrates that *none* of the deviations introduced in 2025 are necessary under *Pearson II*’s recognized factors. *See* D30 pp. 69–85; *see also infra* Argument, Point VIII. In addition, Appellants presented eight alternative maps drawn by Dr. Cervas that left unchanged all or nearly all of the non-challenged districts in the 2025 Plan and perform equally well or better on both compactness metrics and each of the *Pearson II* factors, PX 23 pp. 5–24, demonstrating those goals did not result in the deviations observed in the challenged districts. And Dr. Stern’s simulated maps demonstrate that across eleven compactness metrics, Districts 4 and 5 under the 2025 Plan are consistently less compact than tens of thousands of computer-generated alternative maps and perform worse than the computer-generated maps in terms of their respect for the recognized factors. PX 21 pp. 25–29.

But the circuit court ignored this Court’s clear directive and dismissed wholesale Appellants’ alternative maps as yet another policy preference. The circuit court determined that Appellants’ alternative map evidence merely demonstrated “that the General Assembly could have created better maps,” D31 p. 26; App 26, and discounted the alternative maps because, in its view, they could not “account for the policy preferences the General

Assembly made throughout the legislative process and the creation of the 2025 Plan." D31 p. 27; App 27. But the purpose of the alternative maps was never to shadowbox with the unknown subjective intent of the General Assembly; it was to objectively show that the challenged districts' deviations from compactness are not the result of adherence to the *Pearson II* factors. Appellants' alternative maps undisputedly show that "greater . . . compactness is feasible in one or more districts" and that "federal laws or other recognized factors did not affect the district boundaries." *See Johnson*, 366 S.W.3d at 31. The circuit court therefore erred when it disregarded Appellants' alternative maps, which were proffered in accordance with this Court's binding precedent.

**Point VIII: The circuit court erred in its judgment that District 5 does not violate article III, section 45's compactness mandate, because it is against the weight of the evidence, in that Appellants' evidence that the district violates closely united territory in a manner not justified by the *Pearson II* factors overwhelmingly outweighs the evidence regarding quantitative metrics and subjective legislative intent relied upon by the circuit court.**

### A. Standard of Review and Preservation of Error

This Court will reverse a lower court's declaratory judgment if "it is against the weight of the evidence." *Luther*, 2026 WL 815813, at *2 (quoting *Fletcher*, 689 S.W.3d at 164). The framework that courts of review apply to such errors is to: "(1) identify a challenged factual proposition necessary to sustain the judgment; (2) identify all favorable evidence in the record supporting the challenged factual proposition; (3) identify the evidence in the record contrary to that proposition, resolving all evidentiary conflicts in accordance with the circuit court's implicit and explicit credibility determinations; and (4) demonstrate the favorable evidence, and the reasonable inferences therefrom, is so lacking

in probative value it fails to induce belief in that proposition when considered in the context of the entire record." *Weeks v. City of St. Louis*, 721 S.W.3d 873, 877 (Mo. banc 2025).

For questions of fact, "[w]hen the evidence is uncontested … no deference is given to the trial court's findings." *Faatz*, 685 S.W.3d at 396. "When there is contested evidence, this Court will affirm the circuit court's factual findings unless there is no substantial evidence to support the finding or the finding is against the weight of the evidence." *Id.* at 403.

Appellants preserved this error. Appellants argued that the challenged districts—and District 5 in particular—violate article III, section 45's compactness requirement in their trial brief, at trial, and in their proposed findings of fact and conclusions of law. D21 p. 6; D30 pp. 23–84, 94, 98–104; Tr. 849:18–20, 853:18–25, 854:16–23, 857:8–12.

**B. Argument**

Under the correct legal standard for compactness, Appellants have more than met their burden of showing that the challenged districts—and District 5 in particular—are drawn in such a way that "clearly and undoubtedly violates the constitution." *Pearson II*, 367 S.W.3d at 45. District 5 radically disrupts closely united territory in western Missouri in a manner that cannot be explained by any of the factors recognized in *Pearson II*. But ignoring the weight of the evidence in the record, the circuit court erroneously concluded that Appellants had failed to carry their burden and denied their request for relief. That decision should be reversed and judgment entered for Appellants.

### 1. Appellants challenge the circuit court's finding that District 5 does not depart from the principles of compactness.

#### a. The circuit court supported its finding by relying on statistical metrics of compactness.

In concluding that Appellants had not shown that the 2025 Plan departs from the principle of compactness, the circuit court selectively examined several compactness metrics including the Reock, Polsby-Popper, Convex Hull, IKIWISI, and Schwartzberg measures. D31 pp. 23–24; App 23–24. The circuit court first examined the average statewide Reock and Polsby-Popper compactness scores, and compared those metrics for the 2025 Plan with both the 2012 and 2022 Plans. D31 pp. 23–24; App 23–24. From these statewide average scores, the circuit court concluded that the 2025 Plan compares favorably to predecessor plans, from which it inferred there are no departures from compactness. D31 p. 23; App 23. The circuit court also compared the challenged districts' individual compactness scores with other low-ranking districts in the previous plans and concluded that the challenged districts fell within the "range" of compactness scores of those other districts. D31 p. 24; App 24. Finally, the circuit court concluded that the statewide average scores for the 2025 Plan did not differ tremendously from averages for prior maps extending back to 1972, in its view further supporting the conclusion that the 2025 Plan is not an outlier. D31 p. 24; App 24.

#### b. Appellants provided substantial, probative evidence at trial that District 5 departs from the constitution's compactness requirement, nearly all of which is unrebutted.

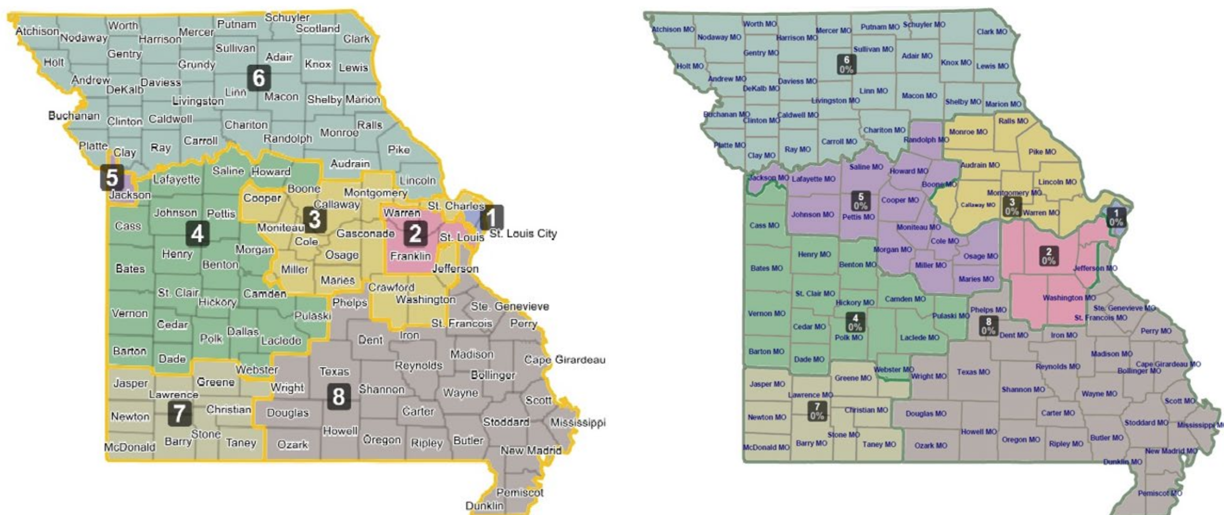
Appellants provided substantial evidence that compactness metrics demonstrate a departure from compactness in the challenged districts, particularly in District 5. For

