

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."

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21 has been replaced by a series of distortions,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 Florida Elections Commission
22 pursuant to s. 106.25. The commission shall adopt rules to
23 provide an expedited hearing of complaints filed under this
24 subsection. Notwithstanding any other provision of law, the
25 commission shall assess a civil penalty of up to \$5,000
26 against any person candidate found in violation of this
27 subsection to be commensurate with the commission's
28 determination of the extent of damages suffered by the
29 candidate and the scope, substance, or intent of the
30 violation, which shall be deposited to the account of the
31 General Revenue Fund of the state. In addition, any person

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

5 Section 4. This act shall take effect January 1 of the
6 year after the year in which enacted.

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