

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21 has been replaced by a series of distortions,  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 he or she knows or reasonably should know is false or which  
19 was made in negligent disregard for the truth commits is  
20 guilty of a violation of this code. An aggrieved candidate  
21 may file a complaint with the Division of Elections pursuant  
22 to s. 106.25. The division shall adopt rules to provide an  
23 expedited hearing before the Florida Elections Commission of  
24 complaints filed under this subsection. Notwithstanding any  
25 other provision of law, the Florida Elections Commission shall  
26 assess a civil penalty of up to \$5,000 against any person  
27 candidate found in violation of this subsection to be  
28 commensurate with the commission's determination of the extent  
29 of damages suffered by the candidate and the scope, substance,  
30 or intent of the violation, which shall be deposited to the  
31 account of the General Revenue Fund of the state. In

1 addition, any person making or causing to be made any  
2 statement about a candidate which he or she knows or  
3 reasonably should know is false or which was made in negligent  
4 disregard for the truth shall be personally liable for  
5 damages.

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