

By Senators Grant, Casas, Latvala and Lee

13-473-98

See HB 651

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21 has been replaced by a series of distortions,  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.

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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 is guilty of a felony of the third degree, punishable as  
11 provided in s. 775.082 or s. 775.083, and, upon in addition,  
12 after conviction is shall be disqualified to hold office until  
13 restoration of civil rights, as provided in s. 4, Art. VI of  
14 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 knows or reasonably should know is false or which was made  
19 in negligent disregard for the truth, is guilty of a violation  
20 of this code. An aggrieved candidate may file a complaint  
21 with the Florida Elections Commission pursuant to s. 106.25.  
22 The commission shall adopt rules to provide an expedited  
23 hearing of complaints filed under this subsection.  
24 Notwithstanding any other provision of law, the commission  
25 shall assess a civil penalty of up to \$5,000 against any  
26 person candidate found in violation of this subsection, which  
27 shall be deposited to the account of the General Revenue Fund  
28 of the state. The penalty shall be commensurate with the  
29 commission's determination of the extent of the damages  
30 suffered by the candidate and the scope, substance, or intent  
31 of the violation. In addition, any person who makes or causes

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

5 Section 4. This act shall take effect January 1, 1999.

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8 SENATE SUMMARY

9 Expands the prohibition against making false or malicious  
10 charges or statements about candidates for election.  
Deletes a requirement of actual malice for a violation.

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