

Tab 1	SB 280 by Arrington; Identical to H 00201 Candidate Qualification						
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Tab 2	SB 588 by Leek (CO-INTRODUCERS) Gaetz; Identical to H 01271 Campaign Communications						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Senator Gaetz, Chair
Senator Bernard, Vice Chair

MEETING DATE: Monday, March 3, 2025
TIME: 1:00—3:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Gaetz, Chair; Senator Bernard, Vice Chair; Senators Avila, Bradley, Collins, Garcia, Grall, Polsky, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 280 Arrington (Identical H 201)	Candidate Qualification; Providing eligibility requirements for persons seeking to qualify for nomination as candidates of a political party or as candidates with no party affiliation; providing that certain entities may bring an action for declaratory and injunctive relief based on a certain claim; prohibiting a person from qualifying as a candidate for election and prohibiting his or her name from appearing on the ballot under certain circumstances, etc. EE 03/03/2025 Fav/CS JU RC	Fav/CS Yeas 8 Nays 0
2	SB 588 Leek (Identical H 1271)	Campaign Communications; Prohibiting campaign-related telephone calls and text messages to specified voters; requiring candidates and other persons or organizations to cease immediately all communications with certain voters; specifying how a voter indicates that he or she no longer consents to such communications; authorizing a voter to bring a certain action in a court of competent jurisdiction, etc. EE 03/03/2025 Temporarily Postponed JU RC	Temporarily Postponed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: CS/SB 280

INTRODUCER: Ethics and Elections Committee and Senator Arrington

SUBJECT: Candidate Qualification

DATE: March 3, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Biehl	Roberts	EE	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 280 creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must be a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

This substantive requirement is in addition to an existing requirement that a person seeking qualification as a candidate make such a sworn party affiliation statement in writing.

The bill also creates a private right of action by which a political party or other person or entity with standing may bring a claim for declaratory and injunctive relief based on claim that a person seeking to qualify as a candidate did not comply with the party affiliation requirement. If a circuit court determines such person did not comply, he or she is disqualified from placement on the ballot.

The bill takes effect July 1, 2025.

II. Present Situation:

Each candidate for an elected office in Florida must take and subscribe to in writing an oath or affirmation.¹ Current law specifies oath formats for a candidate for federal office,² a candidate for a non-federal office other than a judicial office,³ and a candidate for a state judicial office.⁴ Generally, such oath or affirmation must, in substance:

- Provide the name of the office for which the candidate is running;
- Affirm that the candidate is a qualified elector of the county or court jurisdiction, as applicable;
- Affirm that the candidate is qualified under the State Constitution and laws of Florida to hold the office for which he or she is running;
- Affirm that the candidate has not qualified for any other public office in the state for which the term runs concurrently and that he or she has resigned from any office from which he or she is required to resign;⁵ and
- Affirm that the candidate will support the constitutions of the United States and the State of Florida.⁶

In addition, any person seeking to qualify for nomination as a candidate of any political party must, at the time of subscribing to the oath or affirmation, also state in writing certain information about his or her party affiliation, specifically:

- The party of which the person is a member;
- That the person has not been a registered member of any political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify; and
- That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.⁷

Similarly, a person seeking to qualify for office as a candidate with *no* party affiliation must state in writing that he or she:

- Is registered without a party affiliation; and
- Has not been a registered member of any political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.⁸

Although current law requires candidates to state such information, courts have found no mechanism by which the provision can be enforced if the person seeking to qualify did not

¹ Sections 99.021(1)(a) and 105.031(4), F.S.

² Section 99.021(1)(a)2., F.S.

³ Section 99.021(1)(a)1., F.S.

⁴ Section 105.031(4)(b), F.S.

⁵ Section 99.012(3)(a), F.S., states, "No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds."

⁶ Sections 99.021(1)(a)1. and 105.031(4), F.S.

⁷ Section 99.021(1)(b), F.S.

⁸ Section 99.021(c), F.S.

actually comply with the requirement.⁹ Therefore, a person who complies with the facial requirement of the written statement cannot be disqualified from placement on the ballot, even if his or her statement is untrue.

III. Effect of Proposed Changes:

The bill creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must be a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

The bill authorizes a political party or any other person or entity with standing to bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify for nomination as a candidate of such political party or as a candidate with no party affiliation did not comply with the requirement.

The bill specifies that if a final judgment of a circuit court determines that a person did not comply with the requirement, the person may not be qualified as a candidate and his or her name may not appear on the ballot.

The bill makes a conforming change to the existing written statement requirement.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ See *Torres v. Shaw*, 345 So.3d 970 (Fla. 1st DCA 2022), holding that voters and political party had not private right of action to challenge qualifications of a congressional candidate under the candidate oath requirement; and *Jones v. Schiller*, 345 So.2d 406 (Fla. 1st DCA 2020), holding that a candidate cannot challenge the veracity of the opposing candidate's sworn party affiliation statement.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 99.021, Florida Statutes.