instance, the experts agreed that District 5 has lower Reock and Polsby-Popper scores in the 2025 Plan than in the 2022 Plan. Tr. 757:16–758:18, 761:23–762:1; PX 23 p. 9 & table 2; PX 27 p. 30. District 5's Reock score dropped from 0.42 in 2022 to 0.29 in 2025. Tr. 69:14–17; PX 23 p. 10 & table 2; PX 27 p. 30 & table 2. Under the Polsby-Popper metric, District 5's score decreased sharply from 0.40 in 2022 to 0.20 in 2025—a 50 percent reduction. Tr. 762:23–25, 763:4–14; *see also* Tr. 70:15–19; PX 23 p. 10 & table 2; PX 27 p. 30 & table 2. Intervenor Respondents' expert Dr. Hood admitted that under both sets of Reock scores he reported, District 5 is the least compact district in the 2025 Plan and is less compact than the average score for the 2012, 2022, and 2025 Plans. Tr. 757:16–19, 758:1–4, 758:22–759:4; 760:17–20, 761:19–762:1; IX 215 pp. 5–6. The Polsby-Popper score for District 5 in the 2025 Plan is also less compact than the 2025 Plan average. Tr. 763: 4–7. On Convex Hull and IKIWISI, District 5's score also dropped significantly between 2022 to 2025. PX 24 p. 8 & table 2 (Convex Hull score dropping from 0.84 to 0.70); PX 24 pp. 9–10 & table 3 (IKIWISI score dropping from 69 to 34). As Dr. Rodden summarized, District 5 has historically ranked high relative to other districts in the 2022 and 2012 Plan along each compactness metric—but is at or near the bottom in the 2025 Plan. *See* PX 28 p. 7. All of these metrics and undisputed expert evidence reinforce the conclusion that District 5 in the 2025 Plan departs from the principle of compactness.

As this Court has made clear, the inquiry into a district's compactness is not just limited to statistical measures. *See supra* Argument, Points I, II, III. Accordingly, Appellants provided a wealth of *additional* evidence and testimony demonstrating that District 5 in the 2025 Plan is not comprised of closely united territory, and thus departs

from the constitutional principle of compactness. Starting with geography, District 5's new shape and configuration under the 2025 Plan is virtually unrecognizable. What has historically been a Kansas-City centered district now stretches across the state, with its westernmost appendage trisecting the heart of Kansas City's central business district and Historic Northeast before winding through eastern Jackson County to rural districts in central Missouri, out to Jefferson City, and beyond. *See* PX 44 (below); PX 41; App 176 (below); *see also* PX 23 p. 10 (describing District 5 as changing from a small, reasonably configured urban district in 2022 to one that "begins in the central part of the state in Osage and Maries Counties, collects rural western Missouri and parts of Columbia before heading west until it snakes into Jackson County and urban Kansas City").

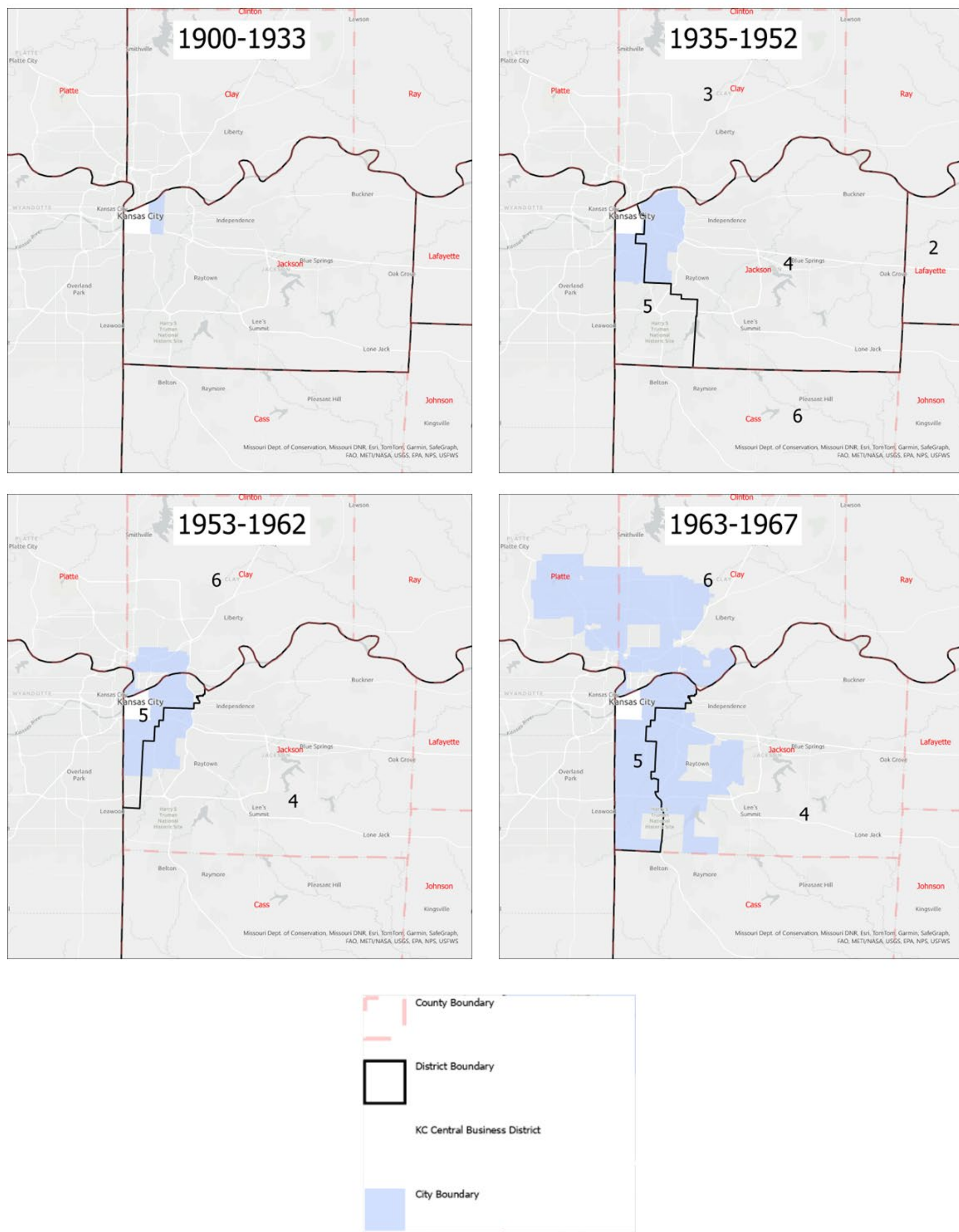
**PX 44 (2022 Plan) and PX 41 (2025 Plan)**

