

117TH CONGRESS
2D SESSION

S. 4574

To amend title 18, United States Code, to increase penalties for crimes against federally protected activities relating to voting and the conduct of elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2022

Ms. COLLINS (for herself, Mr. MANCHIN, Mr. PORTMAN, Ms. SINEMA, Mr. ROMNEY, Mrs. SHAHEEN, Ms. MURKOWSKI, Mr. WARNER, Mr. TILLIS, Mr. MURPHY, Mr. CARDIN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 18, United States Code, to increase penalties for crimes against federally protected activities relating to voting and the conduct of 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Enhanced Election Security and Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENHANCED PENALTIES TO PROTECT OUR ELECTIONS
ACT

Sec. 101. Short title.

Sec. 102. Enhanced penalties for crimes against federally protected activities relating to voting and the conduct of elections.

TITLE II—POSTAL SERVICE ELECTION IMPROVEMENT ACT

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Best practices guidance for Federal election mail.

Sec. 204. Election mail services from the Postal Service.

Sec. 205. Creation of standardized Federal ballot mail parameters and features.

Sec. 206. Ballot search and certification.

Sec. 207. Federal election mail processing.

Sec. 208. Postmark required on all Federal ballots.

Sec. 209. No cause of action.

TITLE III—REAUTHORIZATION OF ELECTION ASSISTANCE
COMMISSION

Sec. 301. Reauthorization of Election Assistance Commission.

Sec. 302. Requiring penetration testing as part of the testing and certification of voting systems.

TITLE IV—PROTECTIONS FOR ELECTION RECORDS, PAPERS, AND
VOTING SYSTEMS

Sec. 401. Short title.

Sec. 402. Protection for election records, papers, and voting systems.

1 **TITLE I—ENHANCED PENALTIES**
2 **TO PROTECT OUR ELECTIONS**
3 **ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Enhanced Penalties
6 to Protect Our Elections Act”.

1 **SEC. 102. ENHANCED PENALTIES FOR CRIMES AGAINST**
 2 **FEDERALLY PROTECTED ACTIVITIES RELAT-**
 3 **ING TO VOTING AND THE CONDUCT OF ELEC-**
 4 **TIONS.**

5 Section 245(b) of title 18, United States Code, is
 6 amended in the matter following paragraph (5) by insert-
 7 ing “(or, in the case of a violation of paragraph (1)(A),
 8 two years)” after “one year”.

9 **TITLE II—POSTAL SERVICE**
 10 **ELECTION IMPROVEMENT ACT**

11 **SEC. 201. SHORT TITLE.**

12 This title may be cited as the “Postal Service Elec-
 13 tion Improvement Act”.

14 **SEC. 202. DEFINITIONS.**

15 In this title:

16 (1) **COVERED ELECTION.**—The term “covered
 17 election” means an election for Federal office.

18 (2) **ELECTION MAIL ADVISOR.**—The term
 19 “Election Mail Advisor” means an individual des-
 20 ignated under section 204(b).

21 (3) **ELECTION OFFICIAL.**—The term “election
 22 official” means an individual responsible for over-
 23 seeing voting in a covered election in a State, local-
 24 ity, or Tribal territory.

25 (4) **FEDERAL ELECTION MAIL.**—The term
 26 “Federal election mail”—

1 (A) means any item mailed to or from an
2 authorized election official that enables citizens
3 to participate in the voting process with respect
4 to a covered election; and

5 (B) includes a ballot, voter registration
6 card, absentee voting application, and polling
7 place notification.

8 (5) FEDERAL OFFICE.—The term “Federal of-
9 fice” has the meaning given that term in section 301
10 of the Federal Election Campaign Act of 1971 (52
11 U.S.C. 30101).

12 (6) POSTAL SERVICE.—The term “Postal Serv-
13 ice” means the United States Postal Service.

14 (7) STATE.—The term “State” has the mean-
15 ing given that term in section 901 of the Help
16 America Vote Act of 2002 (52 U.S.C. 21141).

17 **SEC. 203. BEST PRACTICES GUIDANCE FOR FEDERAL ELEC-**
18 **TION MAIL.**

19 (a) IN GENERAL.—Not later than September 30 of
20 each odd-numbered year, the Postal Service shall issue
21 best practices for State, local, and Tribal governments, in
22 light of the capabilities of the Postal Service, regarding—

23 (1) optimal timing for voters to request and re-
24 turn absentee or mail-in ballots through the mail for

1 covered elections, based on the established service
2 standards of the Postal Service;

3 (2) the design, physical standards, and format
4 of the envelopes containing physical voting materials
5 for covered elections that may be processed through
6 the mail, such as ballot envelopes;

7 (3) the use of identifying information to des-
8 ignate Federal election mail for more efficient proc-
9 essing; and

10 (4) other topics the Postal Service may identify
11 to improve the efficiency of Federal election mail.

12 (b) POSTAL SERVICE AUTHORITY.—Nothing in sub-
13 section (a) shall prevent the Postal Service from updating
14 the best practices issued under that subsection as appro-
15 priate following the date of issuance.

