

House File 167 - Introduced

HOUSE FILE _____
BY RAECKER and HUSER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting the publication of certain false statements of
2 fact made with actual malice concerning a candidate for public
3 office and providing remedies.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1911HH 82
6 jr/gg/14

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1 1 Section 1. NEW SECTION. 68A.407 PUBLICATION OF CERTAIN
1 2 FALSE STATEMENTS OF FACT CONCERNING CANDIDATE PROHIBITED ==
1 3 REMEDIES.
1 4 1. The general assembly finds that the increasing use of
1 5 false statements of fact aimed at candidates for public office
1 6 impedes campaigns and diminishes the trust and confidence of
1 7 the public in the electoral process. It is not the intent of
1 8 the general assembly to lessen political debate that furthers
1 9 the ability of the public to understand the issues and
1 10 positions of candidates for public office. The general
1 11 assembly declares that a compelling state interest exists in
1 12 prohibiting the use of false statements of fact that impede
1 13 campaigns for public office in Iowa and diminish the public's
1 14 trust and confidence in the electoral process.
1 15 2. As used in this section:
1 16 a. "Actual malice" means knowledge of the falsity of a
1 17 statement or reckless disregard for whether a statement is
1 18 true or false.
1 19 b. "Public office" means any state, county, city, school,
1 20 or other office of a political subdivision of this state
1 21 filled by election.
1 22 c. "Publish" means the act of printing, posting,
1 23 broadcasting, mailing, speaking, or otherwise disseminating.
1 24 3. A person shall not, with actual malice, cause to be
1 25 published a false statement of fact concerning a candidate for
1 26 public office involving any of the following:
1 27 a. The education or training of the candidate.
1 28 b. The current profession or occupation of the candidate
1 29 or any former profession or occupation of the candidate.
1 30 c. Whether the candidate committed, was indicted for
1 31 committing, or was convicted of committing a crime punishable
1 32 by law.
1 33 d. Whether the candidate was subject to discipline or
1 34 sanction by any body of the federal government, state
1 35 government, or political subdivision of the state.
2 1 e. Whether the candidate has received treatment for a
2 2 mental illness.
2 3 f. Whether another person endorses or opposes the
2 4 candidate.
2 5 g. The record of voting of a candidate if the candidate
2 6 serves or formerly served in an elected office.
2 7 4. A candidate for public office who alleges that a false
2 8 statement of fact concerning the candidate has been published
2 9 in violation of this section may file a complaint with the
2 10 board. The board shall give priority consideration to any
2 11 complaint filed under this section over all other matters
2 12 pending before the board.
2 13 5. If the board determines that a violation did occur, the
2 14 board may impose any of the recommended actions under section
2 15 68B.32D, except that the board shall not refer any complaint
2 16 or supporting information of a violation of this section to
2 17 the attorney general or any county attorney for prosecution.
2 18 6. This section shall not preclude the filing of a civil
2 19 action based on the same facts or event giving rise to a

2 20 complaint filed with the board under this section.
2 21 7. Section 68A.701, which otherwise applies criminal
2 22 penalties for violations of this chapter, shall not apply to
2 23 violations of this section.

2 24 EXPLANATION

2 25 This bill creates new Code section 68A.407 that prohibits
2 26 the publication by any person of certain specified false
2 27 statements of fact concerning a candidate for public office.
2 28 The prohibition applies to seven categories of statements
2 29 concerning a candidate and the following:

- 2 30 1. Education or training.
- 2 31 2. Profession or occupation.
- 2 32 3. Any crime punishable by law.
- 2 33 4. Any governmental discipline or sanctions.
- 2 34 5. Treatment for a mental illness.
- 2 35 6. Endorsements.
- 3 1 7. Voting record.

3 2 To fall within the prohibition, the statement must first be
3 3 false and secondly be made with knowledge of the falsity of
3 4 the statement or reckless disregard for whether the statement
3 5 is true or false.

3 6 Any candidate may file a complaint with the ethics and
3 7 campaign disclosure board. If the board determines that a
3 8 violation did occur, the board may impose any of the
3 9 administrative, noncriminal sanctions and remedial actions
3 10 under Code section 68B.32D. These include a civil penalty of
3 11 not more than \$2,000 for each violation. This administrative
3 12 procedure does not preclude the candidate from filing a libel
3 13 action in court. A criminal penalty is made inapplicable to a
3 14 violation of this bill.

3 15 LSB 1911HH 82

3 16 jr:rj/gg/14.1