

By the Committee on Criminal Justice and Senators Grant, Casas, Latvala and Lee

307-2201-98

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.

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

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, and that truthful
21 campaigning has been replaced by a series of distortions,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 the dissemination
25 of truthful information is the single most important goal
26 advanced by free speech. Additionally, such tactics
27 discourage participation in the political process. Therefore,
28 the Legislature finds it necessary to hold all persons
29 accountable for the truthfulness of their statements regarding
30 candidates.

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

17 (2) Any candidate, paid campaign worker, or other paid
18 agent of the candidate who, in any ~~a primary election or other~~
19 election, ~~with actual malice~~ makes or causes to be made any
20 statement about a ~~an opposing~~ candidate which he knows or
21 reasonably should know is false or which was made in negligent
22 disregard for the truth, is guilty of a violation of this
23 code. An aggrieved candidate may file a complaint with the
24 Florida Elections Commission pursuant to s. 106.25. The
25 commission shall adopt rules to provide an expedited hearing
26 of complaints filed under this subsection. Notwithstanding any
27 other provision of law, the commission shall assess a civil
28 penalty of up to \$5,000 against any candidate, paid campaign
29 worker, or other paid agent of the candidate found in
30 violation of this subsection, which shall be deposited to the
31 account of the General Revenue Fund of the state. The penalty

1 shall be commensurate with the commission's determination of
2 the extent of the damages suffered by the candidate and the
3 scope, substance, or intent of the violation. In addition, any
4 candidate, paid campaign worker, or other paid agent of the
5 candidate who makes or causes to be made any statement about a
6 candidate which he or she knows or reasonably should know is
7 false or which was made in negligent disregard for the truth
8 shall be personally liable for damages.

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

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 702

14 Narrows the scope of persons covered by the provisions of this
15 bill from "any person" to "any candidate, paid campaign
16 worker, or other paid agent of the candidate."
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