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Protecting Florida Voters From Voter Intimidation

This memo outlines the robust protections for voters against voter intimidation under both federal and Florida law. Voter intimidation is a crime and local election officials and law enforcement have a responsibility to protect Floridians from voter intimidation of any kind**.**

First, anyone who "intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote"[1] in a federal election commits a federal crime.

Second, it is also a crime in Florida to "use or threaten to use force, violence, or intimidation or…coercion" to try to make someone vote (or not) or register (or not).[2] **Additionally, if someone tries to solicit you in any way within 150 feet of the polling place, they have violated Florida law.**[3] **An individual convicted of voter intimidation is guilty of a third-degree felony, punishable by up to five years in prison and a fine of up to $5,000**.[4]

Third, poll watching is highly regulated and cannot be conducted by just anyone.[5] Only political parties, candidates and some political committees can have poll watchers in the polling place.[6]

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[1] 18 U.S.C. § 594.

[2] Fla. Stat. § 104.0615.

[3] Fla. Stat. § 102.031(4)(a).

[4] Fla. Stat. § 104.0615.

[5] Fla. Stat. § 101.131.

[6] *Polling Place Procedures Manual,* Florida Division of Elections 14 (July 2024), https://files.floridados.gov/media/703005/adopted-clean-de11_pollplaceprocmanual.pdf [hereinafter *Polling Place Procedures Manual*].

I. Voter Intimidation

FEDERAL LAW

Federal law provides that "[w]hoever **intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote** or to vote as he may choose, or of causing such other person to vote for, or not to vote for," any candidate for federal office, shall be fined or imprisoned for not more than one year, or both.[7]

Such protection extends to **attempts** to intimidate, threaten, or coerce voters and any intimidation, threats, or coercion with respect not only to voting but also voter registration and assisting voters to register and/or vote.[8] Thus, federal laws prohibit all persons from engaging in conduct that is intended to (regardless of its effect) intimidate voters.

A person found guilty of violating the federal voter intimidation law could be sentenced to up to five years in prison in addition to criminal fines.[9] People, **including federal and state officials**, who intimidate or attempt to intimidate voters—or interfere with the right to vote— can also be subject to civil liability.[10]

FLORIDA LAW

Under Florida law, it is a felony to directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or not vote at all or for a particular choice.[11] Violators are guilty of a third-degree felony.[12]

These protections are incorporated into Florida Voter's Bill of Rights, which states every registered voter has the right to "[v]ote free from coercion or intimidation by elections officers or any other person."[13]

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[7] 18 U.S.C. § 594; see also 18 U.S.C. §§ 241, 242, 245(b)(1)(A), and 610 (other criminal provisions).

[8] 52 U.S.C. § 20511.

[9] *Id.*; *see also* 52 U.S.C. § 10308(a).

[10] *See* 52 U.S.C. § 10307(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote"); 52 U.S.C § 10101(b) ("No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose[.]"); see also 42 U.S.C. § 1985(3)(providing a private right of action where "two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States").

[11] Fla. Stat. § 104.0615

[12] *Id.*

[13] *Florida Voter Registration and Voting Guide: 2026 Election Cycle*, Florida Division of Elections 4 (July 2026), available online at: https://dos.myflorida.com/media/703424/2020-voterregvotingguide-final-eng-20200817.pdf [hereinafter Florida Voter Registration and Voting Guide].

Further, Florida law specifically prohibits, under criminal penalty, efforts to:

- intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose;[14]
- directly or indirectly attempt to influence, deceive, or deter by bribery, menace, threat, or other corruption whatsoever any elector in the free exercise of the elector's right to vote;[15]
- destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot;[16]
- discharge or threaten to discharge any employee in their service because of a vote that voter may or may not cast;[17]
- conspire, combine, or confederates with another person to commit one of the above violations or any other election code violation;.[18]
- remove, tear down, destroy, or deface any ballot, booth, compartment, or other convenience provided for the purpose of enabling the elector to prepare their ballot.[19]

Moreover, when interacting with election officials, Florida law bars efforts to:

- directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to refrain from acting as an election official or poll watcher;[20]
- knowingly use false information to induce or attempt to induce an individual to refrain from acting as an election official or poll watcher.[21]