16 (c) RECIPIENTS.—The Postal Service shall make
17 publicly available the best practices issued under sub-
18 section (a), and shall provide specific notice of the best
19 practices to—

20 (1) State, local, and Tribal election officials;

21 (2) the chief executive officer of each State; and

22 (3) majority and minority leadership of each
23 State legislature.

1 **SEC. 204. ELECTION MAIL SERVICES FROM THE POSTAL**
2 **SERVICE.**

3 (a) IN GENERAL.—The Postal Service shall coordi-
4 nate Federal election mail services to include the following:

5 (1) Designation of employees to coordinate with
6 relevant processing plants, post offices, retail units,
7 delivery units, managers, supervisors, and other
8 postal employees to—

9 (A) ensure all Federal election mail is han-
10 dled in an appropriate manner;

11 (B) develop metrics and internal reporting
12 requirements, as necessary, to ensure Federal
13 election mail processing and handling comply
14 with applicable regulations and guidelines of the
15 Postal Service; and

16 (C) ensure any extraordinary measures to
17 process Federal election mail are appropriately
18 carried out according to the regulations and
19 guidelines of the Postal Service.

20 (2) Assistance of election officials by Election
21 Mail Advisors from the appropriate geographic of-
22 fices of the Postal Service with facilitating Federal
23 election mail.

24 (3) Advice for election officials by mailpiece de-
25 sign analysts, in coordination with the relevant Elec-
26 tion Mail Advisor, on—

1 (A) how to improve the tracking and visi-
2 bility of mail-in ballots for covered elections;
3 and

4 (B) verification that ballot mail envelope
5 designs are consistent with the standardized pa-
6 rameters and features created under section
7 205.

8 (b) ELECTION MAIL ADVISORS.—

9 (1) NUMBER OF ELECTION MAIL ADVISORS.—

10 (A) MINIMUM NUMBER OF ELECTION MAIL
11 ADVISORS PER STATE.—The Postal Service
12 shall designate not less than 1 dedicated Elec-
13 tion Mail Advisor for each State.

14 (B) DETERMINATION OF NUMBER OF
15 ELECTION MAIL ADVISORS PER STATE.—In de-
16 termining the number of Election Mail Advisors
17 to designate for a State, the Postal Service
18 shall take into account the population and the
19 organization of the election administration of
20 the State to ensure that a sufficient number of
21 Election Mail Advisors are designated.

22 (2) DUTIES OF ELECTION MAIL ADVISOR.—An
23 Election Mail Advisor shall provide information,
24 guidance, and coordination to assist election officials

1 in managing the use of Federal election mail in the
2 applicable jurisdiction, including—

3 (A) providing the election officials with de-
4 tailed information on—

5 (i) service standards and other rel-
6 evant service-related information for the
7 region relating to the processing of Federal
8 election mail that would assist election offi-
9 cials in managing covered elections;

10 (ii) best practices issued under section
11 203; and

12 (iii) Postal Service regulations, guide-
13 lines, and processes for handling Federal
14 election mail; and

15 (B) performing any other duties assigned
16 by the Postal Service to improve the ability of
17 election officials to manage covered elections in
18 their respective jurisdictions.

19 **SEC. 205. CREATION OF STANDARDIZED FEDERAL BALLOT**
20 **MAIL PARAMETERS AND FEATURES.**

21 (a) IN GENERAL.—The Postal Service shall create
22 standardized ballot envelope design parameters and fea-
23 tures for blank outbound ballots and for returning in-
24 bound ballots that a State may choose to use in covered
25 elections.

1 (b) TRACKING FOR STANDARDIZED BALLOT ENVE-
2 LOPE.—The standardized ballot envelope design param-
3 eters under subsection (a) shall include the ability to in-
4 corporate tracking technology.

5 **SEC. 206. BALLOT SEARCH AND CERTIFICATION.**

6 (a) BALLOT IDENTIFICATION.—During the period
7 beginning not later than 14 days before the date of a cov-
8 ered election and ending not earlier than 7 days after the
9 last date on which the State accepts ballots cast in that
10 covered election, the Postal Service shall conduct daily in-
11 spections for ballots in each Postal Service facility that
12 processes Federal election mail in any Postal Service dis-
13 trict in which the covered election is being held to ensure
14 that each ballot scheduled to depart the facility that day
15 has departed the facility.

16 (b) CERTIFICATION.—Each day during a period de-
17 scribed in subsection (a), the manager or supervisor in
18 charge of a Postal Service facility described in that sub-
19 section shall certify in a record maintained by the Postal
20 Service that each ballot scheduled to depart the facility
21 that day has departed the facility.

