

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Chairman, Senate Judiciary Committee
Hearing on the "Prevention of Deceptive Practices and Voter Intimidation in Federal Elections:
S. 453"
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Today, the Committee's hearing addresses one of the most fundamental rights Americans enjoy: the right to vote. The "Deceptive Practices and Voter Intimidation Prevention Act of 2007," (S. 453), would create new protections and expand existing protections against the use of deceptive practices in elections. In January, I joined Senators Obama, Schumer, Cardin, Feinstein, Feingold, Clinton, and Kerry to introduce this bill. I thank Senator Obama for his leadership on this issue and for introducing S. 453. I also thank Senator Cardin for chairing today's hearing. Senator Cardin's own state of Maryland was affected by deceptive tactics in last year's election when misleading flyers were distributed in African- American communities on Election Day suggesting that prominent African-American Democrats supported Republican candidates.

There are few things as critical to the fabric of our Nation, and to American citizenship, as voting. The right to vote and to have your vote count is a foundational right, like our First Amendment rights, because it secures the effectiveness of other protections. The legitimacy of our government is dependent on the access all Americans have to the political process.

We saw last year in nearly 20 hearings in the House and Senate on the reauthorization of the Voting Rights Act that there is a continuing need for the vital voting rights protections that landmark civil rights law provides for all Americans. But our need to protect the effective access of voters to the political process does not stop with those vital protections against discrimination. I am concerned about increasing efforts on behalf of some candidates and political parties to interfere with recent elections and undermine the participation of many voters. So, today we take another step towards protecting the effective exercise of voting rights by ensuring that the access to vote is not undermined by those who would take away that access through deceit and false information.

The Deceptive Practices and Voter Intimidation Prevention Act of 2007 would provide additional tools and criminal penalties to help combat the kinds of practices used during the 2006 mid-term elections in places like Maryland and Virginia. In Virginia, the FBI has investigated calls received by many voters in heavily Democratic precincts directing them to the wrong polling sites, giving incorrect information about their eligibility to vote or encouraging them not to vote

on Election Day. I supported a similar bill, S. 1975, in the last Congress and I hope that we can move forward in this Congress.

Regrettably, the problems leading up to and on Election Day last year were not limited to a few isolated incidents. Along with the occurrence in Maryland, in the 9th precinct in Tucson, Arizona, an area with a heavy percentage of Latino voters, it has been reported that three vigilantes armed with a clipboard, a video camera and a visible firearm stopped only Latino voters as they entered and exited the polls on Election Day, issuing implied and overt threats. In Orange County, California, Republican congressional candidate Tan Nguyen admitted that his campaign staffer sent letters to 73,000 households, spreading misinformation about voting requirements apparently designed to suppress Latino voter turnout.

In letters to the Attorney General and other officials at the Justice Department, and in oversight hearings last November and two weeks ago, we have asked the Justice Department for more information about what it has been doing to investigate and combat these practices. In the information we have obtained so far, it is apparent that the Justice Department has not done enough and additional tools are needed.

The Deceptive Practices and Voter Intimidation Prevention Act of 2007 would expand the conduct currently prohibited by law to include the dissemination of false information within 60 days of an election about the time, place and manner of the election, the qualifications for voter eligibility, or the sponsor of public communications about an election. In addition, it would provide new means of enforcing these prohibitions and combating such dissemination: it creates a private right of action for persons aggrieved by the dissemination of such false information; it provides criminal penalties for such false dissemination of up to five years and \$100,000; and it provides that any person may report such false dissemination to the Attorney General and, if it is determined that such information is false or deliberately misleading, the Justice Department would be required to take action to provide corrective information. In addition, this bill provides an additional tool for effective oversight by requiring the Attorney General to report to Congress on allegations of the dissemination of false information within 90 days of an election.

I welcome all the witnesses here today. I look forward to their testimony.

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