

111TH CONGRESS
1ST SESSION

H. R. 97

To amend title 18, United States Code, to prohibit certain deceptive practices in Federal elections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. CONYERS (for himself, Mr. NADLER of New York, Ms. ZOE LOFGREN of California, Mr. SCOTT of Virginia, Ms. JACKSON-LEE of Texas, Mr. DELAHUNT, Mr. WEXLER, Mr. ELLISON, Mr. COHEN, Mr. JOHNSON of Georgia, Mr. VAN HOLLEN, Mr. LEWIS of Georgia, Ms. NORTON, Mr. PAYNE, Mrs. MALONEY, and Mr. SCHIFF) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit certain deceptive practices in Federal elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deceptive Practices
5 and Voter Intimidation Prevention Act of 2009”.

1 **SEC. 2. PROHIBITION ON DECEPTIVE PRACTICES IN FED-**
2 **ERAL ELECTIONS.**

3 (a) IN GENERAL.—Chapter 29 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 618. Deceptive practices in Federal elections**

7 “(a) Whoever, within 60 days before a Federal elec-
8 tion, knowingly communicates election-related information
9 about that election, knowing that information to be false,
10 with the intent to prevent another person from exercising
11 the right to vote in that election, or attempts to do so,
12 shall be fined under this title or imprisoned not more than
13 5 years, or both.

14 “(b) As used in this section—

15 “(1) the term ‘Federal election’ means any gen-
16 eral, primary, run-off, or special election for the of-
17 fice of President, Vice President, presidential elector,
18 Member of the Senate, Member of the House of
19 Representatives, or Delegate or Commissioner from
20 a territory or possession; and

21 “(2) the term ‘election related information’
22 means information regarding—

23 “(A) the time, place, or manner of con-
24 ducting the election;

25 “(B) the qualifications for or restrictions
26 on voter eligibility for the election, including—

1 “(i) any criminal penalties associated
2 with voting in the election; or

3 “(ii) information regarding a voter’s
4 registration status or eligibility;

5 “(C) with respect to a closed primary elec-
6 tion, the political party affiliation of any can-
7 didate for office, if the communication of the
8 information also contains false information de-
9 scribed in subparagraph (A) or (B); or

10 “(D) the explicit endorsement by any per-
11 son or organization of a candidate running for
12 any office voted on in the election.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 29 of title 18, United States Code, is amended
15 by adding at the end the following new item:

“618. Deceptive practices in Federal elections.”.

16 **SEC. 3. MODIFICATION OF PENALTY FOR VOTER INTIMIDA-**
17 **TION.**

18 Section 594 of title 18, United States Code, is
19 amended by striking “one year” and inserting “5 years”.

20 **SEC. 4. SENTENCING GUIDELINES.**

21 (a) REVIEW AND AMENDMENT.—Not later than 90
22 days after the date of enactment of this Act, the United
23 States Sentencing Commission, pursuant to its authority
24 under section 994 of title 28, United States Code, and
25 in accordance with this section, shall review and, if appro-

1 p r i a t e , a m e n d t h e F e d e r a l s e n t e n c i n g g u i d e l i n e s a n d p o l i c y
2 s t a t e m e n t s a p p l i c a b l e t o p e r s o n s c o n v i c t e d o f a n y o f f e n s e
3 u n d e r s e c t i o n s o f t i t l e 1 8 , U n i t e d S t a t e s C o d e , t h a t a r e
4 a d d e d o r m o d i f i e d b y t h i s A c t .

5 (b) A U T H O R I Z A T I O N . — T h e U n i t e d S t a t e s S e n t e n c i n g
6 C o m m i s s i o n m a y , f o r t h e p u r p o s e s o f t h e a m e n d m e n t s
7 m a d e p u r s u a n t t o t h i s s e c t i o n , a m e n d t h e F e d e r a l s e n -
8 t e n c i n g g u i d e l i n e s i n a c c o r d a n c e w i t h t h e p r o c e d u r e s s e t
9 f o r t h i n s e c t i o n 2 1 (a) o f t h e S e n t e n c i n g A c t o f 1 9 8 7 (2 8
1 0 U . S . C . 9 9 4 n o t e) a s t h o u g h t h e a u t h o r i t y u n d e r t h a t s e c -
1 1 t i o n h a d n o t e x p i r e d .

1 2 **S E C . 5 . R E P O R T I N G V I O L A T I O N S A N D R E M E D I A L A C T I O N .**

1 3 (a) R E P O R T I N G . — A n y p e r s o n m a y r e p o r t t o t h e A t -
1 4 t o r n e y G e n e r a l a n y v i o l a t i o n o r p o s s i b l e v i o l a t i o n o f s e c t i o n
1 5 5 9 4 o r 6 1 8 o f t i t l e 1 8 , U n i t e d S t a t e s C o d e .