22 **SEC. 207. FEDERAL ELECTION MAIL PROCESSING.**

23 (a) PROCESSING PRECEDING ELECTIONS FOR FED-
24 ERAL OFFICE.—During the 90-day period preceding a

1 general election for Federal office, the Postal Service may
2 not—

3 (1) implement any service standard changes
4 that would slow the delivery of Federal election mail;

5 (2) take any steps that would meaningfully
6 interfere with the ability of the Postal Service to
7 achieve its service standards; or

8 (3) engage in activity that would meaningfully
9 interfere with the ability of the Postal Service to
10 prioritize monitoring and timely delivery of Federal
11 election mail.

12 (b) SUNDAY PROCESSING.—The Postal Service shall
13 collect and process the mail in a Postal Service district
14 on the Sunday before a general election is held in that
15 district.

16 (c) EXTENDED HOURS.—The Postal Service shall co-
17 ordinate with election officials and may operate on ex-
18 tended hours, as necessary, to process Federal election
19 mail in advance of a covered election.

20 **SEC. 208. POSTMARK REQUIRED ON ALL FEDERAL BAL-**
21 **LOTS.**

22 The Postal Service shall implement procedures de-
23 signed to apply a physical postmark or other physical indi-
24 cia bearing a legible date to each identifiable envelope con-

1 taining a ballot when returned by mail for a covered elec-
 2 tion to the maximum extent practicable.

3 **SEC. 209. NO CAUSE OF ACTION.**

4 No provision of this title shall—

5 (1) be binding on any State, local, or Tribal
 6 government; or

7 (2) be construed to create any right or benefit,
 8 substantive or procedural, enforceable at law or in
 9 equity by any party against the United States, the
 10 Postal Service, or a State, local, or Tribal govern-
 11 ment, a department, agency, entity, officer, em-
 12 ployee, or agent thereof, or any other person.

13 **TITLE III—REAUTHORIZATION**
 14 **OF ELECTION ASSISTANCE**
 15 **COMMISSION**

16 **SEC. 301. REAUTHORIZATION OF ELECTION ASSISTANCE**
 17 **COMMISSION.**

18 Section 210 of the Help America Vote Act of 2002
 19 (52 U.S.C. 20930) is amended—

20 (1) by inserting “, and for each of the fiscal
 21 years 2023 through 2027,” after “2005”; and

22 (2) by striking “(but not to exceed \$10,000,000
 23 for each such year)”.

1 **SEC. 302. REQUIRING PENETRATION TESTING AS PART OF**
 2 **THE TESTING AND CERTIFICATION OF VOT-**
 3 **ING SYSTEMS.**

4 Section 231(a) of the Help America Vote Act of 2002
 5 (52 U.S.C. 20971(a)) is amended by adding at the end
 6 the following new paragraph:

7 “(3) **REQUIRED PENETRATION TESTING.**—The
 8 Commission shall provide for the conduct of penetra-
 9 tion testing as part of the testing, certification, de-
 10 certification, and recertification of voting system
 11 hardware and software by accredited laboratories
 12 under this section.”.

13 **TITLE IV—PROTECTIONS FOR**
 14 **ELECTION RECORDS, PAPERS,**
 15 **AND VOTING SYSTEMS**

16 **SEC. 401. SHORT TITLE.**

17 This title may be cited as the “Election Records Pro-
 18 tection Act”.

19 **SEC. 402. PROTECTION FOR ELECTION RECORDS, PAPERS,**
 20 **AND VOTING SYSTEMS.**

21 (a) **IN GENERAL.**—

22 (1) **IN GENERAL.**—Title III of the Civil Rights
 23 Act of 1960 (52 U.S.C. 20701 et seq.) is amended
 24 by adding at the end the following new section:

1 **“SEC. 307. RECORDS.**

2 “As used in this title, the term ‘record’ includes any
3 electronic record.”.

4 (2) GUIDANCE.—Not later than 180 days after
5 the date of the enactment of this Act, the Attorney
6 General, in consultation with the Director of the Cy-
7 bersecurity and Infrastructure Security Agency of
8 the Department of Homeland Security, shall issue
9 informal guidance regarding compliance with section
10 301 of the Civil Rights Act of 1960 (52 U.S.C.
11 20701), including recommendations for retaining
12 and preserving records (including electronic records)
13 and papers.

14 (b) INCREASED PENALTY FOR WILLFUL FAILURE
15 TO RETAIN AND PRESERVE ELECTION RECORDS.—Sec-
16 tion 302 of the Civil Rights Act of 1960 (52 U.S.C.
17 20702) is amended—

18 (1) by striking “\$1,000” and inserting
19 “\$10,000”; and

20 (2) by striking “one year” and inserting “two
21 years”.

22 (c) PENALTY FOR THEFT, DESTRUCTION, CONCEAL-
23 MENT, MUTILATION, OR ALTERATION OF VOTING SYS-
24 TEMS.—Section 12(2) of the National Voter Registration
25 Act of 1993 (52 U.S.C. 20511) is amended—

1 (1) by striking “or” at the end of subparagraph
2 (A);

3 (2) by striking the comma at the end of sub-
4 paragraph (B) and inserting “; or”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(C) the theft, destruction, concealment,
8 mutilation, or alteration of voting systems;”.

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