

Overview of Federal Criminal Laws Prohibiting Interference with Voting

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The 2024 U.S. presidential and congressional elections are scheduled to take place on November 5, 2024, with early in-person voting in some states beginning in [September](#). Recent developments such as the [advancement of artificial intelligence \(AI\) capabilities](#), the [continued targeting](#) of U.S. elections by foreign actors, and the increase in [threats and harassment of election workers](#) may elevate election interference as a subject of interest for Congress. For example, during New Hampshire’s 2024 presidential primary election, the New Hampshire Attorney General’s Office received [complaints of a robocall](#) allegedly using an AI “deepfake” to unlawfully interfere in the election by spreading misinformation in an attempt to suppress voting. Members of the [House](#) and [Senate](#) responded to this incident, stating that federal action is needed to respond to this type of interference.

[Several federal laws](#) prohibit interference with voting or interference with registering to vote in a U.S. election. While this Legal Sidebar does not provide a comprehensive list of all crimes that may be relevant to an election, it does provide an overview of criminal laws that prohibit election interference targeting voters, focusing primarily on those used in recent federal prosecutions. Additionally, this Sidebar discusses Congress’s constitutional authority to regulate U.S. elections and also provides considerations for Congress. For an overview of federal criminal laws prohibiting threats and harassment of election workers, refer to this [CRS Legal Sidebar](#).

Constitutional Authority over Elections

[Article I, Section 4, cl. 1](#), of the U.S. Constitution, known as the Elections Clause, states, “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of [choosing] Senators.” While the states have primary responsibility for administering elections, the federal government maintains [significant authority over elections](#), including safeguarding the safety and integrity of congressional elections.

A parallel constitutional provision addressing presidential elections, [Article II, Section 1, cl. 4](#), provides that Congress may determine the “time” of choosing presidential electors and the day the electors shall cast their votes, with that day being the same throughout the United States. This clause does not delegate to the states any power to prescribe the time, place, and manner of electors casting votes in a presidential

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election. The [Supreme Court has held](#) that “[t]he importance of [the presidential] election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated” and that “Congress, undoubtedly, possesses that power ... to preserve the ... institutions of the general government from impairment or destruction....” Congress, exercising its authority under this provision, has enacted legislation establishing an [Election Day](#). The power to appoint electors and how those appointments are made, however, belongs to the states under [Article II, Section 1, cl. 2](#).

Congress does not have general regulatory authority over state and local elections, but it may still exercise its power over such entities in several contexts. For example, Congress has the authority to [prevent unconstitutional voting discrimination](#) in a state or local election. Congress’s authority to legislate regarding these various issues derives, in addition to its Article I powers, principally from the [Fourteenth](#) and [Fifteenth Amendments](#). Furthermore, relying on its [Spending Clause authority](#) under Article I, Congress might also condition the receipt of federal funds for state or local elections on compliance with federal requirements.

Select Federal Criminal Laws Prohibiting Interference with Voting

Federal law enforcement [jurisdiction over election crimes](#) can be established through a variety of means, such as the presence of a candidate for federal office on the ballot in the election in question, interference with the work of election officials, interference with a constitutional right, or the use of interstate commerce in the commission of a crime. Some federal laws can apply to [nonfederal elections](#), and federal jurisdiction may also extend to mixed elections (federal and nonfederal candidates).

The discussion below addresses criminal conduct that interferes with the act of voting or registering to vote, including unlawful election interference carried out by government officials.

Interference with Voting and Voting Registration

[Section 245\(b\)\(1\)\(A\) of Title 18 of the U.S. Code](#) addresses interference in elections by force or threats. Section 245(b)(1)(A) imposes penalties on whoever “by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from” voting or participating in other election activities. Section 245(a)(1) requires the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a specially designated Assistant Attorney General to certify that federal prosecution of a case under Section 245(b)(1)(A) is in the public interest and necessary to secure substantial justice.

