



1-866-OUR-VOTE

The Nation's Largest Nonpartisan Voter Protection Coalition

**Statement of Ross Galin of Election Protection
Before the New York State Senate Elections Committee
October 5, 2009**

Chairman Addabbo and members of the New York Senate Standing Committee on Elections, thank you for inviting me to provide this statement on behalf of Election Protection and the Lawyers' Committee for Civil Rights Under Law in support of what we believe to be an important piece of legislation. Moreover, we thank you for holding this and other hearings on how we can best modernize New York State's election system and address the deficiencies we all know currently exist.

I am joined today by my colleague with Election Protection, Sarah Egan. As you know, Election Protection is led by the Lawyers' Committee for Civil Rights Under Law, and is supported by a diverse network of local and national coalition partners and over 10,000 legal volunteers across the country. The cornerstone of Election Protection's work is our 866-OUR-VOTE voter services hotline. Last year, over 240,000 voters, including 17,000 New Yorkers, called the hotline seeking assistance with a variety of election related problems. Additionally, tens of thousands more received assistance from our teams of mobile legal volunteers who were stationed throughout New York City on Election Day this past November to help voters at targeted poll sites.

Election Protection's sole mission is to work to ensure that every citizen who is legally entitled to vote is able to exercise that right freely and fairly. Unfortunately, what seems such a simple goal is anything but. As this Committee knows well, the current election system places a number of obstacles between voters and the exercise of their right to vote. Many of these obstacles, including a flawed registration process and restrictions on the ability to vote by absentee ballot, have received the focus of this Committee, and Election Protection applauds the Committee for that.

In the spirit of supporting the Committee in its efforts to address many of the obstacles facing voters, we come before you today to offer our strong support for passage of S.2554A, The Deceptive Practices and Voter Suppression Prevention Act. This important legislation, offered by Senator Stewart-Cousins, addresses two of the obstacles that currently prevent voters from freely and fairly exercising their rights. As hard as it may be to believe, decades after the civil rights movement and passage of the federal Voting Rights Act, there are still those who, through acts of deception and coercion, seek to prevent individuals from voting. In recent years our hotline and poll watchers have documented instances of individuals using intimidation, threats and coercion to suppress the vote, as well as the dissemination of false information intended to frighten or confuse people into not registering to vote or not going to the polls.

In November 2008, voters in Shirley, New York received automated phone calls advising that due to the anticipated high voter turnout on Election Day, Democratic and Liberal voters should cast their ballots on Wednesday November 5, the day following Election Day. On these calls, it was possible to press "0" to speak to a live person who reiterated this false information. Similar deceptive information was printed on fliers and distributed in lower income areas near Riverhead, New York. In Manhattan, it was reported that a sign was posted near a legitimate polling place that misdirected voters to a fictional polling place allegedly because the legitimate polling place was overcrowded. In 2006, voters in New York reported receiving harassing phone calls, or "robo calls," sometimes in the middle of the night, claiming to be from one candidate, when in fact, the calls were traced to the candidate's opponent. In 2004, a caller to the Election Protection hotline reported that

Spanish-speaking residents of Port Chester, New York were being told that they could not vote unless they owned property in an effort to dissuade them from going to the polls.

Deceptive practices like these have been reported all over the country in connection with recent elections. Voters in nearly a dozen states were the victims of misinformation in the weeks leading up to and including Election Day 2008. Inaccurate information was disseminated about registration, polling locations, poll closing times, voter ID requirements, and a host of other eligibility issues. During the 2008 election cycle, out-of-state students in Virginia, Michigan and Colorado were told that if they registered to vote where they went to school, they could lose their healthcare, financial aid, and jeopardize their parents' taxes – all untrue. In Philadelphia, fliers were distributed in minority neighborhoods stating that police officers would be positioned at poll locations to arrest anyone with a police record, including something as small as an unpaid parking ticket. In the 2006 federal election, deceptive practices were employed in Orange County, California where 14,000 Latino voters received mailings informing them in Spanish that if they were immigrants and tried to vote, they would be subject to criminal penalties, including incarceration. Also in 2006, some Virginia voters received automated phone messages informing them that they were ineligible to vote and would receive criminal penalties if they tried to do so, and in Maryland, flyers were distributed in predominantly African American neighborhoods falsely claiming that certain candidates for federal office had received endorsements from their opponents' party.

Current New York law does not effectively address voter suppression or deceptive practices – conduct intended to create confusion, frustration and fear that interfere with the electoral franchise. Senator Stewart-Cousins's bill will rectify this shortcoming by criminalizing deceptive practices in connection with any election and creating a new electoral crime of voter suppression, punishable as a misdemeanor. Adoption of this legislation will both send an important message to those who might consider engaging in deceptive practices or suppressive conduct that such conduct will not be tolerated, and it will give law enforcement officials the ability to prosecute those who ignore that message.

Legislation similar to that proposed by Senator Stewart-Cousins has been adopted, overwhelmingly, in both Minnesota and Virginia. A federal version has also been introduced in the United States House of Representatives and will soon be re-introduced in the Senate. Even if it passes, the federal legislation will not protect the rights of voters in state and local elections as it will apply only to federal elections. Moreover, S.2554A would empower the New York State Attorney General's office to act to "undertake all effective measures necessary to provide correct information to voters" who are affected by the intentional dissemination of false or misleading information. Whereas prosecutions serve to punish wrongful conduct, prosecution alone cannot undo the effects of wrongful conduct prior to an election. Vesting the Attorney General with the power to remediate deceptive practices would better ensure that fewer voters are prevented from voting.

Adoption of S.2554A is needed to protect New York voters seeking to vote in New York elections. In addition to denying a voice to eligible voters, suppressive and deceptive practices increase the poisonous cynicism voters have about the process. It is, therefore, critical that they be stopped. This legislation is an important step in that direction.

Once again, I want to thank the Committee for focusing much needed attention on this and other issues related to elections, and I want to express my appreciation to Senator Stewart-Cousins – both on behalf of Election Protection and as a constituent of the 35th District which she represents – for introducing this important legislation.