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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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Deceptive Practices and Voter Intimidation Prevention Act of 2009''.

SEC. 2. PROHIBITION ON DECEPTIVE PRACTICES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following:

"§ 618. Deceptive practices in Federal elections

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

''(b) As used in this section—

''(1) the term 'Federal election' means any general, primary, run-off, or special election for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Commissioner from a territory or possession; and

''(2) the term 'election related information' means information regarding—

''(A) the time, place, or manner of conducting the election;

''(B) the qualifications for or restrictions on voter eligibility for the election, including—

"(i) any criminal penalties associated with voting in the election; or

"(ii) information regarding a voter's registration status or eligibility;

"(C) with respect to a closed primary election, the political party affiliation of any candidate for office, if the communication of the information also contains false information described in subparagraph (A) or (B); or

"(D) the explicit endorsement by any person or organization of a candidate running for any office voted on in the election.".

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

"618. Deceptive practices in Federal elections.".

SEC. 3. MODIFICATION OF PENALTY FOR VOTER INTIMIDATION.

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

SEC. 4. SENTENCING GUIDELINES.

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

priate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under sections of title 18, United States Code, that are added or modified by this Act.

(b) AUTHORIZATION.—The United States Sentencing Commission may, for the purposes of the amendments made pursuant to this section, amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

SEC. 5. REPORTING VIOLATIONS AND REMEDIAL ACTION.

(a) REPORTING.—Any person may report to the Attorney General any violation or possible violation of section 594 or 618 of title 18, United States Code.

(b) CORRECTIVE ACTION.—

(1) IN GENERAL.—Immediately after receiving a report under subsection (a), the Attorney General shall consider and review such report and, if the Attorney General determines that there is a reasonable basis to find that a violation has occurred, the Attorney General shall—

(A) undertake all effective measures necessary to provide correct information to voters affected by the false information;

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

(C) refer the matter to the appropriate Federal and State authorities for criminal prosecution or civil action after the election.

(2) REGULATIONS.—

(A) IN GENERAL.—The Attorney General shall promulgate regulations regarding the methods and means of corrective actions to be taken under paragraph (1). Such regulations shall be developed in consultation with the Election Assistance Commission, civil rights organizations, voting rights groups, State and local election officials, voter protection groups, and other interested community organizations.

(B) STUDY.—

(i) IN GENERAL.—The Attorney General, in consultation with the Federal Communications Commission and the Election Assistance Commission, shall conduct a study on the feasibility of providing the corrective information under paragraph (1) through public service announcements, the

emergency alert system, or other forms of public broadcast.

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

(3) PUBLICIZING REMEDIES.—The Attorney General shall make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities, contact information, and complaint procedures applicable under this section.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after any primary, general, or run-off election for Federal office, the Attorney General shall submit to Congress a report compiling and detailing any allegations of false information submitted pursuant to subsection (a) and relating to such election.

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

(A) detailed information on specific allegations of deceptive tactics;

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

(C) the geographic locations of and the populations affected by the alleged deceptive information;

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

(E) any corrective actions taken in response to such allegations;

(F) the rationale used for any corrective actions or for any refusal to pursue an allegation;

(G) the effectiveness of any such corrective actions;

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

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

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

(K) any criminal prosecution instituted under title 18, United States Code, in connection with such allegations.

(3) REPORT MADE PUBLIC.—On the date that the Attorney General submits the report required under paragraph (1), the Attorney General shall also make the report publicly available through the Internet and other appropriate means.

(d) DELEGATION OF DUTIES.—

(1) IN GENERAL.—The Attorney General shall delegate the responsibilities under this section to a Voting Integrity Task Force established under paragraph (2).

(2) VOTING INTEGRITY TASK FORCE.—

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

(B) COMPOSITION.—Any Voting Integrity Task Force established under this paragraph shall be under the direction of the Assistant Attorney General for the Civil Rights Division and the Assistant Attorney General for the Criminal Division, jointly.

(e) FEDERAL OFFICE.—For purposes of this section, the term ''Federal office'' means the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Commissioner from a territory or possession of the United States.

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