

**IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE**

KERMIT L. MOORE, JR., VANECIA )  
 KIMBROW, FELECIA D. BOYD, )  
 REGENNA WILLIAMS, ROSHUN )  
 AUSTIN, WILLIE MARTIN, L. )  
 LASIMBA M. GRAY, JR., and G.A. )  
 HARDAWAY, SR., )

Case No. \_\_\_\_\_

Plaintiffs, )

v. )

STATE OF TENNESSEE, BILL )  
 HASLAM, in his official capacity as )  
 Governor of the State of Tennessee, TRE )  
 HARGETT, in his official capacity as )  
 Secretary of State of the State of Tennessee, )  
 and MARK GOINS, in his official capacity )  
 as Coordinator of Elections of Tennessee, )

**COMPLAINT**

Defendants. )

**I. INTRODUCTION**

1. Despite the fact that the Tennessee General Assembly had in front of it a State Senate plan that minimized county splits while still complying with federal law, the General Assembly instead enacted a plan that needlessly split counties, thus violating the Tennessee Constitution.
2. Plaintiffs are individual registered voters who seek declaratory and injunctive relief to enforce Article II, Section 6 of the Tennessee Constitution.
3. Plaintiffs seek a declaratory judgment that the newly-enacted Tennessee State Senate violates Article II, Section 6 of the Tennessee Constitution. Plaintiffs seek an injunction prohibiting the calling, holding, supervising, or certifying of any future Tennessee State

Senate elections under the challenged redistricting plan. Plaintiffs seek the creation of state senate plan that minimizes the number of counties split while still complying with federal and state law.

## **II. JURISDICTION AND VENUE**

4. This action for declaratory and injunctive relief is brought under T.C.A. § 29-14-103 and Tenn. R. Civ. P. 65.
5. This Court has jurisdiction over this action pursuant to T.C.A. § 16-11-101 *et seq.*
6. Pursuant to T.C.A. § 4.4.104(a), the exclusive venue for this action is the Chancery Court for Davidson County.

## **III. PLAINTIFFS**

7. PLAINTIFF KERMIT L. MOORE, JR., resides at 6585 Pine Top Circle South, Memphis, Tennessee, 38141. An African-American citizen and resident of Shelby County, he is a member of numerous local civic engagement groups and is a registered voter. He lives in current State Senate District 31 and lives in State Senate District 33 in Tennessee's newly enacted State Senate Plan.
8. PLAINTIFF VANECA KIMBROW resides at 10836 Whisper Hallow Cove, Collierville, Tennessee, 38017. An African-American citizen and resident of Shelby County, she is a member of numerous local civic engagement groups and is a registered voter. She lives in current State Senate District 33 and lives in State Senate District 32 in Tennessee's newly enacted State Senate Plan.
9. PLAINTIFF FELECIA D. BOYD resides at 5258 Quince Road, Memphis, Tennessee, 38117. An African-American citizen and resident of Shelby County, she is a member of numerous local civic engagement groups and is a registered voter. She lives in current

State Senate District 30 and lives in State Senate District 33 in Tennessee's newly enacted State Senate Plan.

10. PLAINTIFF REGENNA WILLIAMS resides at 1005 Summer Springs Road, Collierville, Tennessee, 38017. An African-American citizen and resident of Shelby County, she is a registered voter. She lives in current State Senate District 33 and lives in State Senate District 32 in Tennessee's newly enacted State Senate Plan.
11. PLAINTIFF ROSHUN AUSTIN resides at 3280 Carnes Avenue, Memphis, Tennessee, 38111. An African-American citizen and resident of Shelby County, she is a member of a number of local civic engagement groups and is a registered voter. She lives in current State Senate District 30 and lives in State Senate District 31 in Tennessee's newly enacted State Senate Plan.
12. PLAINTIFF WILLIE MARTIN resides at 4730 Plantation Forest Cove, Collierville, Tennessee, 38017. An African-American citizen and resident of Shelby County, he is a member of a number of civic engagement groups and is a registered voter. He lives in current State Senate District 33 and lives in State Senate District 32 in Tennessee's newly enacted State Senate Plan.
13. PLAINTIFF L. LASIMBA M. GRAY, JR., resides at 5113 Rowen Oak Road, Collierville, Tennessee, 38017. An African-American citizen and resident of Shelby County, he is a member of a number of civic engagement groups and is a registered voter. He lives in current State Senate District 33 and lives in State Senate District 32 in Tennessee's newly enacted State Senate Plan.
14. PLAINTIFF G.A. HARDAWAY, SR., resides at 1243 Worthington Street, Memphis, Tennessee, 38144. An African-American citizen and resident of Shelby County, he is a