This bill creates section 99.013, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on March 3, 2025:

The committee substitute:

- Makes clear that the 365-day required period of party affiliation or no party affiliation is the 365 consecutive days immediately preceding the qualifying period.
- Makes a conforming change to the language to the written statement a candidate must make.
- Revises the entities who may bring a claim.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2025	.	
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	.	
	.	

The Committee on Ethics and Elections (Arrington) recommended the following:

Senate Amendment (with title amendment)

Delete lines 23 - 41
and insert:
nomination as a candidate for at least 365 consecutive days preceding the beginning of the qualifying period before the general election for which the person seeks to qualify.

(b) A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member



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11 of any political party for at least 365 consecutive days
12 preceding the beginning of the qualifying period before the
13 general election for which the person seeks to qualify.

14 (2) A political party or other candidate for the office
15 sought may bring an action for declaratory and injunctive relief
16 based on a claim that a person seeking to qualify for nomination
17 as a candidate of such political party or as a candidate with no
18 party affiliation did not comply with this section.

19 (3) If a final judgment of a circuit court determines that
20 a person did not comply with this section, the person may not be
21 qualified as a candidate for election and his or her name may
22 not appear on the ballot.

23 Section 2. Paragraphs (b) and (c) of subsection (1) of
24 section 99.021, Florida Statutes, are amended to read:

25 99.021 Form of candidate oath.—

26 (1)

27 (b) In addition, any person seeking to qualify for
28 nomination as a candidate of any political party shall, at the
29 time of subscribing to the oath or affirmation, state in
30 writing:

31 1. The party of which the person is a member.

32 2. That the person has been a registered member of the
33 political party for which he or she is seeking nomination as a
34 candidate for at least 365 consecutive days preceding ~~before~~ the
35 beginning of qualifying before ~~preceding~~ the general election
36 for which the person seeks to qualify.

37 3. That the person has paid the assessment levied against
38 him or her, if any, as a candidate for said office by the
39 executive committee of the party of which he or she is a member.



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40 (c) In addition, any person seeking to qualify for office
41 as a candidate with no party affiliation shall, at the time of
42 subscribing to the oath or affirmation, state in writing that he
43 or she is registered without any party affiliation and that he
44 or she has not been a registered member of any political party
45 for at least 365 consecutive days preceding ~~before~~ the beginning
46 of qualifying before ~~preceding~~ the general election for which
47 the person seeks to qualify.

48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete line 11

51 and insert:

52 ballot under certain circumstances; amending s.
53 99.021, F.S.; specifying that a person seeking to
54 qualify for office as a candidate must be a registered
55 member of a political party, or registered without any
56 party affiliation, for 365 consecutive days preceding
57 the beginning of qualifying for an election; providing
58 an

By Senator Arrington

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1 A bill to be entitled
 2 An act relating to candidate qualification; creating
 3 s. 99.013, F.S.; providing eligibility requirements
 4 for persons seeking to qualify for nomination as
 5 candidates of a political party or as candidates with
 6 no party affiliation; providing that certain entities
 7 may bring an action for declaratory and injunctive
 8 relief based on a certain claim; prohibiting a person
 9 from qualifying as a candidate for election and
 10 prohibiting his or her name from appearing on the
 11 ballot under certain circumstances; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 99.013, Florida Statutes, is created to
 17 read:

18 99.013 Eligibility to qualify for nomination as a candidate
 19 of a political party or candidate with no party affiliation.-

20 (1) (a) A person seeking to qualify for nomination as a
 21 candidate of a political party must have been a registered
 22 member of the political party for which the person is seeking
 23 nomination as a candidate for at least 365 days before the
 24 beginning of the qualifying period preceding the general
 25 election for which the person seeks to qualify.

26 (b) A person seeking to qualify for nomination as a
 27 candidate with no party affiliation must be registered without
 28 any party affiliation and may not have been a registered member
 29 of any political party for at least 365 days before the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 beginning of the qualifying period preceding the general
 31 election for which the person seeks to qualify.

32 (2) A political party, in addition to any other person or
 33 entity with standing, may bring an action for declaratory and
 34 injunctive relief based on a claim that a person seeking to
 35 qualify for nomination as a candidate of such political party or
 36 as a candidate with no party affiliation did not comply with
 37 this section.

38 (3) If a final judgment of a circuit court determines that
 39 a person did not comply with this section, the person may not be
 40 qualified as a candidate for election and his or her name may
 41 not appear on the ballot.