Officials employed by the state or a municipal body are further barred from:

- denying the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under law to vote;[22]
- using their official authority or influence for the purpose of interfering with an election;[23]

[14] Fla. Stat. § 104.0515(3); punishable as a third-degree felony.
[15] Fla. Stat. § 104.061(1); punishable as a third-degree felony.
[16] Fla. Stat. § 104.0615(4); punishable as a third-degree felony.
[17] Fla. Stat. § 104.081; punishable as a third-degree felony.
[18] Fla. Stat. § 104.091.
[19] Fla. Stat. § 104.26; punishable as a first-degree misdemeanor.
[20] Fla. Stat. § 104.0615(2)(d); punishable as a third-degree felony.
[21] Fla. Stat. § 104.0615(3)(c); punishable as a third-degree felony.
[22] Fla. Stat. § 104.0515(2)(b); punishable as a third-degree felony.
[23] Fla. Stat. § 104.31(1); punishable as a first-degree misdemeanor.

- attempting to influence or interfere with an individual voting.[24]

Voter intimidation can occur even if the intimidator uses any of these tactics "under color of law" – that is, in an official capacity. For example, a police checkpoint near a polling station could be voter intimidation.[25]

Examples of Unlawful Conduct

Though there are many different kinds of voter intimidation, common **examples of unlawful intimidation** include:

- Verbal or physical confrontation of voters by persons dressed in official-looking uniforms;
- Physical intimidation, such as standing or hovering close to voters as they attempt to vote;
- Flyers threatening jail time or other punitive action against persons who vote;
- Direct confrontation or questioning of voters or asking voters for documentation when none is required;
- Vandalism of polling places;
- Use of police officers to threaten or intimidate voters;
- Threats made by an employer to the job, wages, or benefits of an employee if he or she does not vote in a particular manner; and
- Occupying the parking lot of a polling place in such a way that voters might be hindered from entering.[26]

Additionally, election inspectors, clerks, and all other poll workers and election staff **may not** do any of the following:

- wear campaign buttons, shirts, hats, or any other items that are politically oriented;
- discuss any candidate, political party, issue, or any related topic with other poll workers, poll watchers, or voters; or
- have visible any written campaign or related material.[27]

[24] Fla. Stat. § 104.051(4); punishable as a third-degree felony.

[25] U.S. Commission on Civil Rights, "Voting Irregularities in Florida during the 2000 Presidential Election," Ch. 2, U.S. G.P.O. (2001).

[26] These examples are provided by the Brennan Center for Justice: Wendy Weiser and Vishal Agraharkar, *Ballot Security and Voter Suppression: What It Is and What the Law Says*, Brennan Center for Justice 7-8 (2012), https://www.brennancenter.org/our-work/research-reports/ballot-security-and-voter-suppression.

[27] *Polling Place Procedures Manual*, *supra* note 6, at 15.

II. Officials Have a Duty to Prevent Intimidation and Protect Voter Access into the Polling Place

A. ELECTION OFFICIALS

Each county board of elections is authorized by law to have **full authority to maintain order at the polls and enforce obedience** to its lawful commands during an election.[28] Further, the supervisor or the clerk **may take any reasonable action necessary to ensure order** at the polling places, including, but not limited to, having disruptive and unruly persons removed by law enforcement officers from the polling place or from the **150-foot no solicitation zone**.[29]

B. LAW ENFORCEMENT

Under the Voting Rights Act, the Department of Justice can deploy poll watchers to specified locations "to help assess compliance with the federal voting rights laws."[30] **The President does not have authority to order law enforcement to patrol polling places.**[31] Sheriff's deputies and police officers are commanded at the local level, and a federal statute makes it a felony for any federal official to send "armed men" to the vicinity of polling places.[32]

While federal law prohibits U.S. military presence at the polls and members of the U.S. military from interfering with any qualified voter's right to vote,[33] this prohibition does not apply to members of the U.S. military who are at the polls to vote.[34]

Further, not only is it illegal for state and municipal officers to intimidate voters directly or indirectly,[35] but under Florida law, law enforcement officers are generally not allowed into a polling place, except to vote.[36]

Florida law mandates the sheriff deputize a deputy sheriff to be present at each polling place and be subject to all lawful commands of the election officials and maintain good order.[37]

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[28] Fla. Stat. § 102.031(1)

[29] Fla. Stat. § 102.031(4).