member of numerous civic engagement organizations and is a registered voter. He is currently the State House Representative elected from State House District 92 in the current plan. He lives in current State Senate District 29 and lives in State Senate District 30 in Tennessee's newly enacted State Senate Plan.

#### **IV. DEFENDANTS**

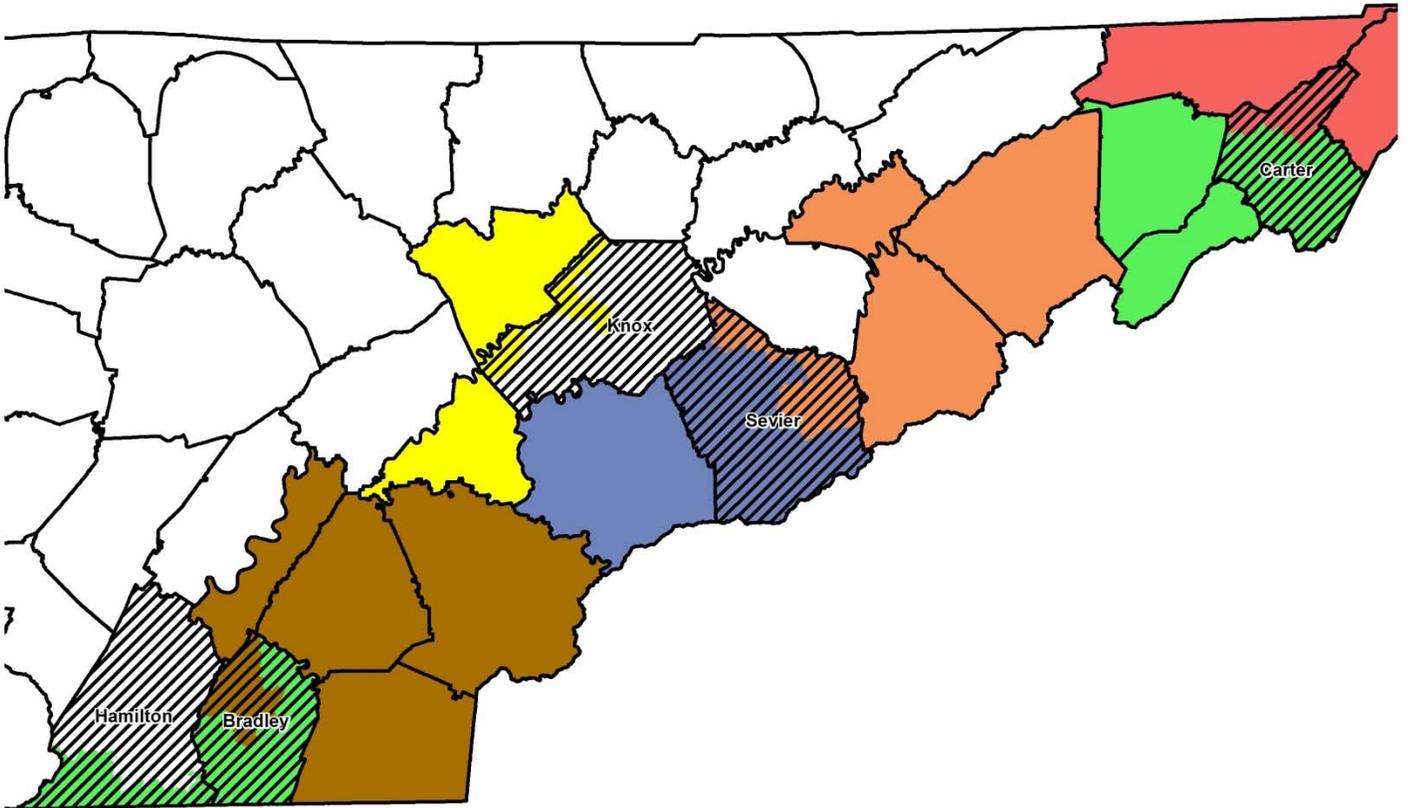
15. DEFENDANT STATE OF TENNESSEE is a political subdivision covered under the provisions of the Voting Rights Act and responsible for the actions of its officials with regard to state-wide redistricting.
16. DEFENDANT BILL HASLAM is the duly elected and acting Governor of the State of Tennessee. He is sued in his official capacity.
17. DEFENDANT TRE HARGETT is the legislatively-elected and acting Secretary of State of the State of Tennessee. He is sued in his official capacity.
18. DEFENDANT MARK GOINS is the appointed and acting Coordinator of Elections of Tennessee. He is sued in his official capacity.

