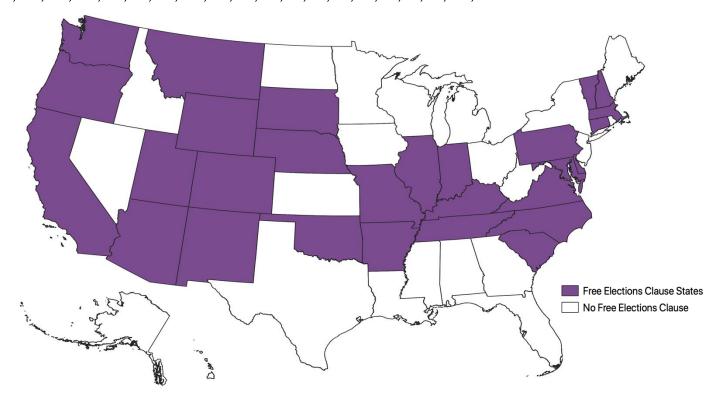
State Constitutions and Partisan Gerrymandering

The U.S. Supreme Court decision in *Rucho v. Common Cause* and *Lamone v. Benisek* prevents federal courts from reviewing partisan gerrymanders. Fortunately, many state constitutions have provisions that can be used to challenge gerrymandered districts. Twenty-eight state constitutions mandate "free" elections. As the Supreme Court stated in the *Rucho/Lamone* opinion, these clauses could provide stronger protections for voters than what the U.S. Constitution mandates. State supreme courts make the final decision on whether districts are an impermissible partisan gerrymander in state constitution claims. *Rucho/Lamone* does not impact these challenges. Advocates for fair maps hope to use state cases in our fight to end partisan gerrymandering.

The 28 states with free elections clauses in their constitutions include AZ, AR, CA, CO, CT, DE, IL, IN, KY, MD, MA, MO, MT, NE, NH, NM, NC, OK, OR, PA, SC, SD, TN, UT, VT, VA, WA, and WY.



Free Elections Clauses in Action: State Court Victories

On September 3, 2019, a North Carolina court invoked the state's Free Elections Clause to overturn General Assembly boundaries as an unconstitutional partisan gerrymander in *Common Cause v. Lewis*. The court said "the Free Elections Clause of the North Carolina Constitution guarantees that all elections must be conducted freely and honestly to ascertain, fairly and truthfully, the will of the People..." The judges added: "The partisan gerrymandering of the 2017 Plans strikes at the heart of the Free Elections Clause. Using their control of the General Assembly, Legislative Defendants manipulated district boundaries, to the greatest extent possible, to control the outcomes of individual races so as to best ensure their continued control of the legislature."

Pennsylvanians also used their "Free and Equal Elections" clause to challenge gerrymandered districts in *League of Women Voters of PA v. Pennsylvania*. The Supreme Court of Pennsylvania found that the districts were a partisan gerrymander that violated Pennsylvanians' right to "free and equal elections" protected by the state constitution and ordered fair districts to be drawn for the 2018 elections.

