

House File 2509 - Introduced

HOUSE FILE _____
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 757)
(SUCCESSOR TO HF 99)

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

A BILL FOR

1 An Act relating to the publication of certain false statements of
2 fact concerning candidates and providing remedies and an
3 effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6561HZ 82
6 jr/rj/5

PAG LIN

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 for
1 12 prohibiting the use of false statements of fact that impedes
1 13 campaigns for public office in this state and diminishes the
1 14 public's 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. "Beneficiary candidate" means a candidate for public
1 20 office who would benefit from materials published as provided
1 21 in paragraph "d".
1 22 c. "Public office" means any state, county, city, school,
1 23 or other office of a political subdivision of this state
1 24 filled by election.
1 25 d. "Publish" means any dissemination in print, radio,
1 26 televised, telephonic, or photographic medium or by electronic
1 27 communication in any form.
1 28 3. A candidate, candidate's committee, or political party
1 29 shall not, with actual malice, cause to be published a false
1 30 statement of fact concerning a candidate for public office
1 31 involving any of the following:
1 32 a. The education or training of the candidate.
1 33 b. The current profession or occupation of the candidate.
1 34 c. Whether the candidate committed, was indicted for
1 35 committing, or was convicted of committing a crime punishable
2 1 by law.
2 2 d. Whether the candidate was subject to discipline or
2 3 sanction by any body of the federal government, this state, or
2 4 political subdivision of this state.
2 5 e. Whether another person endorses or opposes the
2 6 candidate's election.
2 7 f. The record of voting of the candidate if the candidate
2 8 serves or formerly served in elective office. A record of
2 9 voting is deemed to be a false statement of fact unless the
2 10 published material that refers to the prior vote cast by a
2 11 candidate regarding an issue discloses all of the following:
2 12 (1) The total votes cast both for and against that issue.
2 13 (2) The total votes cast by members of each political
2 14 party regarding that issue when applicable.
2 15 g. The voter registration or voting history of the
2 16 candidate.

2 17 4. A candidate for public office or the candidate's
2 18 designee who alleges that a false statement of fact concerning
2 19 the candidate has been published in violation of this section
2 20 may file a complaint with the board. The board shall give
2 21 priority consideration to a complaint filed under this section
2 22 over all other matters pending before the board.

2 23 5. If the board determines that a violation did occur, the
2 24 board may impose any of the recommended actions under section
2 25 68B.32D, except that the board shall not refer a complaint or
2 26 supporting information alleging a violation of this section to
2 27 the attorney general or any county attorney for prosecution.

2 28 6. This section shall not preclude the filing of a civil
2 29 action based on the same facts or event giving rise to a
2 30 complaint filed with the board under this section.

2 31 7. Section 68A.701, which otherwise applies criminal
2 32 penalties to violations of this chapter, shall not apply to
2 33 violations of this section.

2 34 8. The provisions of this section and the application of
2 35 the provisions are severable as provided in section 4.12.

3 1 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
3 2 immediate importance, takes effect upon enactment.

3 3 EXPLANATION

3 4 This bill creates new Code section 68A.407 that prohibits
3 5 the distribution of false statements of fact, made with actual
3 6 malice, against a candidate for public office. Actual malice
3 7 is defined as either actual knowledge that the statement is
3 8 false or a reckless disregard whether the statement is true or
3 9 false.

3 10 The bill outlines seven areas where false statements are
3 11 prohibited; they involve such things as the education or
3 12 occupation of the candidate, the criminal or disciplinary
3 13 history of the candidate, the voting record or history of the
3 14 candidate, or endorsements by other persons.

3 15 Any candidate or candidate's designee may file a complaint
3 16 with the ethics and campaign disclosure board. If the board
3 17 determines that a violation did occur, the board may impose
3 18 any of the sanctions and remedial actions under Code section
3 19 68B.32D. These include a civil penalty of not more than
3 20 \$2,000 for each violation. No criminal penalty applies to a
3 21 violation of the bill's provisions.

3 22 The bill is effective upon enactment.

3 23 LSB 6561HZ 82

3 24 jr/rj/5