#### **V. FACTS**

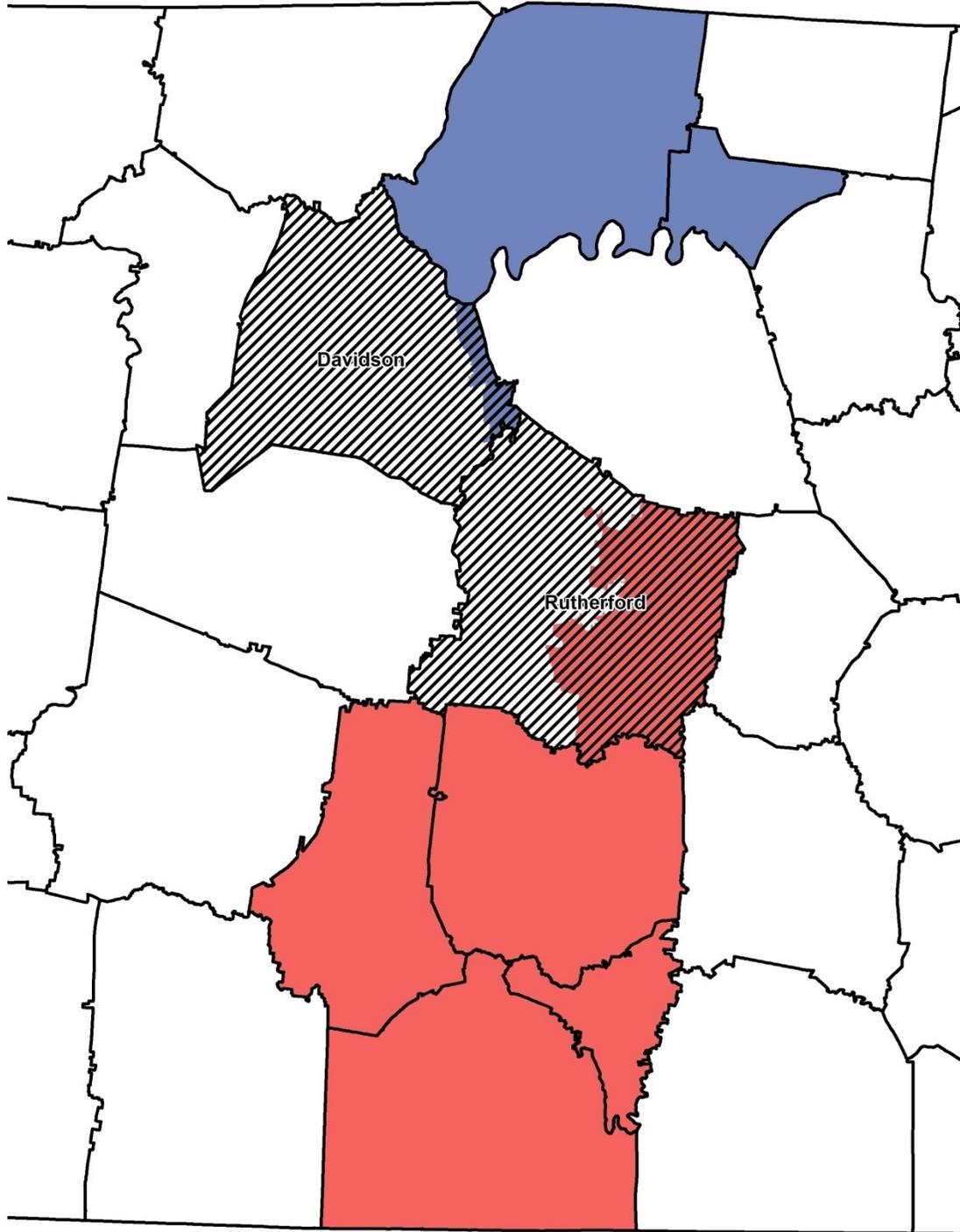
19. The overall population of Tennessee grew by 11.5% from 2000 to 2010.
20. Following the decennial census conducted in 2010, the state of Tennessee had to redraw the lines for State Senate Districts because the total variance in population between the districts was 56.46%.
21. The newly enacted Tennessee State Senate redistricting plan, Senate Bill 1514, Pub. Ch. 514, was signed into law by DEFENDANT HASLAM on February 9, 2012.
22. In Senate Bill 1514, the enacted State Senate Plan, eight counties were split, with a total variance of 9.21%.