According to the [Senate report](#) accompanying the legislation that added Section 245, the certification process was consistent with a federal practice that, “even where Federal law has been adopted, enforcement generally has been deferred to the States wherever possible.” [Guidance](#) from the Department of Justice (DOJ) further indicates that in practice, the certification process considers whether state or local law enforcement “either cannot or will not[] effectively enforce the applicable state law, thereby creating an overriding need for federal intervention” to uphold the public’s interest in addressing election interference. Additionally, [Section 245\(b\)\(4\)](#) provides protection from interference in voting or participating in other election activities on account of race, color, religion, or national origin. This provision prohibits using force or threat of force to willfully injure, intimidate, or interfere with “any person because he is or has been, or in order to intimidate such person ... from participating, without discrimination on account of race, color, religion or national origin,” in voting or voting-related activities.

In 2020, a defendant [pleaded guilty](#) to violating Section 245(b)(1)(A) by unlawfully interfering with a candidate campaigning for elective office and Section 245(b)(4) for racially motivated interference with a candidate campaigning for elective office. Following the plea, the defendant, a resident of Florida, was

sentenced to 41 months of imprisonment for threatening an African American city council candidate in Charlottesville, VA, on social media platforms including Gab.ai, Facebook, and Twitter. The racist threats targeting the candidate were made online under various pseudonyms, which an FBI investigation revealed to be the defendant after the candidate had dropped out of the race.

[Section 241 of Title 18](#) makes it unlawful to “conspire to injure, oppress, threaten, or intimidate any person” exercising a constitutional or legal right, including the right to vote. In October 2023, DOJ announced that an individual was [sentenced](#) to seven months imprisonment for his role in a conspiracy to interfere in the 2016 U.S. presidential election in violation of Section 241. According to DOJ, the individual “conspired with other influential Twitter users and with members of private online groups to use social media platforms, including Twitter, to disseminate fraudulent messages that encouraged supporters of presidential candidate Hillary Clinton to ‘vote’ via text message or social media which was legally invalid.” The case is currently pending before the Second Circuit Court of Appeals. The grand jury [indictment](#) against former President Trump involving conduct [related to the 2020 election](#) includes an allegation of conspiracy against the right to vote and to have one’s vote counted, a violation of Section 241. Trial court proceedings in the case are [paused](#) as the Supreme Court [has agreed](#) to take up the question of whether the former President is immune from criminal prosecution for conduct taken while in office. As Sections 241 and 245(b) have been used to address the use of social media tools in election interference, these statutes may also be able to address the use of AI tools in election interference, such as in the case of the 2024 New Hampshire’s presidential primary [AI robocall incident](#).

[Section 594 of Title 18](#) prohibits intimidating, threatening, or coercing anyone for the purpose of interfering with an individual’s right to vote in an election that includes candidates for federal office. In 2021, DOJ indicted [two Iranian nationals](#) for violations of Section 594, among other crimes, for their involvement in a cyber-enabled campaign to intimidate and influence American voters in the 2020 presidential election. The individuals are alleged to have committed unlawful [voter intimidation](#) by sending email messages threatening potential voters with physical injury.

[Section 10307 of Title 52](#), passed as part of the Voting Rights Act of 1965 and subsequently amended, proscribes a wide range of conduct including intimidating, threatening, or coercing any person for voting or attempting to vote, giving false information in voter registration or voting, and voting more than once. [Section 20511\(1\)\(A\) of Title 52](#), which is part of the National Voter Registration Act of 1993, provides criminal penalties for a person, including an election official, in any election for federal office to “knowingly and willfully intimidate[], threaten[], or coerce[]” any person for “registering to vote, or voting, or attempting to register or vote.” Additionally, Section 20511(2) provides criminal penalties for a person who “knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process” through fraudulent voter registration applications or ballots. In November 2023, [DOJ announced](#) that an individual had been convicted of 26 counts of providing false information in registering and voting under [52 U.S.C. § 10307\(c\)](#), three counts of fraudulent registration under [52 U.S.C. § 20511\(2\)\(A\)](#), and 23 counts of fraudulent voting under [52 U.S.C. § 20511\(2\)\(B\)](#) for a voter fraud scheme during the Iowa 2020 primary and general elections. In this case, the defendant completed and signed voter forms without voters’ permission and told others that they could sign on behalf of relatives who were not present as part of a scheme to fraudulently generate votes for her spouse, who was a candidate in the 2020 primary election for Iowa’s 4th U.S. Congressional District.