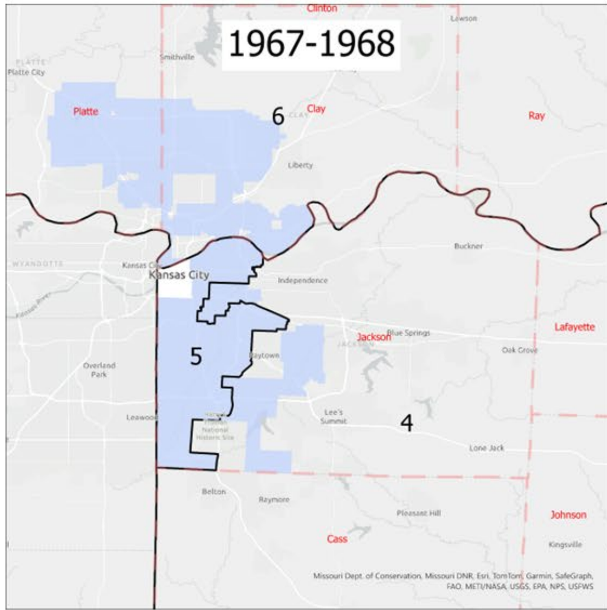


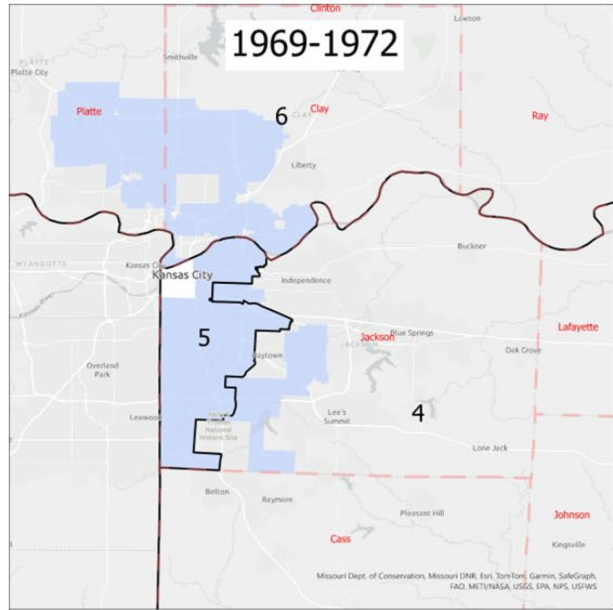

The history of District 5 confirms that the 2025 configuration is unprecedented: the district breaks from more than a century of Missouri tradition of maintaining Kansas City's central business district and surrounding urban core in a single congressional district. *See* PX 27 pp. 5–10 (Dr. Rodden analyzing history of the districts in the Kansas City area from

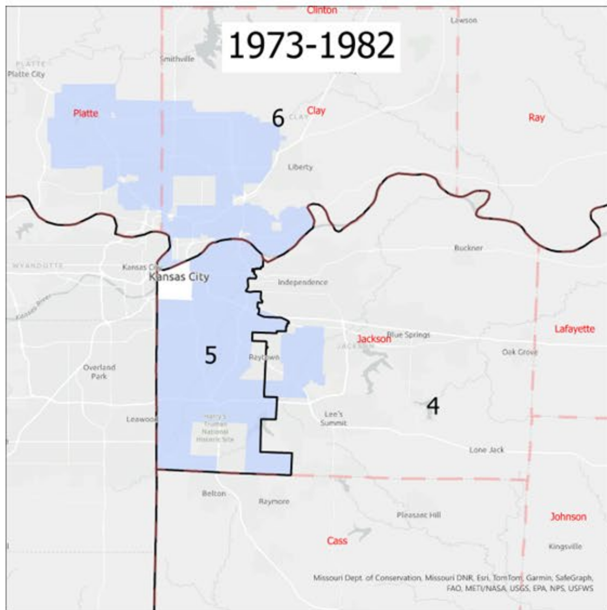
1900 to present day); *see also id.* pp. 6–8, 10 & figures 1–2 (below). Notably, whereas the version of District 5 analyzed in *Pearson II* "only slightly expand[ed]" the portion of Jackson County that has "historically has been carved out of district 5 and appended to other districts," 367 S.W.3d at 56, the 2025 version of District 5 cuts clear across the state.

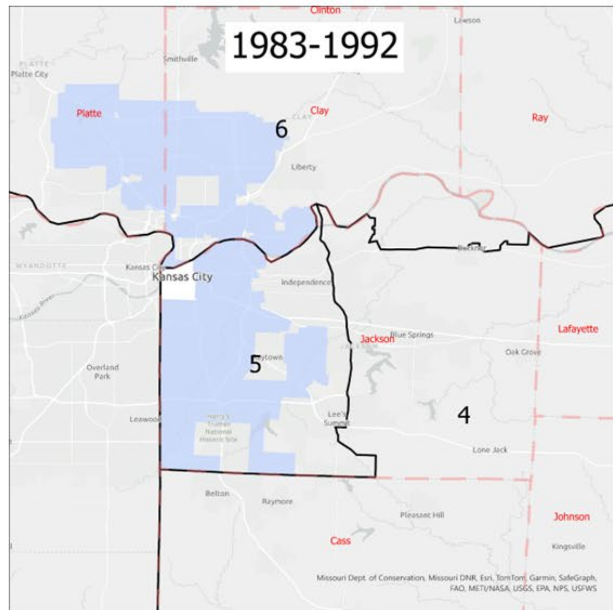
**PX 27 Figure 1 (Jackson County Congressional Districts since 1900)**

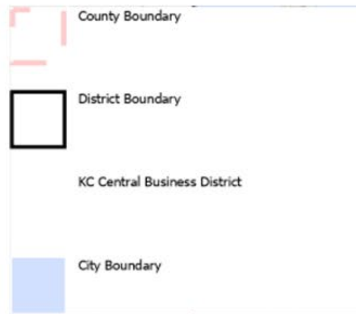


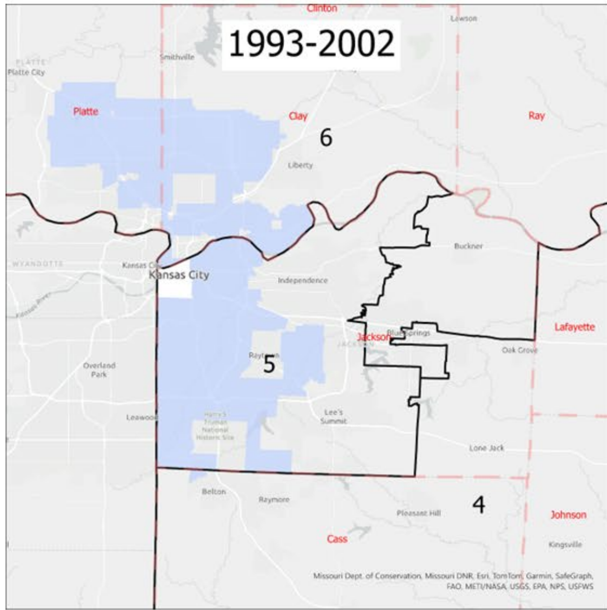

1967-1968
Clinton
Platte
Clay
Ray
6
Kansas City
Jackson
Lafayette
5
4
Johnson
Cass
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS


1969-1972
Clinton
Platte
Clay
Ray
6
Kansas City
Jackson
Lafayette
5
4
Johnson
Cass
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

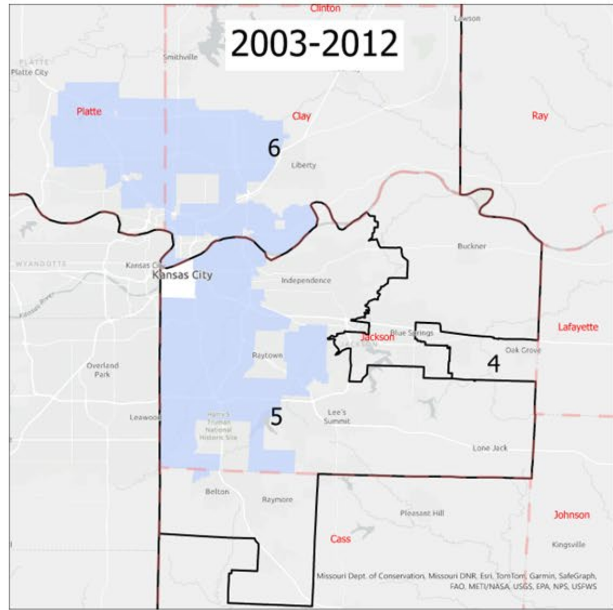

1973-1982
Clinton
Platte
Clay
Ray
6
Kansas City
Jackson
Lafayette
5
4
Johnson
Cass
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS


1983-1992
Clinton
Platte
Clay
Ray
6
Kansas City
Jackson
Lafayette
5
4
Johnson
Cass
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