23. In Senate Bill 1514, Shelby, Davidson, Rutherford, Hamilton, Bradley, Knox, Sevier, and Carter Counties were split.

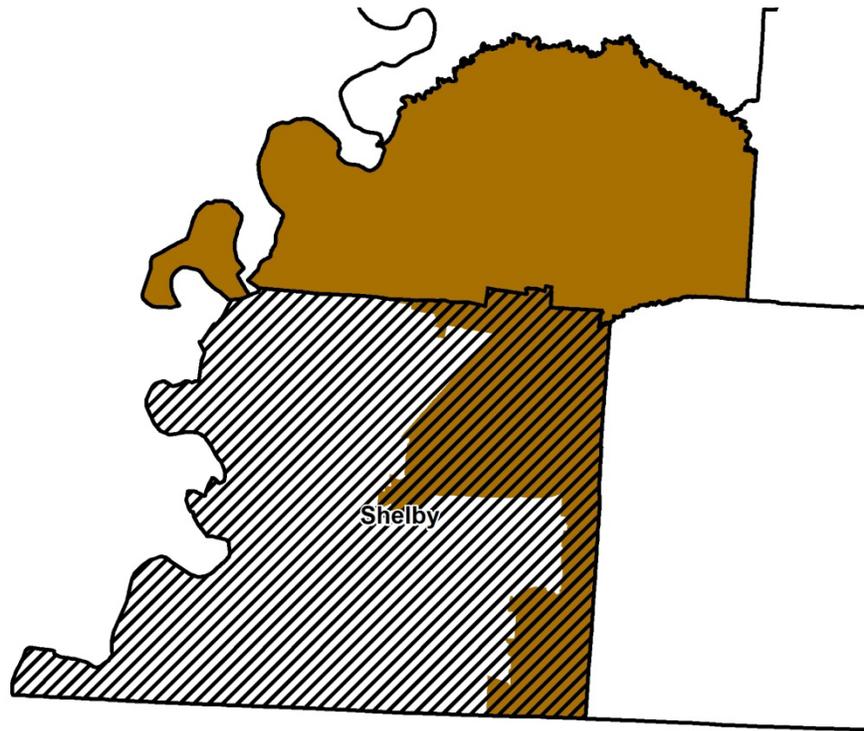
24. The Senate Bill 1514 splits in Carter, Knox, Sevier, Hamilton and Bradley Counties are demonstrated in the map below:



25. The Senate Bill 1514 splits in Davidson and Rutherford Counties are demonstrated in the map below:



26. The Senate Bill 1514 split in Shelby County is demonstrated in the map below:



27. In the redistricting plan in place prior to 2012 redistricting, there were 5 State Senate Districts apportioned to Shelby County, and 3 of those were African-American majority districts.

28. In Senate Bill 1514, the Tennessee General Assembly reduced the number of Senate Districts apportioned to Shelby County by one, from 5 to 4, with a portion of Shelby County being attached to a district centered in Tipton County.

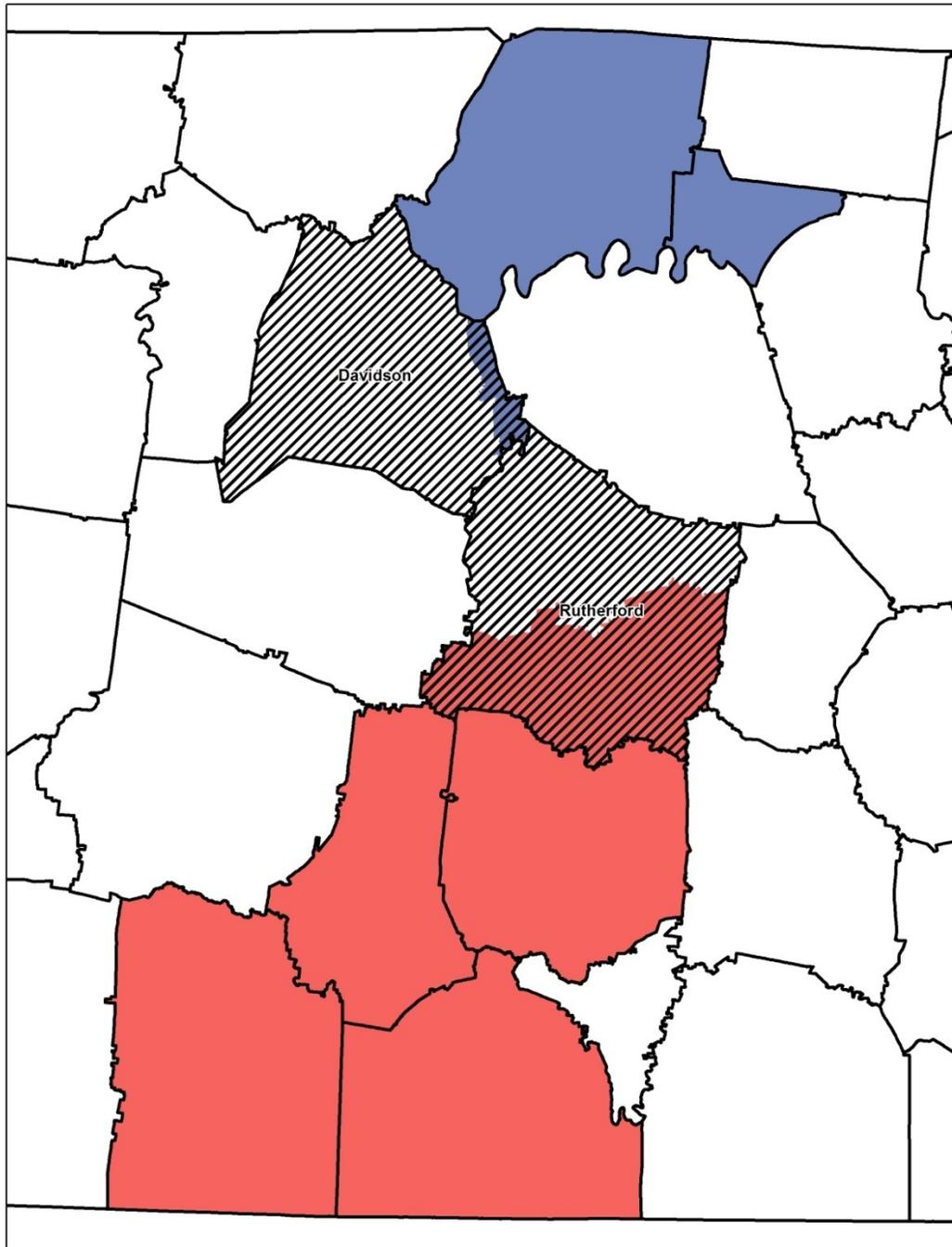
29. During the 107<sup>th</sup> Legislature's session, the House Ad Hoc Committee on Redistricting did not hold public hearings following the public release of plans in House Bill 1555 and Senate Bill 1514 and prior to voting on these plans.