[30] *About Federal Observers and Election Monitoring*, U.S. Department of Justice, https://www.justice.gov/crt/about-federal-observers-and-election-monitoring.

[31] Sean Morales-Doyle, et al., *Voters Should Not Be Intimidated*, Brennan Center for Justice (Oct. 7, 2020), https://www.brennancenter.org/our-work/research-reports/voters-should-not-be-intimidated.

[32] 18 U.S.C. § 592.

[33] 18 U.S.C. § 592; 18 U.S.C. § 593.

[34] 18 U.S.C. § 593.

[35] Fla. Stat. § 104.31(1).

[36] Fla. Stat. § 102.101.

[37] Fla. Stat. § 102.031(2).

This requirement falls broadly under the sheriff's statutory obligation to exercise strict vigilance in the detection of any election law violations and apprehension of violators, including voter intimidators.[38]

Any law enforcement officer who willfully neglects or refuses to perform their election-related duties **is subject to criminal penalties**.[39]

III. Inside the Voting Location

A. POLLING PLACE

Once voters enter the polling place, all of the above protections against intimidating and aggressive behavior continue to apply. Additionally, "[n]o photography is permitted in the polling room or early voting area, except an elector may photograph his or her own ballot."[40] This prohibition extends to security cameras within the polling room: operational cameras must be covered while non-operational cameras require a posted notice notifying voters the camera is not in use.[41] Election officials should carefully monitor for this type of violation because unlawful photography may function to deter, challenge or intimidate an eligible voter at a polling location.

Further, only the following people are authorized to enter Florida polling places:[42]

- Voters and persons in the care of a voter (for example, a child or elderly person);
- A person caring for or assisting a voter (for example, someone assisting a voter who is illiterate or does not read English, or a person caring for an elderly voter);
- The county supervisor of elections or their deputy
- A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections (for example, the Kids Voting Program);
- Poll watchers approved by the Supervisor of Elections;
- Election observers appointed by the Department of State;[43]
- Law enforcement officers or emergency service personnel if they have permission of the clerk or a majority of the inspectors.

If the polling room is in a location commonly used by the public to gain access to businesses or homes (such as the lobby of a condominium) or in an area traditionally used as public area for

[38] Fla. Stat. § 102.091.

[39] Fla Stat. § 104.11.

[40] Fla. Stat. § 102.031(5).

[41] *Polling Place Procedures Manual*, *supra* note 6, at 16.

[42] Fla. Stat. § 102.031(3)(a); *Polling Place Procedures Manual, supra* note 6, at 13.

[43] Fla. Stat. § 101.58.

discussion (such as a mall), there may be other people traveling through the polling area.[44] However, election officials are obligated to take care that these people do not interfere with the voting process.[45]

B. NO SOLICITATION ZONE

The election clerk or supervisor must mark the boundaries of a 150-foot "no solicitation zone" (if possible, in all directions) before the polling location or early voting site opens, and must enforce the restrictions.[46] A clerk or supervisor can take any reasonable action to enforce the restriction, including requesting law enforcement to remove the person or persons who violate the restrictions.[47] A supervisor or clerk cannot restrict electioneering outside the "no solicitation zone."[48]

Functionally, no person, group, or organization may "solicit" voters inside the polling place or within 150 feet of the entrance to any polling location.[49] Someone is soliciting you if they have the intent of influencing you.[50]

Solicitation includes:[51]

- seeking or attempting to seek any vote, fact, opinion, or contribution;
- distributing or attempting to distribute any political or campaign material, leaflet, or handout;
- conducting a poll except authorized exit polls;
- seeking or attempting to seek a signature on any petition;
- and selling or attempting to sell any item.

Exit polling is permitted but exit pollsters may only approach voters after voters leave the polling place.[52]

[44] *Polling Place Procedures Manual*, *supra* note 6, at 13.

[45] *Id.*

[46] *Id.* at 10-11.

[47] *Id.* at 15-16.

[48] Fla. Stat. § 102.031(4)(e).

[49] Fla. Stat. § 102.031(4)(a).

[50] *League of Women Voters of Fla. Inc. v. Fla. Sec'y of State*, 66 F.4th 905, 946 (11th Cir. 2023).