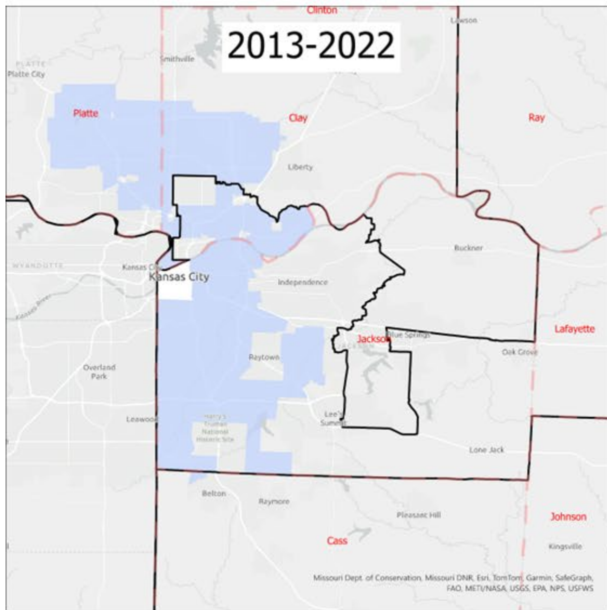

County Boundary
District Boundary
KC Central Business District
City Boundary



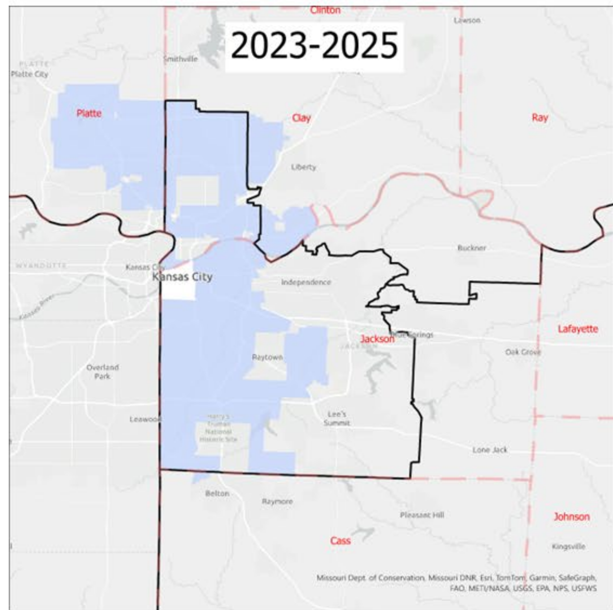
1993-2002
Clinton
Platte
Clay
Ray
6
Liberty
Buckner
Kansas City
Independence
Lafayette
Jackson
Blue Springs
Oak Grove
Overland Park
5
Lee's Summit
Lone Jack
Belton
Raymore
Pleasant Hill
4
Johnson
Cass
Kingsville
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

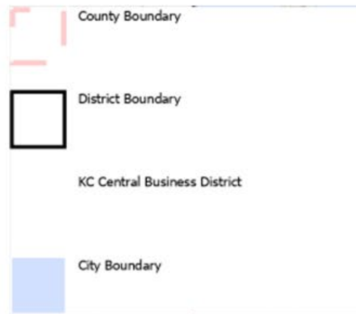
2003-2012
Clinton
Platte
Clay
Ray
6
Liberty
Buckner
Kansas City
Independence
Lafayette
Jackson
Blue Springs
Oak Grove
4
Overland Park
Raytown
5
Lee's Summit
Lone Jack
Belton
Raymore
Pleasant Hill
Johnson
Cass
Kingsville
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

2013-2022
Clinton
Platte
Clay
Ray
Liberty
Buckner
Kansas City
Independence
Lafayette
Jackson
Blue Springs
Oak Grove
Overland Park
Raytown
Lee's Summit
Lone Jack
Belton
Raymore
Pleasant Hill
Johnson
Cass
Kingsville
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

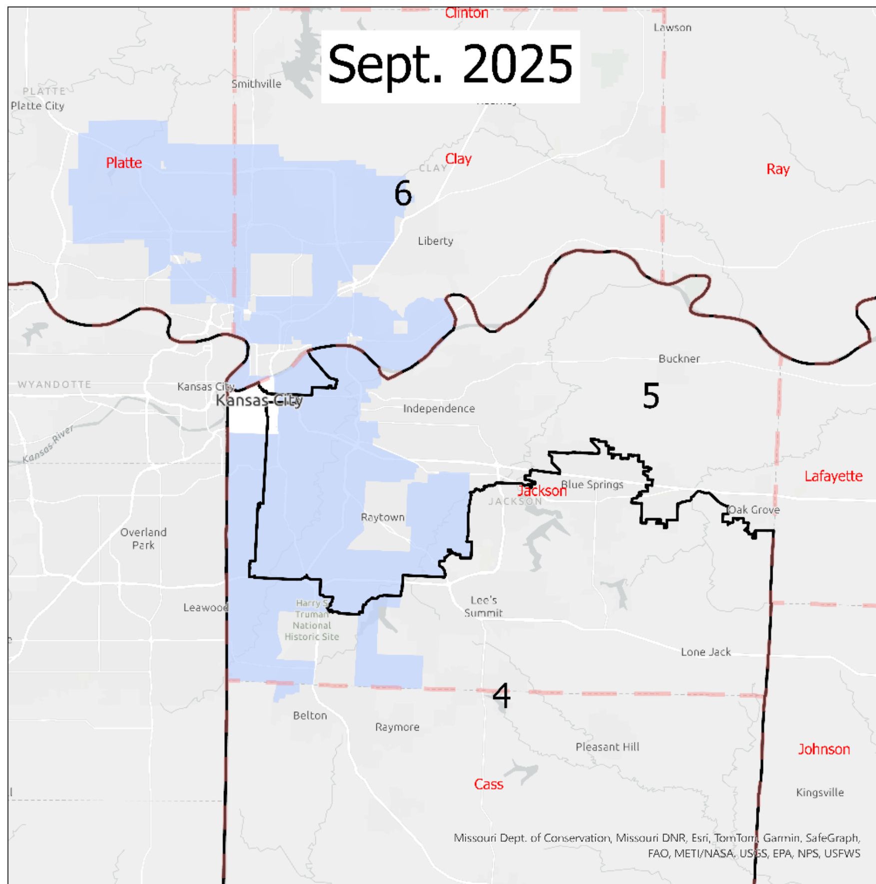



2023-2025
Clinton
Platte
Clay
Ray
Liberty
Buckner
Kansas City
Independence
Lafayette
Jackson
Blue Springs
Oak Grove
Overland Park
Raytown
Lee's Summit
Lone Jack
Belton
Raymore
Pleasant Hill
Johnson
Cass
Kingsville
Missouri Dept. of Conservation, Missouri DNR, Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS

County Boundary
District Boundary
KC Central Business District
City Boundary

**PX 27 Figure 2 (The Kansas City Area in the 2025 Plan)**




The history of District 5's configuration also mirrors the population density of the area. Whereas for decades District 5 had been centered on the Kansas City metropolitan area and reflected the urban population of western Missouri, Tr. 61:12–20; PX 27 pp. 17–22, 29, the district now encompasses only a fragment of that area. *See* PX 23 pp. 17–18 & figures 4–5 (illustrating the change statewide) (below); PX 84 (same, in the Jackson County area) (below); *see also* PX 27 pp. 17–18 & figure 7 (Dr. Rodden noting that historically, District 5's configuration aligned with density patterns in a way that the 2025 Plan no longer does).