In addition to federal laws specifically dealing with conduct targeting voters and elections, laws of general applicability may also be used to address such interference. [Section 875\(c\) of Title 18](#) prohibits, among other things, “transmit[ing] in interstate or foreign commerce any communication containing any threat” to kidnap or injure another person. In the case dealing with election intimidation by two Iranian nationals, DOJ also charged the individuals with [transmission of interstate threats](#) for sending emails threatening voters with physical injury in interstate and foreign commerce.

[Section 227\(b\) of Title 47](#), which also does not reference elections specifically, provides civil and criminal penalties for robocalls other than a call made for emergency purposes or made with the prior express consent of the called party. In 2023, the Federal Communications Commission (FCC) issued a fine in excess of [\\$5 million](#) against several individuals and a limited liability corporation for robocalling potential voters without prior consent. The parties were accused of making 1,141 unlawful robocalls leading up to the 2020 elections, which told potential voters that if they voted by mail, their “personal information will be part of a public database that will be used by police departments to track down old warrants and be used by credit card companies to collect outstanding debts.” The FCC has since [clarified](#) that unsolicited robocalls that use voices made with AI are illegal and may be subject to civil enforcement under the Telephone Consumer Protection Act.

Interference by Government Officials

Some federal laws address interference with voting and elections by individuals acting “under the color of law” or acting in their capacity as government officials. Laws prohibiting conduct by nongovernment officials that corrupt the election process may also address the conduct of government officials. For example, [18 U.S.C. § 245](#) discussed above, which prohibits interference with elections by force or threat of force, applies “whether or not [the offender is] acting under color of law.” Election crimes specifically dealing with the conduct of government officials or those using government resources include:

- [18 U.S.C. § 242](#), which prohibits willfully acting under government authority to deprive individuals of their rights, including the right to vote;
- [18 U.S.C. § 592](#), which prohibits stationing “troops or armed men” by military or federal officials at the polls in a general or special election except when necessary “to repel armed enemies of the United States”;
- [18 U.S.C. § 593](#), which prohibits members of the military from interfering “in any manner with an election officer’s discharge of his duties”;
- [18 U.S.C. § 595](#), which prohibits government employees from using official authority in connection with federally financed activity to interfere with or affect a federal election;
- [18 U.S.C. § 598](#), which prohibits the use of congressional appropriations “for the purpose of interfering with, restraining, or coercing” any person in the exercise of the right to vote; and
- [52 U.S.C. § 10307\(a\)](#), which prohibits persons acting under color of law from failing or refusing “to permit any person to vote who is entitled to vote” or “to tabulate, count, and report such person’s vote.”

Considerations for Congress

In December 2023, pursuant to the [extension of Executive Order 13848](#), the Attorney General and Secretary of Homeland Security released a [Joint Report](#) of Key Findings and Recommendations on Foreign Interference Targeting Election Infrastructure or Political Organization, Campaign, or Candidate Infrastructure Related to the 2022 US Federal Elections. Among its [recommendations](#), the report stated that the federal government should “continue to help election officials, third-party vendors, political organizations, and campaigns adopt best practices for infrastructure and election security” and improve partnerships with state and local governments, public messaging, and educational efforts.

In addition to assisting states and localities, Congress may address [potential vulnerabilities](#) in the security of elections by setting additional federal requirements. For example, Congress may expand existing voting system requirements established by the [Help America Vote Act of 2002](#), make the U.S. Election Assistance Commission’s currently [voluntary guidelines](#) mandatory, or create new criminal penalties for

conduct specifically targeting elections. In light of the [recent use of AI tools](#) to interfere with voters and [existing legislative proposals](#) dealing with AI in the campaign finance context, Congress may also choose to address the use of AI specifically with regard to voter interference.

In the 118th Congress, proposals that would create new federal criminal offenses prohibiting interference with the right to vote include the Freedom to Vote Act ([H.R. 11](#), [S. 2344](#)) and the Alice Paul Voter Protection Act ([H.R. 1583](#)). The Election Worker Protection Act of 2023 ([S. 1318](#)) would provide federal resources and training to assist states and localities in addressing threats to elections. For a list of additional bills introduced in the 117th and 118th Congresses addressing election interference, see [this CRS Insight](#).

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