42 Section 2. This act shall take effect July 1, 2025.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: SB 588

INTRODUCER: Senators Leek and Gaetz

SUBJECT: Campaign Communications

DATE: February 28, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cleary	Roberts	EE	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 588 enables individuals to opt out of political texts and phone calls from particular callers by requesting the texts or phone calls to stop. The bill allows individuals to file an injunction to stop further communications in violation of the law and to recover attorney fees and costs.

The bill takes effect July 1, 2025.

II. Present Situation:

Federal Law

In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA)¹ to combat unwarranted telephone marketing calls to cell phones and home phones by placing restrictions on the use of automated telephone-dialing system (ATDS), otherwise known as an autodialer or “robocalls.” The TCPA was Congress’ response to consumer outrage about receiving endless and harassing calls from telemarketers, using equipment that could automatically dial a telephone number and deliver an artificial or recorded message.² In enacting the TCPA, Congress found that banning robocalls was “the only effective means of protecting telephone consumers from the nuisance and privacy invasion.”³

In 1992, the Federal Communications Commission (FCC) adopted rules to implement the TCPA, creating the regulatory framework for campaign phone calls and general messaging rules. The TCPA prohibits almost all robocalls and robotexts to mobile phones, without prior consent.⁴

¹ The Telephone Consumer Protection Act (TCPA) is codified at section 227 of the Communications Act of 1934, as amended. *See* 47 U.S.C. § 227.

² *See Barr v. American Association of Political Consultants, Inc.* 591 U.S. 610, 614-15 (2020).

³ *Barr*, 591 U.S. at 615.

⁴ *Barr*, 591 U.S. at 615.

To trigger the TCPA's prohibitions the caller or texter must be using an autodialer, defined as "equipment which has the capacity (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers."⁵ Political campaign-related robocalls, generated through autodialing, to mobile phones are prohibited without the recipient person's prior consent.⁶ Political robocalls to landlines are allowed without prior consent with exceptions.⁷ Political robotexts, text messages generated from autodialing, sent to a mobile phone are prohibited without the texted person's prior consent.⁸ Text messages, sent manually without the use of autodialing, can be sent without prior consent.⁹

For calls and texts that require consent, the caller must honor the called party's request to revoke consent.¹⁰ The called party can revoke consent at any time and in any reasonable manner, such as replying "stop" to a text or asking not to be called again on a voice call.¹¹ However, where consent is contractually provided, as in the case in credit agreements, the parties can bargain to require mutuality or particular revocation methods.¹²

⁵ See 47 U.S.C. § 227(a)(1); *But See Facebook, Inc. v. Duguid*, 592, U.S. 395, 399, 141, S. Ct. 1163, 1167, 209 L. Ed. 2d 272 (2021) (The Supreme Court narrowed the definition of an "autodialer." The Court held that to qualify as an autodialer under the TCPA, the device must have the capacity to use a random or sequential number generator to store or produce numbers.).

⁶ See 47 U.S.C. § 227(b); *See Political Campaign Robocalls and Robotexts Rules*, Federal Communications Commission Webpage (last visited February 25, 2025), <https://www.fcc.gov/rules-political-campaign-calls-and-texts>. (Political campaign-related autodialed or prerecorded voice calls, including autodialed live calls, and prerecorded voice messages, are prohibited to cell phones, pagers, or other mobile devices without the called party's prior express consent. The same restrictions apply to protected phone lines such as emergency or toll-free lines, or lines serving hospitals or similar facilities.).

⁷ *Political Campaign Robocalls and Robotexts Rules*, Federal Communications Commission Consumer Guide (last Reviewed: 10/22/2024), <https://www.fcc.gov/sites/default/files/Political-Campaign-Robocalls-and-Robotexts-Rules-Consumer-Guide.pdf> (In addition, political robocalls made to residential landline phones without the prior consent of the called party are limited to no more than three calls within any consecutive 30-day period.).

⁸ See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC rcd 14014, 14115, para. 165 (2003) (*2003 TCPA Order*); see also *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946 (9th Cir. 2009) (noting that text messaging is a form of communication used primarily between telephones and is therefore consistent with the definition of a "call").

⁹ FCC Enforcement Advisory No. 2016-03, DA 16-264 (March 14, 2016) (Enforcement Advisory and FAQ) (In 2016, the FCC issued an Enforcement Advisory regarding the agency's TCPA robocall and text rules, which included an attachment addressing frequently asked questions (FAQ). The FAQ stated that "only manually placed text messages are permissible without prior express consent.").

¹⁰ The National Law Review, *Consent and Revocation Under the TCPA*, (Mar. 21, 2023), <https://www.natlawreview.com/print/article/consent-and-revocation-under-tpa> (There are two types of prior consent provided for under the TCPA: 1) Prior Express consent is required to place autodialed, non-solicitation calls or texts to a cell phone; and, 2) Prior express written consent is a heightened form of consent, which must be evidenced by a written agreement signed by the call recipient, and is required to place autodialed telemarketing or advertising calls or texts to a cell phone. The written agreement must include a clear and conspicuous disclosure).