## PX 23 (Figures 4 and 5)

Figure 4 – Population Density, 2022 Map

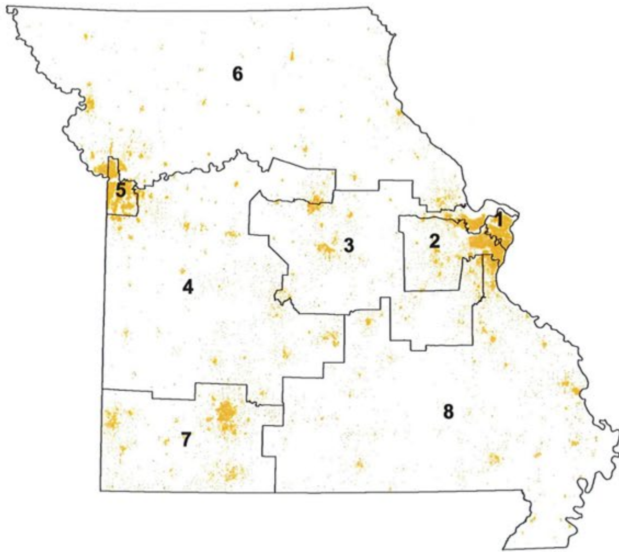
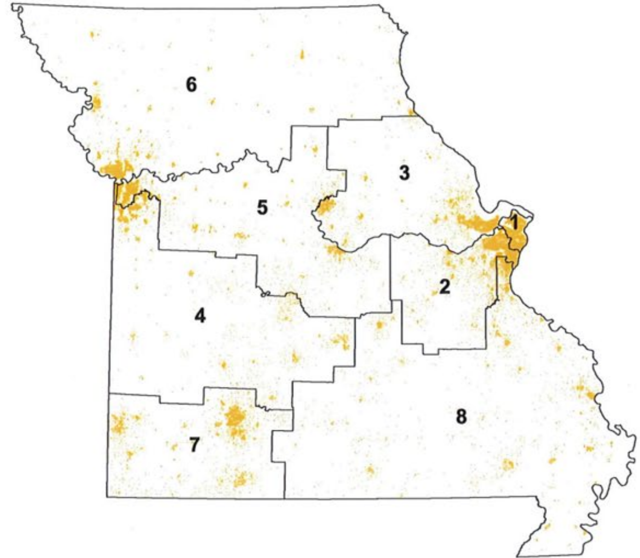
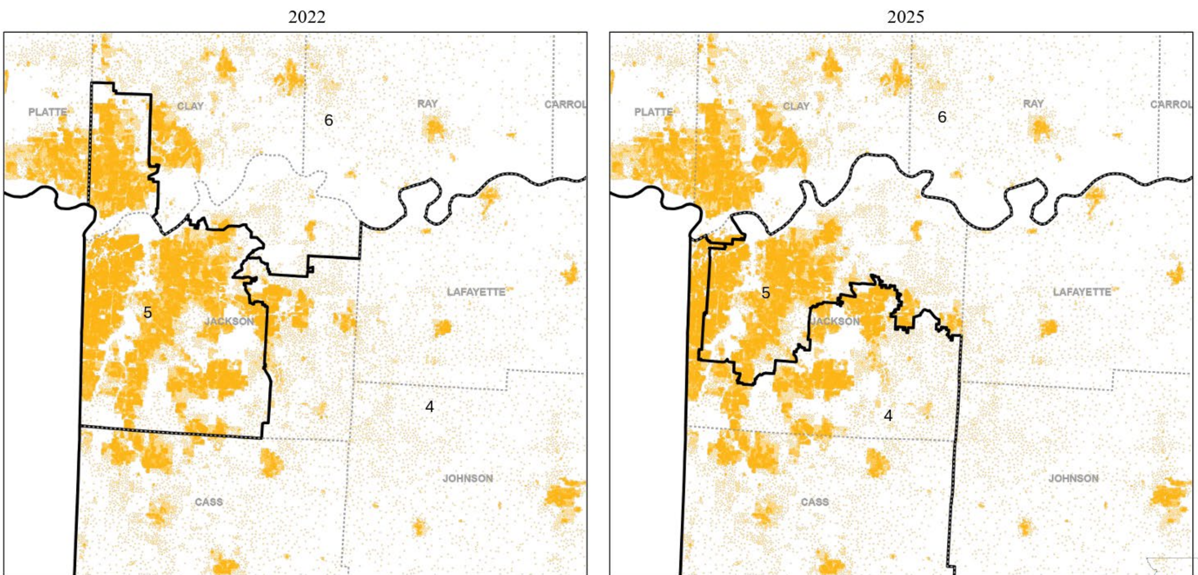



Figure 5 – Population Density, 2025 Map




## PX 84 (2022 and 2025 Plans)

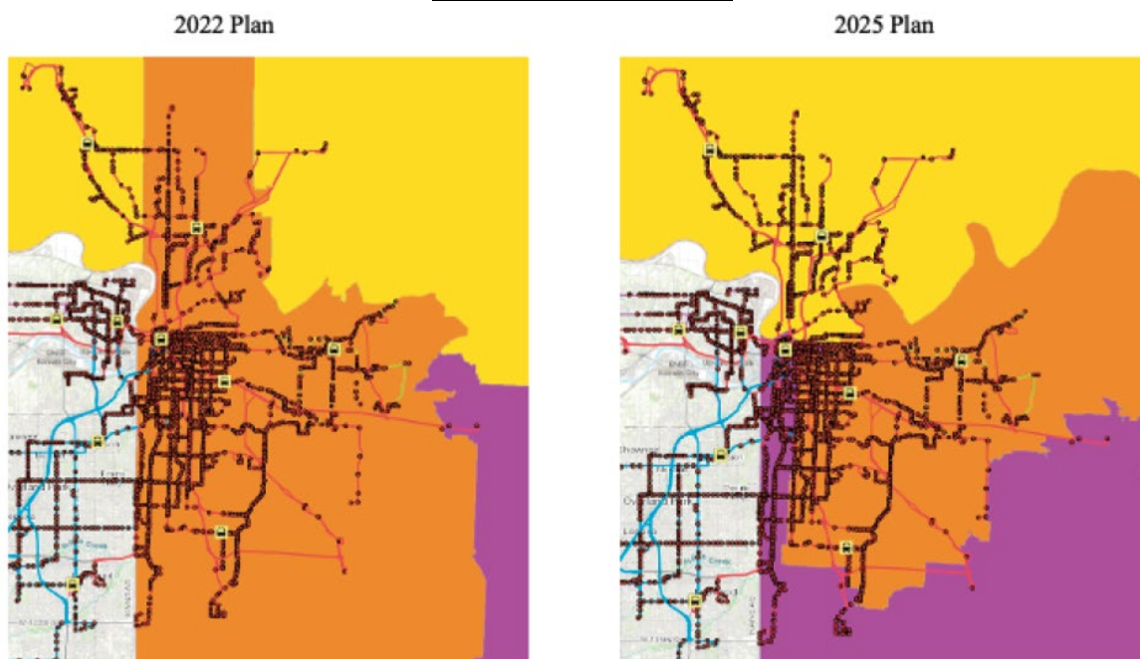
Summary Compilation: 2022 & 2025 Congressional Map Boundaries with Population Density (Jackson County Area)




This fragmentation of Kansas City also means District 5 no longer encompasses a closely united territory with regard to transit, housing patterns, industrial sectors, or economic needs and concerns. For instance, under the 2022 Plan, the Missouri-side transit

lines and routes of the Kansas City Transportation Authority (KCATA) were largely contained within District 5; under the 2025 Plan, the KCATA network is now divided across Districts 4, 5, and 6. *See* PX 27 p. 21 & figure 11 (below); *see also* Tr. 328:3–11. As several of Appellants' witnesses testified at trial, transit use is critical in the Kansas City area, and is distinct from transportation needs in other parts of western Missouri, where Kansas City's public transit is not available. *See* Tr. 146:22–147:17, 275:8–13, 402:19–403:4.