30. The Tennessee Black Caucus of State Legislators (TBCSL) introduced a Senate plan that would split only 5 counties, with a total variance of 10.05%. This plan was introduced by Senator Kyle as Amendment 5 to Senate Bill 1514.

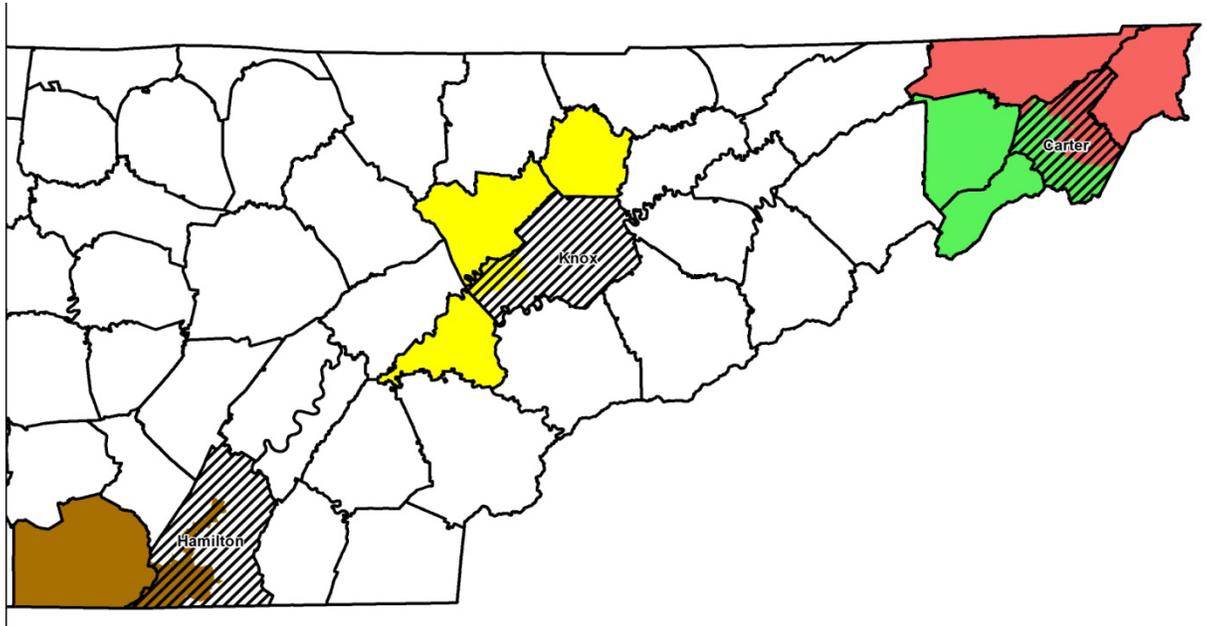
31. Amendment 5 to Senate Bill 1514 was tabled on January 13, 2012.