¹¹ *Political Campaign Robocalls and Robotexts Rules*, Federal Communications Commission Consumer Guide (last Reviewed: 10/22/2024), <https://www.fcc.gov/sites/default/files/Political-Campaign-Robocalls-and-Robotexts-Rules-Consumer-Guide.pdf>; See 47 U.S.C. § 227(b)(2)(E).

¹² See *Reyes v. Lincoln Auto. Fin. Servs.*, 861 F.3d 51, 53 (2d Cir. 2017) (held that a consumer may not unilaterally withdraw consent in a bargained-for, bilateral contract); *But see Ammons v. Ally Fin., Inc.*, Case No. 3:17-cv-00505, 2018 WL 3134619, at *18 (M.D. Tenn. June 27, 2018) (court adopted general rule that consumer consent may be revoked at any time "by any reasonable means.").

The TCPA includes a private right of action.¹³ A caller who places a call to a cell phone without consent using an ATDS is subject to \$500 in damages per call.¹⁴ The damages amount is \$1,500 per call if the court finds that the defendant willfully or knowingly committed the violation.¹⁵

Further, the TCPA authorized the FCC to create a “single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations.”¹⁶ In 2003, Congress created the Do-Not-Call Implementation Act, which directed the FCC to coordinate with the Federal Trade Commission (the “FTC”) to create a uniform do-not-call list.¹⁷ The National Do Not Call Registry was established which covers all telemarketers (with the exception of certain nonprofit organizations) and applies to both interstate and intrastate calls.¹⁸ The registry is administered by the FTC. As the National Do Not Call Registry has gained popularity, some states have decided to forgo the expense of maintaining their own do-not-call lists.¹⁹

Political organizations have been deemed exempt from the restrictions of the do-not-call list and its enforcement provisions because the law’s restrictions have been held to apply only to telemarketing calls made by or on behalf of sellers of goods or services.²⁰

A new emerging issue is the rise of and use of artificial intelligence (AI) in telemarketing. The FCC recently declared that calls made with AI-generated voices are considered “artificial” under the TCPA, making voice cloning technology used in common robocall scams targeting consumers illegal in many cases.²¹

¹³ 47 U.S.C. § 227(b)(3).

¹⁴ 47 U.S.C. § 227(b)(3)(B)-(C)

¹⁵ *Id. see Barr*, 591 U.S. 616 (“The TCPA imposes tough penalties for violating the robocall restriction, private parties can sue to recover up to \$1,500 per violation or three times their actual monetary losses, which can add up quickly in a class action. § 227(b)(3). States may bring civil actions against robocallers on behalf of their citizens. § 227(g)(1). And the Federal Communications Commission can seek forfeiture penalties for willful or repeated violations of the statute. § 503(b).”).

¹⁶ 47 U.S.C. § 227(c)(3); *See also Mainstream Mktg. Servs., Inc. v. F.T.C.*, 358 F.3d 1228, 1235 (10th cir. 2004) (noting that the TCPA “authorized the FCC to establish a national database of consumers who object to receiving ‘telephone solicitations,’ which the act defines as commercial sales calls.”).

¹⁷ *See* 15 U.S.C. § 227(c)(3).

¹⁸ Federal Trade Commission, *National Do Not Call Registry*, (last visited February 24, 2025), <https://www.donotcall.gov/>

¹⁹ Currently, only 11 states maintain their own Do Not Call lists: Colorado, Florida, Indiana, Louisiana, Massachusetts, Missouri, Oklahoma, Pennsylvania, Texas, Tennessee, Wyoming.

²⁰ *See Cumunas v. Nat’l Republican Senatorial Comm.*, 570 F. Supp. 3d 288, 300-01 (E.D. Pa. 2021) (“Thus the legislative history supports the conclusion that the TCPA intended to exclude tax-exempt political organizations from the Do Not Call List); *See Mainstream Marketing Services, Inc. v. F.T.C.*, 358 F.3d 1128, 1234 (2004) (“[t]he national do-not-call registry’s restrictions apply only to telemarketing calls made by or on behalf of sellers of goods or services, and not to charitable or political fundraising calls.”); *See Libby v. Nat’l Republican Senatorial Comm.*, No. 5:21-cv-197, 551 F.Supp.3d 724, 729 (W.D. Tex. July 27, 2021) (dismissing a section 227(c) claim because “political organizations are exempt from the Do Not Call Registry”); *See The Do Not Call Registry*, Federal Trade Commission (last visited February 24, 2025), <https://www.ftc.gov/news-events/media-resources/do-not-call-registry> (The FTC’s website states: “There are some exemptions to the Do Not Call rules. Because of the limits to FTC’s authority, the Registry does not apply to political calls or calls from non-profits and charities (but the Registry does cover telemarketers calling on behalf of charities.”).