**<u>PX 27 Figure 11 (Kansas City Area Transportation Authority Routes and District Boundaries)</u>**




Kansas City area-renters are also "geographically concentrated" mostly in District 5 under the 2022 Plan, Tr. 329:15–16, but those renters are now scattered across Districts 4, 5, and 6 in the 2025 Plan, PX 27 p. 22. One of Appellants' witnesses provided testimony that issues of renters' rights and the cost of rent for low-income workers in the area is a distinct concern in the Kansas-City area. *See* Tr. 281:7–18; *see also id.* 279:23–280:2

(describing neighborhood trust focused on buying properties to maintain affordability for community).

The 2025 Plan also fragments a territory that is closely united in terms of the needs of its underserved communities, by configuring the district lines in a way that divides community institutions and long-established, cohesive neighborhoods. Some community institutions in the heart of Kansas City, such as a university campus, a hospital campus, a high school, and Operation Breakthrough—a community-based education, social, and health services center in Kansas City—are literally split down the middle between District 5 and adjoining districts. PX 27 p. 2; Tr. 554:4–11, 560:6–13. The 2025 Plan also runs through the center of campus of a longstanding church located in the Historic Northeast, with the main church building, which houses services and outreach, now located in District 4, and the church parking lot, which contains its garage and hosts annual festivals, now located in District 5. Tr. 276:16–279:7. As Mayor Lucas confirmed, the district lines in the 2025 Plan fracture the Historic Northeast, which is filled with residents that "see themselves as one area," across several districts. Tr. 515:5–516:15.

The 2025 Plan further fragments a territory that has been closely united in terms of its predominant occupations and industrial sectors. In 2023, the Kansas City region was designated by the U.S. Economic Development Administration as a federal "tech hub," focused on biologics and biomanufacturing via the KC BioHub. *See* PX 27 p. 22 & n.5. But now, under the 2025 Plan, the Kansas City biotechnology research and manufacturing institutions have been split across different congressional districts. PX 27 p. 23. Research organizations in the vicinity of the UMKC Health Sciences District are placed into District

4, while most of Rockhurst University is placed in District 5. PX 27 p. 23. Witnesses at trial also described how rural Missouri, now combined with parts of Kansas City in Districts 4, 5, and 6, consists of "a lot of farm work," whereas Kansas City has a "lot of restaurants, hotels, service-based jobs," which ultimately drive "different needs" for the two different communities. Tr. 48:9–49:7.

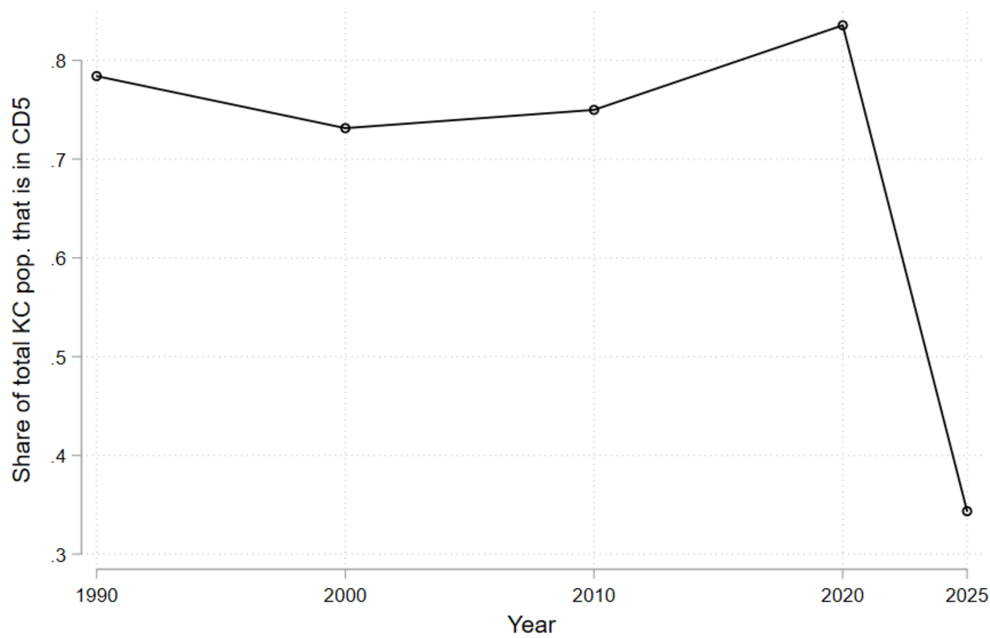
None of Appellants' evidence on any of these factors was at all disputed at trial. *See, e.g.*, D30 pp. 15, 27, 34, 48, 50, 57, 69, 81, 83–84, 98, 101, 114–115.

Appellants also proffered undisputed testimony and evidence from four qualified experts, drawing on their quantitative analyses of metrics and alternative map configurations, that the Kansas City area split in the 2025 Plan is significant and stark. Dr. Rodden described District 5's configuration as a "radical" and "dramatic" departure from the General Assembly's historical treatment of Kansas City as a closely united territory. *See* Tr. 317:18–24, 334:19–335:1, 345:16–22; PX 27 pp. 1, 18, 34. Dr. Cervas also described the reduced compactness measures of the challenged districts as "not minimal . . . not even close." Tr. 71:13–22; PX 24 p. 2 ("not a close call"). Similarly, Dr. Stern described the challenged districts' deviations from compactness as "quite large," with some challenged districts' compactness metrics being more than twice as bad as their counterparts in the median alternative map. Tr. 206:9–15; PX 21 p. 6 (Districts 4 and 5 are "significant outliers on compactness" and "[a]cross a range of compactness measures, the [2025 Plan] is consistently less compact than the ensemble maps, in many cases to an extreme degree"). And finally, Dr. Cromartie highlighted how District 5 was previously "an excellent picture of a congressional district built around closely united urban territory"

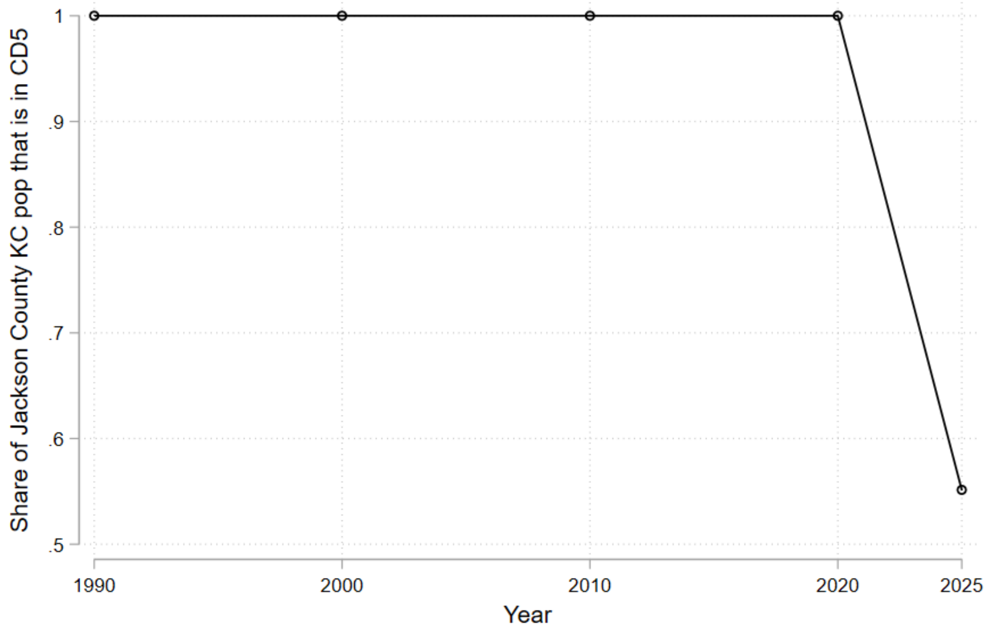
and District 4 encompassed a largely rural area "united by shared concerns regarding rural opportunities and challenges." PX 25 p. 17. But under the 2025 Plan, "[t]he two districts no longer constitute two united territories. *Id.* p. 19.

