

1 A bill to be entitled
2 An act relating to elections; providing a short
3 title; providing a statement of legislative
4 intent; amending s. 104.271, F.S.; expanding
5 applicability of the prohibition against making
6 false or malicious charges against, or false
7 statements about, candidates; eliminating the
8 requirement of actual malice in the prohibition
9 against making false statements about
10 candidates and providing for personal liability
11 with respect thereto; clarifying and providing
12 penalties; providing an effective date.

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

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16 Section 1. This act may be cited as the "Truth in
17 Campaigning Act of 1997."

18 Section 2. LEGISLATIVE INTENT.--The Legislature finds
19 that there has been a marked decline in civility and honesty
20 in both state and national politics; that truthful campaigning
21 has been replaced by a series of distortions,
22 mischaracterizations, and untruths. Such tactics have the
23 effect of stifling, overwhelming, or chilling the
24 dissemination of truthful information; and that the
25 dissemination of truthful information is the single most
26 important goal advanced by free speech. Additionally, such
27 tactics discourage participation in the political process.
28 Therefore, the Legislature finds it necessary to hold all
29 persons accountable for the truthfulness of their statements
30 regarding candidates. To that end, s. 104.271, is amended by
31 this act.

1 Section 3. Section 104.271, Florida Statutes, is
2 amended to read:

3 104.271 False or malicious charges against, or false
4 statements about, ~~opposing~~ candidates; penalty.--

5 (1) Any person candidate who, in any a primary
6 ~~election or other~~ election, willfully charges a an opposing
7 candidate participating in such election with a violation of
8 any provision of this code, which charge is known by the
9 person candidate making such charge to be false or malicious,
10 commits is guilty of a felony of the third degree, punishable
11 as provided in s. 775.082 or s. 775.083, and upon, in
12 ~~addition, after conviction is shall be~~ disqualified to hold
13 office until restoration of civil rights, as provided by s. 4,
14 Art. VI of the State Constitution.

15 (2) Any person candidate who, in any a primary
16 ~~election or other~~ election, with ~~actual malice~~ makes or causes
17 to be made any statement about a an opposing candidate which
18 is false commits is guilty of a violation of this code. An
19 aggrieved candidate may file a complaint with the Division of
20 Elections pursuant to s. 106.25. The division shall adopt
21 rules to provide an expedited hearing before the Florida
22 Elections Commission of complaints filed under this
23 subsection. Notwithstanding any other provision of law, the
24 Florida Elections Commission shall assess a civil penalty of
25 up to \$5,000 against any person candidate found in violation
26 of this subsection, which shall be deposited to the account of
27 the General Revenue Fund of the state. In addition, any
28 person making or causing to be made any statement about a
29 candidate which is false shall be personally liable for
30 damages.

31 Section 4. This act shall take effect January 1, 1998.