²¹ *See FCC Makes AI-Generated Voices in Robocalls Illegal -State AGs Will Now Have New tools to Go After Voice Cloning Scams*, Federal Communications Commission Release (February 8, 2024), <https://docs.fcc.gov/public/attachments/DOC-400393A1.pdf>.

The Federal Election Commission (FEC) provides additional guidelines for political communications, including text messaging, and mandates that all political messages, regardless of medium, must include proper disclaimers.²² This typically means identifying who paid for and authorized the message.²³ Failure to comply with these disclosure requirements can result in penalties.²⁴

Florida

The Florida Telemarketing Act (FTA) protects consumers from telemarketers' aggressive sales tactics and deceptive telemarketing practices.²⁵ Telemarketers in Florida must comply with very strict restrictions, including when they can call and what they must say when they call. There are certain entities that are generally exempt from the FTA, including a person soliciting for political purposes.²⁶

Florida law allows candidates, persons, or organizations to contact voters by telephone call or text message regarding the support or opposition of a candidate, an elected public official, a ballot measure, and electioneering message, so long as the communication complies with the specific sponsorship disclaimer requirements for political advertisements,²⁷ independent expenditures,²⁸ and electioneering communications²⁹ under s. 106.147, F.S.³⁰

²² *Advertising and disclaimers*, Federal Election Commission Web Page (last visited February 24, 2025),

<https://www.fec.gov/help-candidates-and-committees/advertising-and-disclaimers/>; *See* 52 U.S.C. 30120; *See* 11 CFR 110.11

²³ *Id.* *See* L. Paige Whitaker, Campaign Finance Law: Disclosure and Disclaimer Requirements for Political Campaign Advertising, (Congressional Research Service) (December 30, 2019), <https://crsreports.congress.gov/product/pdf/IF/IF11398>.

²⁴ *Administrative Fines*, Federal Election Commission Web Page (last visited February 24, 2025), <https://www.fec.gov/legal-resources/enforcement/administrative-fines/>; *See* 52 U.S.C. §30104(a); *See* 11 CFR 111 Subpart B.

²⁵ Sections 501.601-501.626, F.S.

²⁶ *See* s. 501.604, F.S. (There are approximately 28 exemptions, including: soliciting for religious, charitable, *political* or educational purposes; research companies; newspapers; book and video clubs; cable television; and persons or companies with whom the consumer has a prior business relationship.). A person soliciting for political purposes are still required to comply with ss. 501.608(1)(b) (“[a]ny commercial telephone seller claiming to be exempt from the act under s. 501.604(2) . . . must file with the department a notarized affidavit of exemption) and s.501.616(6) and (7) (“(6) [c]ommercial telephone seller or salesperson may not make a commercial telephone solicitation phone call before 8 a.m. or after 9 p.m. local time at the called person’s location,” and “(7) [a] commercial telephone seller or salesperson making a commercial telephone solicitation call may not intentionally act to prevent transmission of the telephone solicitor’s name or telephone number to the party called when the equipment or service used by the telephone solicitor is capable of creating and transmitting the telephone solicitor’s name or telephone number.”).

²⁷ *See* 106.011(4) and (15), F.S. (A “political advertisement” is a paid expression in “communication media,” such as the *Internet* or a *telephone company*, which “*expressly advocates* the election or defeat of a candidate or the approval or rejection of an issue.”).

²⁸ *See* Section 106.011(12)(a), F.S. (An “independent expenditure” is a specific *type* or *subset* of a political advertisement, one where the expenditure is “not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.”)

²⁹ *See* Section 106.011(8)(a), F.S. (An electioneering communication generally means a “communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone” that refers to a clearly-identifiable candidate *without expressly advocating* the election or defeat of any candidate, but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate; Is made within 30 days before a primary or 60 days before a general election; and is targeted to the relevant electorate in the geographic area the candidate would represent if elected.).

³⁰ *See also Candidate and Campaign Treasure Handbook (2024 Election Cycle)* Florida Department of State Division of Elections (Rev. 9/2024), <https://files.floridados.gov/media/708868/candidate-and-campaign-treasurer-handbook-2024.pdf>. (Any telephone call or text message supporting or opposing a candidate, elected public official, or ballot proposal, and any electioneering text message or telephone call, must include the phrase “Paid for by,” followed by the name of the persons or

The disclaimer requirements do not apply in the following circumstances:³¹

- Any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.
- Any telephone call conducted for the purpose of polling respondents concerning a candidate or elected public official which is part of a series of like telephone calls that consists in fewer than 1,000 completed calls and averages more than two minutes duration.
- Any text message that (i) is sent by an unpaid individual without the assistance of mass distribution technology or (ii) requires the recipient to sign up or opt in to receive it.