1 6 (b) C O R R E C T I V E A C T I O N . —

1 7 (1) I N G E N E R A L . — I m m e d i a t e l y a f t e r r e c e i v i n g
1 8 a r e p o r t u n d e r s u b s e c t i o n (a) , t h e A t t o r n e y G e n e r a l
1 9 s h a l l c o n s i d e r a n d r e v i e w s u c h r e p o r t a n d , i f t h e A t -
2 0 t o r n e y G e n e r a l d e t e r m i n e s t h a t t h e r e i s a r e a s o n a b l e
2 1 b a s i s t o f i n d t h a t a v i o l a t i o n h a s o c c u r r e d , t h e A t t o r -
2 2 n e y G e n e r a l s h a l l —

2 3 (A) u n d e r t a k e a l l e f f e c t i v e m e a s u r e s n e e -
2 4 e s s a r y t o p r o v i d e c o r r e c t i n f o r m a t i o n t o v o t e r s
2 5 a f f e c t e d b y t h e f a l s e i n f o r m a t i o n ;

1 (B) refer any matter under the jurisdiction
2 of the Civil Rights Division of the Department
3 of Justice to such division for prosecution; and

4 (C) refer the matter to the appropriate
5 Federal and State authorities for criminal pros-
6 ecution or civil action after the election.

7 (2) REGULATIONS.—

8 (A) IN GENERAL.—The Attorney General
9 shall promulgate regulations regarding the
10 methods and means of corrective actions to be
11 taken under paragraph (1). Such regulations
12 shall be developed in consultation with the Elec-
13 tion Assistance Commission, civil rights organi-
14 zations, voting rights groups, State and local
15 election officials, voter protection groups, and
16 other interested community organizations.

17 (B) STUDY.—

18 (i) IN GENERAL.—The Attorney Gen-
19 eral, in consultation with the Federal Com-
20 munications Commission and the Election
21 Assistance Commission, shall conduct a
22 study on the feasibility of providing the
23 corrective information under paragraph (1)
24 through public service announcements, the

1 emergency alert system, or other forms of
2 public broadcast.

3 (ii) REPORT.—Not later than 180
4 days after the date of the enactment of
5 this Act, the Attorney General shall submit
6 to Congress a report detailing the results
7 of the study conducted under clause (i).

8 (3) PUBLICIZING REMEDIES.—The Attorney
9 General shall make public through the Internet,
10 radio, television, and newspaper advertisements in-
11 formation on the responsibilities, contact informa-
12 tion, and complaint procedures applicable under this
13 section.

14 (c) REPORTS TO CONGRESS.—

15 (1) IN GENERAL.—Not later than 90 days after
16 any primary, general, or run-off election for Federal
17 office, the Attorney General shall submit to Con-
18 gress a report compiling and detailing any allega-
19 tions of false information submitted pursuant to
20 subsection (a) and relating to such election.

21 (2) CONTENTS.—Each report submitted under
22 paragraph (1) shall include—

23 (A) detailed information on specific allega-
24 tions of deceptive tactics;

1 (B) statistical compilations of how many
2 allegations were made and of what type;

3 (C) the geographic locations of and the
4 populations affected by the alleged deceptive in-
5 formation;

6 (D) the status of the investigations of such
7 allegations;

8 (E) any corrective actions taken in re-
9 sponse to such allegations;

10 (F) the rationale used for any corrective
11 actions or for any refusal to pursue an allega-
12 tion;

13 (G) the effectiveness of any such corrective
14 actions;

15 (H) whether a Voting Integrity Task Force
16 was established with respect to such election,
17 and, if so, how such task force was staffed and
18 funded;

19 (I) any referrals of information to other
20 Federal, State, or local agencies;

21 (J) any suit instituted under section
22 2004(b)(2) of the Revised Statutes (42 U.S.C.
23 1971(b)(2)) in connection with such allegations;
24 and

1 (K) any criminal prosecution instituted
2 under title 18, United States Code, in connec-
3 tion with such allegations.

4 (3) REPORT MADE PUBLIC.—On the date that
5 the Attorney General submits the report required
6 under paragraph (1), the Attorney General shall also
7 make the report publicly available through the Inter-
8 net and other appropriate means.

9 (d) DELEGATION OF DUTIES.—

10 (1) IN GENERAL.—The Attorney General shall
11 delegate the responsibilities under this section to a
12 Voting Integrity Task Force established under para-
13 graph (2).

14 (2) VOTING INTEGRITY TASK FORCE.—

15 (A) IN GENERAL.—The Attorney General
16 shall establish a Voting Integrity Task Force to
17 carry out the requirements of this section with
18 respect to any general, primary, run-off, or spe-
19 cial election for Federal office.

20 (B) COMPOSITION.—Any Voting Integrity
21 Task Force established under this paragraph
22 shall be under the direction of the Assistant At-
23 torney General for the Civil Rights Division and
24 the Assistant Attorney General for the Criminal
25 Division, jointly.

1 (e) FEDERAL OFFICE.—For purposes of this section,
2 the term “Federal office” means the office of President,
3 Vice President, presidential elector, Member of the Senate,
4 Member of the House of Representatives, or Delegate or
5 Commissioner from a territory or possession of the United
6 States.

○