

118TH CONGRESS
2D SESSION

S. 5165

To prohibit the intimidation of election officials and election workers.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. PADILLA (for himself, Ms. BUTLER, Mr. WHITEHOUSE, Ms. HIRONO, Mr. KAINE, Mr. MURPHY, Mr. VAN HOLLEN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit the intimidation of election officials and election workers.

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 “Freedom from Intimi-
5 dation in Elections Act”.

6 **SEC. 2. PROHIBITING INTIMIDATION OF ELECTION OFFI-**
7 **CIALS AND ELECTION WORKERS.**

8 Section 11 of the Voting Rights Act of 1965 (52
9 U.S.C. 10307) is amended—

1 (1) in subsection (b), by striking “section 3(a),
 2 6, 8, 9, 10, or 12(e)” and inserting “section 3(a),
 3 8, 10, or 12(e)”;

4 (2) by redesignating subsections (c), (d), and
 5 (e) as subsections (d), (e), and (f), respectively; and

6 (3) by inserting after subsection (b) the fol-
 7 lowing:

8 “(c) No person, whether acting under color of law
 9 or otherwise, shall intimidate, threaten, or coerce, or at-
 10 tempt to intimidate, threaten, or coerce any person for ex-
 11 ercising any powers or duties to administer Federal elec-
 12 tions, including vote counting, tabulation, canvassing, and
 13 election certification, and any of the duties of the Election
 14 Assistance Commission as set out in section 202 of the
 15 Help America Vote Act of 2002 (52 U.S.C. 20922), or
 16 because of the person’s status, or previous status, as a
 17 participant in the administration of Federal elections.”.

18 **SEC. 3. PRESUMPTION THAT FIREARMS NEAR ELECTION-**

19 **RELATED CONDUCT ARE INTIMIDATING.**

20 Title I of the Voting Rights Act of 1965 (52 U.S.C.
 21 10301 et seq.) is amended by adding at the end the fol-
 22 lowing new section:

23 **“SEC. 21. ENFORCEMENT PROCEEDINGS CONCERNING IN-**

24 **TIMIDATION INVOLVING FIREARMS.**

25 “(a) PRESUMPTION.—

1 “(1) VOTER INTIMIDATION.—In any suit to en-
2 force section 11(b), a person shall be presumed to
3 have violated such section, in the absence of an af-
4 firmative showing to the contrary by a preponder-
5 ance of the evidence, if such person displays or car-
6 ries a visible firearm, imitation firearm, or antique
7 firearm while interacting with or observing another
8 person—

9 “(A) voting or attempting to vote;

10 “(B) urging or aiding a person voting or
11 attempting to vote; or

12 “(C) exercising any powers or duties under
13 section 3(a), 8, 10, or 12(e).

14 “(2) INTIMIDATION OF ELECTION OFFICIALS
15 AND ELECTION WORKERS.—In any suit to enforce
16 section 11(c), a person shall be presumed to have
17 violated such section, in the absence of an affirma-
18 tive showing to the contrary by a preponderance of
19 the evidence, if such person displays or carries a
20 visible firearm, imitation firearm, or antique firearm
21 while interacting with or observing another person—

22 “(A) exercising any powers or duties to ad-
23 minister elections; or

1 “(B) due to the person’s status, or pre-
2 vious status, as a participant in the administra-
3 tion of elections.

4 “(b) LAW ENFORCEMENT OFFICER EXCEPTION.—
5 Any law enforcement officer acting within the scope of the
6 officer’s official duties is not subject to the presumption
7 in subsection (a), but a court may nonetheless consider
8 a law enforcement officer’s possession of a firearm in de-
9 termining whether the officer violated subsection (b) or
10 (c) of section 11.

11 “(c) RELIEF.—In a suit to enforce subsection (b) or
12 (c) of section 11, a court may grant appropriate relief,
13 including placing reasonable temporary limits on the car-
14 rying of firearms by defendants.

15 “(d) DEFINITIONS.—In this section:

16 “(1) The term ‘antique firearm’ has the mean-
17 ing given such term in section 921(a) of title 18,
18 United States Code.

19 “(2) The term ‘firearm’ has the meaning given
20 such term in section 921(a) of title 18, United
21 States Code.

22 “(3) The term ‘imitation firearm’—

23 “(A) means an article, object or device,
24 replica, reproduction, or prop gun made or re-

1 made to be reasonably capable of being mis-
2 taken for a firearm; and

3 “(B) includes—

4 “(i) any weapon, article, item, or de-
5 vice that is in the nature of an air gun,
6 spring gun or pistol, or other weapon in
7 which the propelling force is a spring, an
8 elastic band, carbon dioxide, compressed or
9 other gas or vapor, or air or compressed
10 air, and that ejects a bullet or missile
11 smaller than three-eighths of an inch in di-
12 ameter with sufficient force to injure a
13 person that is so substantially similar in
14 coloration, configuration, and overall ap-
15 pearance to an existing firearm or weapon
16 as to lead a reasonable person to perceive
17 that the device is a firearm or weapon; and

18 “(ii) any weapon, including a starter
19 gun, which will or is designed to fire blank
20 cartridges that is so substantially similar
21 in coloration, configuration, and overall ap-
22 pearance to an existing firearm or weapon
23 as to lead a reasonable person to perceive
24 that the device is a firearm or weapon.”.

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