Current law prohibits any telephone calls or text messages from stating or implying that the caller represents any person or organization unless the person or organization so represented has given specific approval in writing to make such representation.³² Further, no telephone call or text message shall state or imply that the caller represents a nonexistent person or organization.³³

Any telephone call or text message, not conducted by independent expenditure, supporting or opposing a candidate or ballot proposal, requires prior written authorization by the candidate or sponsor of the ballot proposal that the call or text message supports.³⁴

Any person who willfully violates any provision of s. 106.147, F.S., commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.³⁵

Any person or organization conducting business in this state by making phone calls or sending text messages in support of or opposition to a candidate or elected official must designate and maintain a registered agent for at least 180 days after ceasing such activities. This registered agent must be available for service of process, notices, or legal demands as required by law and must be registered with the Division of Elections. Any person or organization that violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or 775.083, F.S.³⁶

III. Effect of Proposed Changes:

SB 588 prohibits a candidate, person, or organization from texting or calling a voter regarding the support or opposition of a candidate, an elected public official, a ballot measure, and any electioneering message, if that voter indicates he or she does not consent to receive such communications.

organizations sponsoring the call or message or, in the case of text message, a working hyperlink or a uniform resources locator (URL) to a website containing the required disclosure); *See* 106.147(1), F.S.

³¹ Section 106.147(1)(e), F.S.

³² Section 106.147(2)(a), F.S.

³³ Section 106.147(2)(b), F.S.

³⁴ Section 106.147(3), F.S. (further a copy of such written authorization must be placed on file with the qualifying officer by the candidate or sponsor of the ballot proposal prior to the time the calls or text messages commence).

³⁵ Section 106.147(4), F.S. (The term “person” includes any candidate; any officer of any political committee, affiliated party committee, or political party executive; any officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and any agent or other person acting on behalf of any candidate, political committee, affiliated party committee, political party executive committee, or corporation, partnership, or other business entity.).

³⁶ Section 106.1475(4), F.S.

Further, the bill provides the methods in which a voter may provide notice that he or she does not consent to such communications. For telephone calls, the voter provides notice by indicating on the call that he or she no longer wishes to receive such calls. For text messages, the voter provides notice by responding to the text message with “Stop.”

The bill authorizes a voter to bring an action in a court of competent jurisdiction to enjoin a violation. A voter who successfully enjoins the violation is entitled to reasonable attorney fees and costs.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill may be subject to future challenges on First Amendment grounds as impermissibly regulating political speech,³⁷ which is entitled to the highest degree of protection under the First Amendment.³⁸ Under strict scrutiny analysis, the government must demonstrate the restriction serves a compelling government interest and is the least

³⁷ See *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 498-99 (1996) (First amendment analysis draws a distinction between restrictions placed on commercial speech and restrictions placed on other types of speech, including political expression. This distinction must be made because the state has more discretion in regulating commercial speech than other forms of protected speech); See *Fla. Bar. V. Went For It, Inc.*, 515 U.S. 618, 623-24 (1995) (an intermediate level of scrutiny is used to assess the validity of restrictions on commercial speech).

³⁸ See R. Sam Garrett and Kathleen Ann Ruane, *Automated Political Telephone Calls (“Robo Call”) in Federal Campaigns: Overview and Policy Options*, Congressional Research Service (Updated March 22, 2010), <https://crsreports.congress.gov/product/pdf/RL/RL34361/14>, citing *Eu v. San Francisco Democratic Cen. Com.*, 489 U.S. 214, 223 (1989) (holding that “the First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.”).

restrictive alternative to serve that interest.³⁹ The First Amendment “protects [a speaker’s] right not only to advocate their cause but also to select what they believe to be the most effective means for so doing.”⁴⁰ Governments, however, are permitted to place reasonable restrictions on the time, place, and manner of speech so long as they are content-neutral, narrowly tailored, and serve a significant government interest, and leave open ample alternative channels for communication of the information.⁴¹

Several cases in recent decades have challenged federal and state laws restricting or prohibiting the use of autodialers to make recorded calls. No simple rule has emerged from these cases, in which some laws have been struck down, but others have been upheld, for example:

- The Ninth Circuit has held that the provision in the TCPA banning automated, prerecorded calls to residences, is constitutional under the First Amendment.⁴²
- The United States Supreme Court struck down an exception to the robocall restrictions of the TCPA,⁴³ which allowed robocalls to be made solely to collect a debt owed to the United States, because the law was content-based, favoring speech made for the purpose of collecting government debt over political and other speech, and the law could not survive strict scrutiny.⁴⁴
- The Ninth Circuit struck down Montana’s robocall law,⁴⁵ which restricts automated telephone calls promoting a political campaign or any use related to a political campaign, for violating the First Amendment.⁴⁶
- The Seventh Circuit upheld an Indiana anti-robocall law,⁴⁷ ruling that that statute did not discriminate by content and instead regulated who may be called, as opposed to the content of the message.⁴⁸

³⁹ *See Id., citing McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 347 (1995) (“When a law burdens core political speech, we apply ‘exacting scrutiny,’ and we uphold the restriction only if it is narrowly tailored to serve an overriding state interest.”).