Indeed, the share of Kansas City's population in District 5, which for the past several decades has been approximately 80 percent, dropped precipitously to 34 percent in the 2025 Plan. PX 27 p. 12 & figure 4 (below). The share of Jackson County's Kansas City population in District 5 dropped from 100 percent to just 55 percent. *Id.* figure 5 (below).

**PX 27 Figure 4 (Share of Kansas City Population Included in Congressional District 5)**



**PX 27 Figure 5 (Share of Jackson County Kansas City Population Included in Congressional District 5)**




Experts also agreed that the 2025 Plan's District 5 performs worse on every traditional compactness metric as compared to the 2022 Plan and other alternative maps that were presented at trial. *See, e.g.*, PX 23 p. 10; PX 24 pp. 5, 8, 9; DX 101 p. 27; IX 215 p. 5–7 & tables 1, 2. An ensemble analysis also showed that, in the overwhelming majority of 100,000 randomly generated maps, a small, cohesive district centered on Kansas City's urban core and Jackson County resulted, in contrast to District 5's configuration stretching across 15 counties, encompassing distant, non-metropolitan areas halfway across the state. *See, e.g.*, PX 22 p. 13–14 & figure 4.

**c. The evidence that the circuit court relied on is so lacking in probative value, when considered in the context of the entire record, that it fails to induce belief in the proposition that District 5 does not depart from the principle of compactness.**

When taking into consideration all of Appellants' evidence and faithfully applying the framework this Court outlined in *Pearson II*, *see supra* Argument, Points I, II, III, it is abundantly clear that Appellants met their burden in showing that District 5 is not closely united territory and departs from the principle of compactness. When the compactness metrics are assessed at a district-by-district level, rather than by statewide averages or by measuring the compactness of different districts against each other over time as the circuit court did, the numbers are undeniable—District 5 has significantly decreased in compactness in the 2025 Plan when compared to the 2022 Plan. *See supra* Argument, Point II; Point VIII.B.1.b. Looking beyond the physical shape and size of the district, as the court is required to do, *see supra* Argument, Points I, III, Appellants have provided robust evidence along half a dozen different elements that drive home how disruptive the fracturing of the Kansas City area is to the residents who live, work, and serve their community there. *See supra* Argument, Point VIII.B.1.b. Notably, none of this evidence was disputed at trial. But the circuit court ignored it all, summarily and erroneously concluding that the expert analysis and witness testimony was "legally irrelevant," reflecting little more than Appellants' "policy preference." D31 pp. 27–28; App 27–28; *see supra* Argument, Point III.

Taken together, this undisputed evidence demonstrates that the reconfiguration of District 5 to fracture the Kansas City area is neither minimal nor practical—instead it

represents a stark and unprecedented departure from the General Assembly's and this Court's historical treatment of the Kansas City-based urban area. *See, e.g.*, *Hearnes*, 362 S.W.2d at 556–57 (concluding that "urban conditions" of the Kansas City and St. Louis areas justified the splitting of counties in a way that may depart from how counties are treated in other areas of the state); *Shayer*, 541 F. Supp. at 934 (concluding that "grouping of urban interests is to some extent necessary to meet the compactness requirement"). The 2025 Plan thus constitutes a violation of compactness as a matter of law. *See Pearson II*, 367 S.W.3d at 55; *supra* Argument, Point IV.

Taking the opinions of Appellants' experts and witnesses, as well as the substantial quantitative and qualitative evidence demonstrating how severely the districts fragment closely united territory in western Missouri and the availability of numerous alternative maps showing that more compact alternative district configurations could be drawn, the circuit court erred in concluding, on the facts before it, that the challenged districts, and District 5 in particular, do not substantially depart from the principles of compactness. For all of these reasons, the evidence that the circuit court relied on is "is so lacking in probative value it fails to induce belief in that proposition when considered in the context of the entire record." *Weeks*, 721 S.W.3d at 877.

### 2. Appellants challenge the circuit court's alternate conclusion that any departures from compactness in District 5 were justified by the factors listed in *Pearson II*.

#### a. The circuit court supported its conclusion based on a reduction in the number of political subdivision splits statewide between the 2022 and 2025 Plans.

The circuit court held in the alternative that any deviations from compactness in District 5 are "justified by the General Assembly's adherence to other requirements and traditional principles in the 2025 Plan statewide." D31 p. 25; App 25. In support, the circuit court noted that the 2025 Plan complies with equal population and contiguity requirements. D31 p. 25; App 25.

The circuit court also observed that the 2025 Plan reduces the number of county, municipal, and VTD splits statewide, D31 p. 25; App 25, eliminates some county splits in Kansas City and municipal splits in Jackson County, *see* D31 pp. 25–26; App 25–26, "generally follows state senate boundaries," D31 p. 25; App 25, and "track[s] county boundaries" near Districts 1, 2, and 3, *see* D31 p. 26; App 26.

#### b. The record contains extensive evidence that District 5's departures from compactness were not justified by the *Pearson II* factors.

Appellants' unrebutted evidence demonstrates that, even if District 5's deviations from compactness could be described as minimal or practical (which they cannot, *see supra* Argument, Point IV, Point VIII.B.1.c), those deviations are not the result of any of the recognized factors in *Pearson II*.

In particular, Appellants presented alternative maps—including the 2022 Plan—showing that "greater . . . compactness [wa]s feasible in" District 5 and that "recognized

factors did not affect the district boundary." *Johnson*, 366 S.W.3d at 30–31; *see also Faatz*, 685 S.W.3d at 404 n.10 ("[A] plaintiff may satisfy this objective standard by presenting evidence—such as proposed maps—demonstrating the alleged violation was not necessary to achieve the same compliance with other constitutional requirements.").

The 2022 Plan most clearly demonstrates that the configuration of District 5 in the 2025 Plan does not result from any of the *Pearson II* factors. As an initial matter, because the 2022 Plan indisputably complies with population equality, contiguity, and federal law requirements, *see, e.g.*, Tr. 774:13–22, 775:2–4; PX 87 p. 10; PX 27 pp. 33–35, compliance with those factors could not have necessitated a change to District 5 or any other district. The same principle is illustrated by Dr. Cervas's hand-drawn maps. *See* PX 23 pp. 12–14.

Nor could the 2025 Plan's configuration of District 5 result from a consideration of population density patterns. Appellants presented unrebutted evidence that the 2022 Plan kept "the densest parts of Jackson County together in District 5," along with "the densest areas [of Kansas City] north of the Missouri River." PX 27 p. 16; *see also* Tr. 80:16–81:3 (Dr. Cervas testifying that the 2022 Plan already accounted for population density by uniting the highly dense portions of Kansas City in District 5). In contrast, the 2025 Plan splits the densest neighborhoods of Kansas City between three congressional districts. PX 27 pp. 18–19. Whereas District 5 under the 2022 Plan had been "composed of a set of Kansas City census tracts with similarly high levels of population density," the 2025 Plan carves away many of those tracts and instead adds "faraway, rural, sparsely populated tracts." *Id.* p. 19 & figure 9. Likewise, the 2025 Plan transforms District 4, which had previously been dominated by low-density rural tracts, into a district whose "rural character

. . . has been lost” because “the metro-area portion of the district now compris[es] a larger share of the district’s population than the rural part.” *Id*. pp. 19–20 & figure 10.

