

34-00110-13

1                   A bill to be entitled  
2           An act relating to elections; amending s. 104.271,  
3           F.S.; revising the provision concerning false or  
4           malicious statements about a candidate; prohibiting  
5           certain parties from making any statement or  
6           sponsoring political advertising or electioneering  
7           communications with actual malice; providing a  
8           penalty; defining the term "libel or defamation per  
9           se"; amending s. 106.143, F.S.; requiring a candidate  
10          to file an oath with his or her filing officer within  
11          a specified time after the original publication of a  
12          political advertisement; reenacting s. 106.265(1),  
13          F.S., relating to civil penalties, to incorporate the  
14          amendments made to s. 104.271, F.S., in a reference  
15          thereto; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Section 104.271, Florida Statutes, is amended to  
20          read:

21           104.271 False or malicious ~~charges against, or false~~  
22          statements about, ~~opposing~~ candidates; penalty.-

23           (1) A ~~Any~~ candidate who, in a primary election or other  
24          election, willfully accuses ~~charges~~ an opposing candidate  
25          participating in such election of ~~with~~ a violation ~~of any~~  
26          ~~provision~~ of this code, which accusation ~~charge~~ is known by the  
27          candidate making such accusation ~~charge~~ to be false or  
28          malicious, commits ~~is guilty of~~ a felony of the third degree,  
29          punishable as provided in s. 775.082 or s. 775.083 and, if

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30 convicted, is in addition, after conviction shall be  
31 disqualified to hold office.

32 (2) A person, candidate, political committee,  
33 electioneering communications organization, political party, or  
34 other organization or group of persons, including a group  
35 organized under s. 527 of the Internal Revenue Code of 1986,  
36 which ~~Any candidate who,~~ in a primary election or other  
37 election, ~~with actual malice~~ makes or causes to be made a any  
38 statement, or sponsors a political advertisement or  
39 electioneering communication, about a ~~an opposing~~ candidate with  
40 actual malice which constitutes libel or defamation per se,  
41 violates ~~which is false is guilty of a violation of~~ this code.  
42 An aggrieved candidate may file a complaint with the Florida  
43 Elections Commission pursuant to s. 106.25. The commission shall  
44 adopt rules to provide an expedited hearing of complaints filed  
45 under this subsection. Notwithstanding any other provision of  
46 law, the commission shall assess a civil penalty of up to \$5,000  
47 against the person, candidate, political committee,  
48 electioneering communications organization, political party, or  
49 other organization or group of persons, including a group  
50 organized under s. 527 of the Internal Revenue Code of 1986, ~~any~~  
51 ~~candidate~~ found in violation of this subsection, which sum shall  
52 be deposited ~~into~~ ~~to~~ the account of the General Revenue Fund of  
53 the state. The penalty shall be commensurate with the  
54 commission's determination of the extent of the damages suffered  
55 by the candidate and the scope, substance, or intent of the  
56 violation.

57 (3) As used in this section, the term "libel or defamation  
58 per se" means a false or malicious statement that injures the

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59 reputation of a candidate and exposes the candidate to public  
60 hatred, contempt, or ridicule.

61 Section 2. Subsection (12) is added to section 106.143,  
62 Florida Statutes, to read:

63 106.143 Political advertisements circulated prior to  
64 election; requirements.—

65 (12) A candidate, in a primary election or other election,  
66 shall file an oath with his or her filing officer within 72  
67 hours after the original publication of the political  
68 advertisement attesting that the content of the political  
69 advertisement is truthful and has been verified and approved by  
70 the candidate. A candidate who files with the division must file  
71 such oath by means of the division's electronic filing system  
72 pursuant to s. 106.0705.

73 Section 3. For the purpose of incorporating the amendment  
74 made by this act to section 104.271, Florida Statutes, in a  
75 reference thereto, subsection (1) of section 106.265, Florida  
76 Statutes, is reenacted to read:

77 106.265 Civil penalties.—

78 (1) The commission or, in cases referred to the Division of  
79 Administrative Hearings pursuant to s. 106.25(5), the  
80 administrative law judge is authorized upon the finding of a  
81 violation of this chapter or chapter 104 to impose civil  
82 penalties in the form of fines not to exceed \$1,000 per count,  
83 or, if applicable, to impose a civil penalty as provided in s.  
84 104.271 or s. 106.19.

85 Section 4. This act shall take effect July 1, 2013.