

MAR 14 2005  
Place On Calendar

HOUSE FILE 747  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 104)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved 1 \_\_\_\_\_

**A BILL FOR**

1 An Act prohibiting the dissemination of certain false statements  
2 of fact made with actual malice concerning a candidate for  
3 public office and providing remedies.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 747

1 Section 1. NEW SECTION. 68A.407 DISSEMINATION OF CERTAIN  
2 FALSE STATEMENTS OF FACT CONCERNING CANDIDATE PROHIBITED --  
3 REMEDIES.

4 1. The general assembly finds that the increasing use of  
5 false statements of fact aimed at candidates for public office  
6 impedes campaigns and diminishes the trust and confidence of  
7 the public in the electoral process. It is not the intent of  
8 the general assembly to lessen political debate that furthers  
9 the ability of the public to understand the issues and  
10 positions of candidates for public office. The general  
11 assembly declares that a compelling state interest exists in  
12 prohibiting the use of false statements of fact that impede  
13 campaigns for public office in Iowa and diminish the public's  
14 trust and confidence in the electoral process.

15 2. As used in this section:

16 a. "Actual malice" means knowledge of the falsity of a  
17 statement or reckless disregard for whether a statement is  
18 true or false.

19 b. "Disseminate" means the act of causing the printing,  
20 posting, broadcasting, mailing, or other publishing of a false  
21 statement of fact.

22 c. "Public office" means any state, county, city, school,  
23 or other office of a political subdivision of this state  
24 filled by election.

25 3. A person shall not, with actual malice, cause to be  
26 disseminated a false statement of fact concerning a candidate  
27 for public office involving any of the following:

28 a. The education or training of the candidate.

29 b. The current profession or occupation of the candidate  
30 or any former profession or occupation of the candidate.

31 c. Whether the candidate committed, was indicted for  
32 committing, or was convicted of committing a crime punishable  
33 by law.

34 d. Whether the candidate was subject to discipline or  
35 sanction by any body of the federal government, state

1 government, or political subdivision of the state.

2 e. Whether the candidate has received treatment for a  
3 mental illness.

4 f. Whether another person endorses or opposes the  
5 candidate.

6 g. The record of voting of a candidate if the candidate  
7 serves or formerly served in an elected office.

8 4. Any candidate for public office who alleges that a  
9 false statement of fact concerning the candidate has been  
10 disseminated in violation of this section may file a complaint  
11 with the board. The board shall give priority consideration  
12 to any complaint filed under this section over all other  
13 matters pending before the board.

14 5. If the board determines that a violation did occur, the  
15 board may impose any of the recommended actions under section  
16 68B.32D, except that the board shall not refer any complaint  
17 or supporting information of a violation of this section to  
18 the attorney general or any county attorney for prosecution.

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

22 7. A person shall not provide information to the board,  
23 relating to the dissemination of a false statement of fact  
24 under this section, if the person has actual knowledge that  
25 the information provided is not true. A person who violates  
26 this subsection may be assessed a civil penalty as provided in  
27 section 68B.32D, subsection 1, paragraph "h".

28 8. Section 68A.701, which otherwise applies criminal  
29 penalties for violations of this chapter, shall not apply to  
30 violations of this section.

31 9. This section does not apply to a newspaper, magazine,  
32 publication, or other print media in which the dissemination  
33 of a false statement of fact appears, or a radio station,  
34 television station, or other electronic medium which makes the  
35 dissemination of a false statement of fact.

EXPLANATION

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

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

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

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

The bill's prohibition does not apply to the print media, radio station, or television station which does nothing more than disseminate the false statement.

The bill imposes a penalty on persons who knowingly provide false information to the board regarding a violation of this section. The board may assess a civil penalty of not more than \$2,000.

HOUSE FILE 747

H-1113

- 1 Amend House File 747 as follows:  
2 1. Page 1, line 2, by inserting after the word  
3 "FACT" the following: "AND CERTAIN DEROGATORY  
4 STATEMENTS".  
5 2. Page 1, line 5, by inserting after the word  
6 "fact" the following: "and derogatory and demeaning  
7 statements".  
8 3. Page 1, line 12, by inserting after the word  
9 "fact" the following: "and derogatory and demeaning  
10 statements".  
11 4. Page 1, by inserting after line 18 the  
12 following:  
13 "\_\_\_\_. "Derogatory statement" means a statement  
14 intended to demean or belittle a candidate and having  
15 no rational relationship to the candidate's ability or  
16 qualifications for office."  
17 5. Page 2, by inserting after line 7 the  
18 following:  
19 "\_\_\_\_. A person shall not, with actual malice,  
20 cause to be disseminated a derogatory statement  
21 concerning a candidate for public office involving the  
22 candidate's race, creed, color, religion, national  
23 origin, sex, age, or physical or mental disability."  
24 6. Page 2, line 9, by inserting after the word  
25 "fact" the following: "or a derogatory statement".  
26 7. Page 2, line 23, by inserting after the word  
27 "fact" the following: "or a derogatory statement".  
28 8. Page 2, line 33, by inserting after the word  
29 "fact" the following: "or a derogatory statement".  
30 9. Page 2, line 35, by inserting after the word  
31 "fact" the following: "or a derogatory statement".  
32 10. Title page, line 2, by inserting after the  
33 word "fact" the following: "or certain derogatory  
34 statements".  
35 11. By renumbering as necessary.

By FORD of Polk  
RAECKER of Polk

H-1113 FILED MARCH 18, 2005