Appellants also demonstrated that the 2025 Plan’s District 5 does not result from an attempt to respect natural boundary lines. Dr. Rodden provided unrebutted testimony that “[t]he boundaries that subdivide Kansas City in the 2025 [Map] do not appear to be driven by a desire to follow bodies of water or other natural features.” PX 27 p. 35; *see also* Tr. 337:25–338:4. Moreover, Dr. Cervas’s hand-drawn alternative maps showed that a more compact configuration of District 5 would have increased the amount of the Missouri River that could have served as a natural boundary between districts. Tr. 82:4–21; PX 23 p. 22.

Appellants presented copious evidence that respect for political subdivisions cannot justify the 2025 Plan’s configuration of District 5. As explained above, the circuit court erroneously applied the law in constraining consideration of this factor to a statewide tally of the number of political subdivision splits rather than evaluating the extent, impact, or necessity of those splits on the composition of the challenged districts. *See supra* Argument, Point V; *see also Doherty*, 284 S.W.2d at 434 (holding plan violated constitutional compactness requirement because its “[d]epartures from ward lines in making districts were not used to obtain compactness but instead aided in making them less compact, more irregular, longer and narrower”). Appellants’ experts demonstrated that “the raw number of [] splits” can be a “poor proxy for the extent to which the plan undermines the types of closely connected communities that sometime[s] correspond to [political subdivision] boundaries.” PX 28 p. 10; *see also* Tr. 338:14–339:9 (contrasting the split of Sugar Creek in 2022 Plan to Kansas City in 2025 Plan).

Appellants' unrebutted evidence establishes that the fragmenting of Kansas City and Jackson County boundaries increased in both severity and consequence in the 2025 Plan. The 2025 Plan nearly quadruples the number of Jackson County residents excluded from District 5, as compared to the 2022 Plan. PX 28 p. 11. For more than three decades, District 5 contained 87–90 percent of the Jackson County population; that number dropped to 52 percent in 2025. PX 22 pp. 3–4 & table 1. Within Jackson County, while only 23,788 people lived in the smaller fragment of a split municipality in the 2022 Plan, that number increased more than 12-fold, to 300,419 people, in the 2025 Plan. PX 28 p. 12. Likewise, since 1992, more than three-quarters of Kansas City's population had been concentrated in District 5, while the 2025 Plan keeps only a third of the city's population in the district. PX 22 p. 4 & table 2. Appellants' fact witnesses also testified at length about the impact of the political subdivision splits in the 2025 Plan. *See* D30 pp. 54–64. In particular, Kansas City's Mayor testified as to how the 2025 Plan's splits of Kansas City are more disruptive than the 2022 Plan's splits of Kansas City. *See* Tr. 514:1–521:25; 550:12–552:18; *see also supra* Argument, Point V.

Finally, the 2025 Plan's configuration of District 5 cannot be explained by adherence to historical boundary lines. To the contrary, District 5 deviates wildly from historical boundary lines that were respected in the 2022 Plan and plans prior. Since Missouri has had congressional districts, it has contained a District 5 centered on Kansas City's urban core. *See* PX 27 pp. 5–10. The 2025 Plan obliterates any recognizable historical version of District 5. *See* PX 27 pp. 10–11; IX 215 p. 13 & table 9 (Dr. Hood's report showing that in the 2025 Plan's District 5 retained only 42.7% of the 2022 Plan's constituents); *see also* Tr.

785:18–786:5 (Dr. Hood acknowledging that courts have previously noted his conclusion that a district with a core retention level of even 68.7% "greatly altered the relationship between representatives and constituents"). By contrast, Appellants' alternative maps increased both the compactness and core retention levels for District 5 compared to the 2025 Plan. PX 23 p. 23 & table 5; Tr. 192:11–18, 205:3–11; PX 21 pp. 29–32 & table 7 & figures 11–14 (showing that ensemble maps split fewer prior district boundaries and keep much more of the districts' populations intact). Indeed, the 2025 Plan splits prior congressional districts to a greater extent than about 99 percent of Dr. Stern's randomized maps. PX 21 pp. 29–32 & table 7 & figures 11–14. The 2025 Plan's District 5 therefore cannot be justified as respecting historical boundary lines. The 2025 Plan's configuration is a far cry from the 2022 Plan, which leaders of the General Assembly hailed as reflecting "common-sense boundaries that everyday Missourians can recognize." PX 45.

**c. The evidence that the circuit court relied on is so lacking in probative value, when considered in the context of the entire record, that it fails to induce belief in the principle that District 5's departures from compactness were justified by the *Pearson II* factors.**

The evidence the circuit court relied on to conclude that District 5's configuration is justified by the *Pearson II* factors is utterly lacking in probative value, particularly when considered in light of the full record of evidence discussed above.

The circuit court relied primarily on the 2025 Plan's reduction in the number of political subdivision splits statewide and its respect for state senate boundaries. Even if this Court agreed with the circuit court that the political subdivision factor discussed in *Pearson II* can be reduced to a statewide tally, *contra supra* Argument, Point V, the goal of reducing

the number of political subdivision splits statewide cannot explain the 2025 Plan's configuration of District 5. Many of Dr. Cervas's alternative maps achieved the same or fewer statewide county and municipal splits than the 2025 Plan while also creating a more mathematically compact configuration of District 5. *See* D30 p. 74. Dr. Cervas's maps also demonstrated that a more mathematically compact configuration of District 5 could be drawn without splitting any municipalities in Jackson County. *See* D30 p. 75.

And even if this Court agreed with the circuit court that the political subdivision factor includes consideration of state legislative districts, *contra supra* Argument, Point V, that factor cannot explain the 2025 Plan's configuration of District 5. State Respondents' expert agreed that the 2025 Plan's District 5 splits *more* state senate districts than the 2022 Plan's District 5, *see* Tr. 639:3–8, and Dr. Cervas's alternative maps show that state senate district splits could have been reduced in the 2025 Plan while drawing more compact configurations of the district, *see* PX 24 pp. 11–12.

Ultimately, none of the *Pearson II* factors necessitated District 5's deviations from compactness because there was no need for the General Assembly to reconfigure the map in the first place. Try as they might to find some rhyme or reason for the 2025 Plan, State and Intervenor Respondents can point to no legitimate justification for District 5's configuration. The result is a violation of closely united territory undertaken not in service of Missouri's constitutional principles but at the behest of political actors acting on political whim. *See* PX 33. Whatever policies drove the map, the end result is a stark, unprecedented, disruptive departure from Missouri's mandatory compactness requirement in District 5 that

cannot be justified by any of the mandatory or permissive factors this Court has recognized as constraints upon legislative discretion.

## CONCLUSION

Appellants respectfully request that this Court reverse the judgment of the circuit court and enter judgment declaring that the 2025 Plan, H.B. 1, and specifically Districts 4, 5, and 6, violates the compactness requirement of article III, section 45; declaring that the 2022 Plan, H.B. 2909, remains the state's legally operative congressional map; and permanently enjoining State and Board Respondents from enforcing the 2025 Plan. *See* Rule 84.14 ("Unless justice otherwise requires, the [appellate] court shall dispose finally of the case."); s*ee also State Farm Mut. Auto. Ins. Co. v. Allen*, 744 S.W.2d 782, 787–88 (Mo. banc 1988) ("It is seldom necessary to reverse the judgment in a court tried case and to remand the case for further hearing because of trial error. The appellate court is usually able to examine the record and make or direct final disposition of the case.").

Date: April 16, 2026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## CERTIFICATE OF SERVICE AND COMPLIANCE

I certify that a copy of the above Appellants' Opening Brief was served electronically by Missouri CaseNet e-filing system on April 16, 2026, to all parties of record.

I also certify that the foregoing brief contains the information required by Rule 55.03, complies with the limitations contained in Rule 84.06(b) and that the brief contains 17,339 words.

*/s/ J. Andrew Hirth*
J. Andrew Hirth