⁴⁰ *See Id., citing Meyer v. Grant*, 486 U.S. 414, 424 (1988) (Supreme Court struck down state law that prohibited the use of paid workers to obtain signature on voter-initiative petitions as an impermissible burden on political speech).

⁴¹ *See Id., citing Burson v. Freeman*, 504 U.S. 191, (1991). Laws that “do not foreclose an entire medium of expression, but merely shift the time, place or manner of its use” likely will be upheld so long as “ample alternative channels for communication” are left open. Restrictions, such as, the use of automated telephone dialers or prerecorded messages that apply only to political calls can be argued are a content-based restriction on speech, which would require the application of strict scrutiny. But content-based discrimination could be avoided if the restriction encompassed all speech that utilized a particular technology.

⁴² *Moser v. F.C.C.*, 46 F.3d 970, 975 (9th Cir. 1995).

⁴³ 47 U. S. C. §227(b)(1)(A)(iii).

⁴⁴ *Barr*, 591 U.S. 610, 614 (2020) (The court invalidated the government-debt exception and applied traditional severability principles to sever it from the robocall restriction).

⁴⁵ *See Montana Code s. 45-8216(1)*

⁴⁶ *Victory Processing, LLC v. Fox*, 937 F.3d 1218, 1223 (9th Cir. 2019).

⁴⁷ Ind. Code s. 24-5-14-(5)(a)(b) (The statute prohibited robocalls unless the subscriber requested, consented to, permitted, or authorized receipt of the message or the message was immediately preceded by a live operator who obtained the subscriber’s consent. The statute provided 3 exceptions: (1) Messages from school districts to students, parents, or employees, (2) Messages to subscribers with whom the caller has a current business or personal relationship, (3) Messages advising employees of work schedules.).

⁴⁸ *Patriotic Veterans, Inc. V. Zoeller*, 845 F. 3d 303, 305 (7th Cir. 2017) (The court found nothing in the statute, including the exceptions, that disfavored political speech, rather the statute, as a whole, disfavored cold calls, calls from strangers, and that the statute’s exceptions, likewise, depended on the relation between the caller and the recipient, not on what the caller proposes to say. The exceptions collectively concerned who may be called not what may be said, and therefore did not

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Candidates, individuals, or political organizations may have an indeterminate increase in cost in creating, managing, and maintaining an internal list of callers who provide notice not to be called. Further, there may be an increase in costs associated with penalties implemented due to violations and an increase in costs associated with defending against alleged violations in court.

C. Government Sector Impact:

There may be an increase in the number of cases to local courts' dockets as more plaintiffs may bring actions to enjoin violations under the law. This may increase court costs to handle the increased number of cases to the docket. But currently, such potential impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.147, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

establish content discrimination.); *See also Van Begen v. Minnesota*, 59 F.3d 1541, 1551 (8th Cir. 1995) (Eighth Circuit upheld a Minnesota Statute, MINN. STAT. ANN. ss. 325E.26 to .31, that prohibits all robocalls except in instances where the caller and the recipient have prior relationship, business or otherwise. The statute explicitly stated that the restriction applies to “any call, regardless of its content.” It also does not limit the restriction to calls made for a particular purpose, though it does allow a recorded message to be played if it is preceded by a live operator who receives consent to play the message); *See also Bland v. Fessler*, 88 F.3d 729, 732-36 (9th Cr. 1996) (The Ninth Circuit upheld a California statute, Cal. Pub. Util. Code s. 2874(a), that is very similar to Minnesota anti robocall statute in that it targets all robocalls without reference to the purpose or content of the call.).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



304994

LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
03/03/2025	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Polsky) recommended the following:

Senate Amendment (with title amendment)

Delete line 41
and insert:
violation. Before a voter brings an action in a court of
competent jurisdiction to enjoin the violation, he or she must
notify each prospective defendant by certified mail, return
receipt requested, of a violation of this section. The voter may
not commence such action until 30 days after the notice is
mailed to any prospective defendant. A voter who successfully



304994

11 enjoins the violation is

12

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete line 10

16 and insert:

