STATE OF NEW YORK

4759--B

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. LAVINE, BURDICK, OTIS, KELLES, SILLITTI, SIMON, BURGOS, SHIMSKY, CARROLL, CHANG, McDONALD, LEVENBERG, WEPRIN, CRUZ, McDONOUGH, DAVILA, ALVAREZ, EACHUS -- Multi-Sponsored by -- M. of A. WOERNER -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to enacting the "election workers and polling places protection act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "election workers and polling places protection act".

§ 2. The election law is amended by adding a new section 17-213 to read as follows:

§ 17-213. Election workers and polling place protection. 1. Whoever, whether or not acting under color of law, interferes in any manner with any election official in the discharge of the election official's duty or to induce any election official to violate or refuse to comply with the election official's duty or any law regulating the same, is guilty of a class A misdemeanor.

2. Whoever, whether or not acting under color of law, by force or threat of force, or violence, or threat of harm to any person or property including loss of employment or economic reprisal, willfully intimidates or interferes with, or attempts to intimidate or interfere with the ability of any person or any class of persons to qualify or act as a poll watcher in any primary, special, or general election, is guilty of a class A misdemeanor.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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3. Whoever, whether or not acting under color of law, by force or threat of force, or violence, or threat of harm to any person or property including loss of employment or economic reprisal, willfully intimidates or interferes with, or attempts to intimidate or interfere with the ability of any person or class of persons to vote or to qualify to vote in any primary, special, or general election is guilty of a class A misdemeanor.

4. Whoever, whether or not acting under color of law, by force or threat of force, or violence, or threat of harm to any person or property including loss of employment or economic reprisal, willfully intimidates or attempts to intimidate any legally authorized election official, or any person who is employed by, an agent, contractor, or vendor of a legally authorized election official, administering or assisting in the administration of any primary, special, or general election with the intent to (a) impede or interfere with the official while the official is engaged in the performance of the official's duties; or (b) retaliate against the official on account of the official's performance of the official's duties is guilty of a class A misdemeanor.

5. Whoever, whether or not acting under color of law, willfully physically damages or threatens to physically damage any physical property being used as a polling place or tabulation center or other election infrastructure, with the intent to interfere with the administration of an election or the tabulation or certification of votes, is guilty of a class D felony.

6. For purposes of this section, de minimus damage or threats of de minimus damage to physical property shall not be considered a violation of this section.

7. Whoever, whether or not acting under color of law, obstructs, impedes, or otherwise interferes with access to any polling place or elections office, an election official's access to or egress from any other building being used for election related purposes, or obstructs, impedes, or otherwise interferes with any voter in any manner that causes or will reasonably have the effect of causing any delay in voting or the voting process, including the canvassing and tabulation of ballots, is guilty of a class A misdemeanor.

8. The provisions of this section shall not apply to an enforcement action by the state board of elections or the attorney general, or by a county board of elections, in accordance with this section or any other provision of law against an election judge or poll watcher for a violation of a statute or a rule promulgated by the state board of elections, or the election inspector's, poll clerk's or election coordinator's oath.

9. (a) The attorney general, a county attorney, or an election official may bring a civil action to prevent or restrain a violation of this section if there is a reasonable basis to believe that an individual or entity is committing or intends to commit a prohibited act.

(b) In a civil action brought to prevent or restrain violations of this subdivision or to require the payment of civil penalties, the moving party may show that the action or attempted action would cause a reasonable person to feel intimidated. The moving party does not need to show that the actor intended to cause the victim to feel intimidated.

(c) The attorney general, an election official or any individual injured by an act prohibited by this section, may bring a civil action to recover damages, together with costs of investigation and reasonable attorney fees, and receive other equitable relief as determined by the court. An action brought by an election official is in the public inter-

est. In addition to all other damages, the court may impose a civil penalty of up to three thousand dollars for each violation.

(d) Civil remedies allowable under this section are cumulative and do not restrict any other right or remedy otherwise available. An action for a penalty or remedy under this section shall be brought within two years of the date the violation is alleged to have occurred.

10. For purposes of this section, the term:

(a) "election infrastructure" means any office of an election official, staff, worker, or volunteer or any physical, mechanical, or electrical device, structure, or tangible item used in the process of creating, distributing, voting, returning, counting, tabulating, auditing, storing, canvassing or other handling of voter registration or ballot information. Such term shall also include any equipment specified in section 4-132 of this chapter.

(b) "election worker" means any election inspector, poll clerk or election coordinator.

§ 3. This act shall take effect immediately.