[51] Fla. Stat. § 102.031(4)(b).

[52] *Polling Place Procedures Manual*, *supra* note 6, at 12.

C. POLL WATCHERS

Poll watching is generally unlawful unless an individual complies with the relevant statutory restrictions. Each political party and candidate may have **only one watcher** in each polling room at any one time.[53]

Poll watchers must adhere to the following rules:

- **Wear their identification badge** issued by the supervisor of elections;[54]
- Pose questions regarding polling place procedures directly to the clerk;[55]
- **Do not obstruct the orderly conduct** of any election;[56]
- **Do not interact with voters**;[57]
- Do not come closer to the inspectors' table or the voting booths than is reasonably necessary to perform the poll watcher's functions;[58]
- **Do not take photographs or recordings** of any kind;[59]
- **Do not wear campaign items**, including buttons, shirts, and hats;[60]
- Do not use a mobile electronic device in a disruptive way.[61]

IV. Firearms and Open Carry Laws

Under Florida law**, no individual can openly carry, or carry a concealed weapon, into a polling place.**[62] The only exception is that a law enforcement officer who has been authorized by a law enforcement agency to vote while on duty and who is required to carry a weapon while on duty may carry a weapon into the polling place when voting.[63]

[53] Fla. Stat. § 101.131(1).

[54] Fla. Stat. § 101.131(5).

[55] Fla. Stat. § 101.131(1).

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] *Polling Place Procedures Manual*, *supra* note 6, at 15.

[60] *Id.*

[61] *Id.*

[62] Fla. Stat. § 790.06(12)(a)(6).

[63] Florida Attorney General, "Advisory Legal Opinion – AGO 93-97" (May 26, 1993), available online at http://www.myfloridalegal.com/ago.nsf/Opinions/242DF9C4C7452C1B85256236004F95DE.

V. Voter Misinformation

Voter intimidation under Florida law also includes knowingly using false information to challenge a person's right to vote, induce or attempt to induce a person to refrain from voting, or induce or attempt to induce a person from acting as an election official.[64] For example, a text message falsely instructing voters to vote the day after an election to avoid long lines could be prosecuted as voter intimidation.[65]

This distribution of misinformation is an example of unlawful voter intimidation that may occur online, over the phone, or in a physical location apart from the polling place.

VI. Voter Challenges

Florida law criminalizes **knowingly using false information to challenge an individual's right to vote** or induce or attempt to induce an individual to refrain from voting.[66]

If an individual's eligibility to vote is challenged at the polls, **Florida law holds they are still entitled to vote a provisional ballot**.[67] The individual is further entitled to bring further evidence of their eligibility to the Supervisor of Elections up until 5 p.m. of the second day after election day.[68]

VII. Who to Contact for Enforcement

The Florida Division of Elections is the state agency that administers and oversees elections. Voters who feel harassed or intimidated should notify an election official or local authority immediately. After that, voters should contact their supervisor of elections to report the incident or problem.[69] Voters may also contact the Florida Voter Assistance Hotline for assistance and their local state attorney to report voter intimidation to potentially be prosecuted.[70]

Florida Voter Assistance Hotline: 1-866-308-6739	Supervisor of Elections Contact Information: https://dos.elections.myflorida.com/supervisors/

[64] Fla. Stat. § 104.0615.

[65] *See, e.g.,* Dominick Tao, *Students Receive Misleading Information on Election Day*, ABC News (Nov. 4, 2008), http://abcnews.go.com/Politics/Vote2008/story?id=6182271&page=1.

[66] Fla. Stat. § 104.0615(3).

[67] Florida Voter Registration and Voting Guide, *supra* note 13, at 15.

[68] *Id.*

[69] Florida Voter Registration and Voting Guide, *supra* note 13, at 19.

[70] *Id.* at 18.

Voters may also seek advice on how to report intimidation by contacting the national, nonpartisan Election Protection coalition. The main number**, 866-OUR-VOTE**, is administered by the Lawyers' Committee for Civil Rights Under Law. The coalition also has lines available for Spanish-speaking (888)-VE-Y-VOTA, Arabic-speaking (844)-YALLA-US, and Asian-language- speaking (888)-API-VOTE voters.

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