17 action in a court of competent jurisdiction under

18 specified conditions; providing

By Senator Leek

7-00541A-25

2025588__

1 A bill to be entitled
 2 An act relating to campaign communications; amending
 3 s. 106.147, F.S.; prohibiting campaign-related
 4 telephone calls and text messages to specified voters;
 5 requiring candidates and other persons or
 6 organizations to cease immediately all communications
 7 with certain voters; specifying how a voter indicates
 8 that he or she no longer consents to such
 9 communications; authorizing a voter to bring a certain
 10 action in a court of competent jurisdiction; providing
 11 that such voter is entitled to reasonable attorney
 12 fees and costs under a specified circumstance;
 13 specifying applicable penalties; providing an
 14 effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Present subsection (4) of section 106.147,
 19 Florida Statutes, is redesignated as subsection (5), a new
 20 subsection (4) is added to that section, and present subsection
 21 (4) of that section is amended, to read:

22 106.147 Text message and telephone solicitation; disclosure
 23 requirements; prohibitions; exemptions; penalties.—

24 (4)(a) A voter who indicates that he or she does not
 25 consent to receive communications, whether by telephone call or
 26 text message, may not be sent any communication pursuant to this
 27 section. The candidate, person, or organization responsible for
 28 such communications shall cease all communications with such
 29 voter immediately upon receipt of the voter's indication that he

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00541A-25

2025588__

30 or she does not consent to receive such communication. For the
 31 purposes of this subsection, a voter may indicate that he or she
 32 no longer consents to receive such communications, in the case
 33 of a telephone call, upon the voter indicating on the call that
 34 he or she no longer wishes to receive such calls, or, in the
 35 case of a text message, upon the voter responding to the text
 36 message with "Stop."

37 (b) If the candidate, person, or organization does not
 38 cease communicating with the voter after receiving his or her
 39 indication pursuant to paragraph (a), the voter may bring an
 40 action in a court of competent jurisdiction to enjoin the
 41 violation. A voter who successfully enjoins the violation is
 42 entitled to reasonable attorney fees and costs.

43 (5)(a)(4)(a) A Any person who willfully violates this
 44 section commits a misdemeanor of the first degree, punishable as
 45 provided in s. 775.082 or s. 775.083.

46 (b) For purposes of paragraph (a), the term "person"
 47 includes any individual or organization making an independent
 48 expenditure; any candidate; any officer of any political
 49 committee, affiliated party committee, or political party
 50 executive committee; any officer, partner, attorney, or other
 51 representative of a corporation, partnership, or other business
 52 entity; and any agent or other person acting on behalf of any
 53 candidate, political committee, affiliated party committee,
 54 political party executive committee, or corporation,
 55 partnership, or other business entity.

56 Section 2. This act shall take effect July 1, 2025.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

Avila.bryan.web@flsenate.gov

COMMITTEES:

COMMITTEES:

Finance and Tax, *Chair*

Transportation, *Vice Chair*

Appropriations Committee on Transportation,

Tourism, and Economic Development

Environmental and Natural Resources

Ethics and Elections

Fiscal Policy

Rules

SENATOR BRYAN AVILA

39th District

February 18, 2025

The Honorable Senator Don Gaetz
Committee on Ethics & Elections
The Florida Senate
420 Senate Building
410 South Monroe Street
Tallahassee, Florida 32399-1100

REF: EXCUSAL LETTER

Honorable Chair Gaetz,

Please excuse my absence from committee on Monday, March 3, 2025.

Thank you for your understanding and if you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Bryan Avila
Senator
District 39

CC: Dawn Roberts, Staff Director
Terrance Riggins, Administrative Committee Assistant
Ronnie Whitaker, Staff Director Majority Office

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Committee on Senate Ethics and Elections

Judge:

Started: 3/3/2025 1:00:26 PM

Ends: 3/3/2025 1:08:12 PM **Length:** 00:07:47

1:00:36 PM Chair Gaetz calls meeting to order
1:00:38 PM Roll call
1:00:54 PM Quorum
1:00:57 PM Opening remarks by Chair Gaetz
1:01:21 PM Tab 2: SB 588 Campaign Communications by Senator Leek
1:01:28 PM Senator Leek explains bill
1:02:33 PM Senator Leek temporarily postpones bill
1:02:58 PM Tab 1: SB 280 Candidate Qualification by Senator Arrington
1:03:03 PM Senator Arrington explains bill
1:04:45 PM Amendment 195132 by Senator Arrington
1:04:50 PM Senator Arrington explains amendment
1:05:40 PM Questions on amendment
1:05:45 PM Senator Garcia
1:05:58 PM Senator Arrington
1:06:58 PM Chair Gaetz reports amendment
1:07:00 PM Back on the bill
1:07:12 PM Roll call
1:07:48 PM Closing remarks by Chair Gaetz
1:08:00 PM Senator Bradley moves to adjourn
1:08:03 PM Meeting adjourned