

Statement of

The Honorable Charles E. Schumer

United States Senator
New York
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"Preventing Deceptive Practices and Voter Intimidation in Federal Elections"
Senate Committee on the Judiciary

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I am pleased to appear today to talk about the importance of the Deceptive Practices and Voter Intimidation Prevention Act of 2007, which Senator Obama and I introduced in January with numerous co-sponsors. I thank Senator Leahy for holding this hearing and Senator Cardin for chairing today.

The right to vote is the wellspring of our democracy, and it is one of the most cherished attributes of citizenship. Yet far too often, our elections are marred by a troubling pattern of disenfranchisement by deception.

We are seeing a host of cynical and concerted efforts to keep voters away from the polls and to interfere with their choice of candidate. Frequently, these dirty tricks target minority or disadvantaged communities. These deceptive and intimidating practices are a form of disenfranchisement just as surely as poll taxes were.

To give just a few examples: In recent elections, we have seen cases where voters in certain neighborhoods are falsely told that the election is Wednesday, when in fact it is Tuesday. We have seen voters falsely told that they are not eligible to vote, when in fact they are. We have seen voters falsely told that they will face criminal penalties if they attempt to vote, when in fact they will not.

These tactics, and other deceptive practices that have surfaced in recent elections, are simply repugnant. They are an affront to the intelligence and civil rights of the voters they target, and they insult our democracy.

All too often, no one investigates these dirty tricks because it is not yet a federal crime to disenfranchise voters by deception. Congress must act without delay to give the Department of Justice both the tools and the incentive to investigate and punish acts of voter deception and intimidation. The Deceptive Practices and Voter Intimidation Act of 2007 will do just that.

This bill will impose meaningful penalties for deceptive practices, either through civil enforcement or through criminal punishment of up to 5 years imprisonment or \$100,000 fine for

deceptive practices. I am convinced that criminal penalties are appropriate for wrongdoing that strikes at the core of our democracy, and also that these penalties should be sufficient to deter violations.

This bill recognizes that voter disenfranchisement by deception is just as serious as voter intimidation, which has long been criminalized. And in cases of voter intimidation, our bill will increase the maximum criminal penalty from 1 year to 5 years in prison, commensurate with the seriousness of this crime.

Our legislation is narrowly crafted to safeguard the right to vote. It doesn't cover just any information communicated during an election. Instead, it protects voters' access to certain basic and verifiable facts that are essential to exercising the right to vote. Those basic facts are: where, when and how you can cast a vote; whether you are eligible to vote; and whether an organization or a person has endorsed a particular candidate.

With our bill, the Justice Department's tools will not be limited to punishing wrongdoers after the fact. The Department will also have a responsibility to communicate corrected information in order to undo the damage caused by deceptive practices and to help voters reach the polls.

Any person can report deceptive practices to the Justice Department, and the bill contains important safeguards to ensure that the Department will assess these reports fairly and will take action swiftly when necessary.

Let me also be clear about what this bill will not do. It will not criminalize honest mistakes. This bill only prohibits the deliberate lies that have no place in our democracy, and only when there is an intent to prevent a person from voting. Moreover, this legislation will not impede legitimate political speech. It is narrowly tailored and constitutionally sound, so those who are engaged in fair and open political debate will have nothing to fear under this bill.

Preventing voter deception and intimidation should not be a partisan issue - we can all agree that candidates should take office through free and fair elections, or not at all.

Opponents of this bill may claim that it is unnecessary or flawed. I could not disagree more. This bill is urgently needed, it is carefully crafted, and it is no more than what we owe to voters all across America.

The House Judiciary Committee has already passed a bill that is a companion to the legislation this Committee discusses today. I am glad that we are holding a hearing to examine this vital measure, and it is my hope that Senator Leahy will take up the Obama-Schumer bill in our Committee shortly after this hearing.

Thank you.