32. The TBCSL plan split only Carter, Knox, Davidson, Rutherford, and Hamilton Counties.

33. The TBCSL plan splits in Davidson and Rutherford Counties are demonstrated in the map below:



34. The TBCSL plan splits in Carter, Knox and Hamilton Counties are demonstrated in the map below:



35. The TBCSL plan, although more compliant with the state constitutional requirement of minimizing split counties, and also compliant with the one-person, one vote requirement of the 14<sup>th</sup> Amendment, was rejected.

36. The Tennessee Supreme Court previously held that “[t]he prohibition against crossing county lines should be complied with insofar as is possible under equal protection requirements.” *State ex rel. Lockert v. Crowell*, 631 S.W.2d 702, 709 (T.N. 1982) (*Lockert I*).

37. The Tennessee Supreme Court also recognized the “excellent policy reasons” for this constitutional provision, including that when counties are divided, “their citizens are denied the constitutional right to be represented in the State Senate as a political group by senators subject to election by all voters within that political group.” *Lockert I*, 631

S.W.2d at 709. Furthermore, “the legal and political framework of Tennessee allows and requires that the legislature enact legislation having only a local application. Thus, the legislature has the ability through local legislation to affect citizens merely because those citizens reside in a particular county. Therefore, the legislature has the right to govern citizens in one county differently from citizens in another county.” *Id.*

38. The Tennessee Supreme Court noted that they were “of the opinion that [a demonstration Senate redistricting plan] **with a total variance of 13.73% would withstand all challenges on federal constitutional grounds** in the federal courts.” *State ex rel. Lockert v. Crowell*, 656 S.W.2d 836, 841 (T.N. 1983) (*Lockert II*) (emphasis added).

## VI. CAUSE OF ACTION

### Violation of Article II, Section 6 of the Tennessee Constitution

39. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.
40. The Senate Bill 1514 redistricting plan violates Article II, Section 6 of the Tennessee Constitution by splitting counties more than is necessary to comply with the one-person, one-vote mandate derived from the Equal Protection Clause or the federal Voting Rights Act of 1965.
41. The General Assembly had a plan before it that was compliant with the Tennessee State Constitution—the TBCSL plan—but it did not adopt that plan.
42. The Senate Bill 1514 redistricting plan injures Plaintiffs in that enacted State Senate Plan violates the state constitutional prohibition on minimizing split counties. As residents of a county needlessly split by the General Assembly, Plaintiffs will be afforded less influence over local legislation affecting Shelby County.

## VII. BASIS FOR EQUITABLE RELIEF

43. Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs alleged herein and this suit for declaratory judgment and injunctive relief is their only means of securing adequate redress from all of the Defendants' unlawful practices.

44. Plaintiffs will continue to suffer irreparable injury from all of the Defendants' intentional acts, policies and practices set forth herein unless enjoined by this Court.

### **VIII. PRAYER**

Plaintiffs respectfully pray that this Court enter Judgment granting:

- A. A declaratory judgment that Defendants' actions violate the rights of Plaintiffs as set forth in Article II, Section 6 of the Tennessee Constitution.
- B. Preliminary and permanent injunctive relief requiring Defendants, their successors in office, agents, employees, attorneys, and those persons acting in concert with them and/or at their direction—to develop a State Senate redistricting plan that minimizes county splits, and enjoining and forbidding the use of the enacted state legislative plans.
- C. If need be, adopt an interim electoral plan for the 2012 elections for the Tennessee State Senate.
- D. An order of this Court retaining jurisdiction over this matter until all Defendants have complied with all orders and mandates of this Court.
- E. And such other and further relief as the Court may deem just and proper.

This, the 16<sup>th</sup> day of March, 2012.

Respectfully submitted,

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