



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5850

by Rep. Denyse Wang Stoneback

SYNOPSIS AS INTRODUCED:

10 ILCS 5/29-1.1 new
10 ILCS 5/29-1.2 new
10 ILCS 5/29-20.1 new
10 ILCS 5/29-20.2 new
10 ILCS 5/29B-5
10 ILCS 5/29B-6 new
10 ILCS 5/29B-10
10 ILCS 5/29B-20
10 ILCS 5/29B-30
10 ILCS 5/29B-35

Authorizes the amendatory Act to be cited as the Truth in Politics Act. Includes legislative findings. Amends the Prohibitions and Penalties Article of the Election Code. Creates prohibitions against (i) false or misleading statements to affect a vote, (ii) unlawful attempts to affect the outcome of a campaign, (iii) distribution of materials intending to mislead people on a candidate's incumbency status, and (iv) libel and defamation in political advertising. Provides that, if a person violates the provisions, the person can be enjoined civilly. Provides that a violation of the provisions are Class A misdemeanors. Amends the Fair Campaign Practices Article of the Election Code. Requires (rather than allows) candidates and the chairs of political committees to sign and file the Code of Fair Campaign Practices. Requires a candidate to include in all of the candidate's campaign literature and advertising the following statement: "I am a candidate for (specify office), and I support the accuracy of this message." Provides penalties for failure to timely file a signed Code of Fair Campaign Practices and for violations of the Code of Fair Campaign Practices or other provisions of the Article. Defines terms.

LRB102 29470 AWJ 41473 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be cited as the Truth in Politics
5 Act.

6 Section 5. Legislative findings. The General Assembly
7 finds:

8 (1) Misinformation occurs when people distribute
9 information based on incorrect factual beliefs and do so
10 confidently.

11 (2) Misinformation has distorted people's views about
12 consequential issues in politics. The American political
13 system and many campaigns are fraught with misinformation.

14 (3) Broadcasters have little power of censorship over
15 legally qualified candidates for public office, so local
16 broadcast television stations have difficulty rejecting
17 these types of advertisements, even if they are blatantly
18 false.

19 (4) Social media has affected the distribution of
20 information and has become a viable tool for
21 misinformation and manipulation in campaigns.

22 (5) Irrelevant, misleading, and vitriolic campaign
23 communications are prevalent.

1 (6) Mudslinging can result in disgusted and frustrated
2 voters, diminished civic engagement, and decreased voter
3 turnout in elections.

4 (7) Honesty, transparency, civility, and substance are
5 values integral to an ethical campaign. Campaigns for
6 public office should adhere to principles of honesty,
7 fairness, responsibility and respect.

8 (8) Campaign communications should present only fair,
9 relevant, and truthful information to the voters for their
10 consideration.

11 (9) Because voters must decide for themselves what
12 they believe about a particular candidate, safeguards
13 should be put into place to improve the integrity and
14 accuracy of statements made during campaigns.

15 Section 10. The Election Code is amended by changing
16 Sections 29B-5, 29B-10, 29B-20, 29B-30, and 29B-35 and by
17 adding Sections 29-1.1, 29-1.2, 29-20.1, 29-20.2, and 29B-6 as
18 follows:

19 (10 ILCS 5/29-1.1 new)

20 Sec. 29-1.1. False or misleading statement to affect a
21 vote; violation.

22 (a) As used in this Section:

23 "Misleading statement" means a statement that is only
24 partially true or a statement that distorts a true statement.

1 "Person" means any natural person, candidate, partnership,
2 committee, association, corporation, labor organization,
3 political party, or other organization or group of persons,
4 including a political action committee.

5 "Recklessly" means when a person acts in conscious
6 disregard of the truth or falsity of the statement made,
7 published, broadcast, or circulated.

8 (b) No person shall knowingly or recklessly make, publish,
9 broadcast, or circulate or cause to be made, published,
10 broadcast, or circulated in any letter, circular,
11 advertisement, poster, or other communication any false or
12 misleading statement designed to affect the vote on any public
13 question submitted to the electors at any election or relating
14 to any candidate for election to public office.

15 (c) A violation of this Section may be enjoined in a civil
16 action brought by a candidate against whom a prohibited
17 statement is made, a registered voter who signed a petition
18 for the initiation of a public question against which a
19 prohibited statement is made, a member of the board that
20 approved a resolution or ordinance initiating the public
21 question against which a prohibited statement is made, or, for
22 public questions initiated by the General Assembly, a member
23 of the General Assembly. Any violation of this Section shall
24 be proven by clear and convincing evidence.

25 (d) Any person who violates this Section commits a Class A
26 misdemeanor.

1 (10 ILCS 5/29-1.2 new)

2 Sec. 29-1.2. Unlawful attempt to affect the outcome of a
3 campaign; violation.

4 (a) As used in this Section:

5 "Misleading statement" means a statement that is only
6 partially true or a statement that distorts a true statement.

7 "Person" means any natural person, candidate, partnership,
8 committee, association, corporation, labor organization,
9 political party, or other organization or group of persons,
10 including a political action committee.

11 "Voting record" means the recorded "yes", "no", or
12 "present" vote, or a record from abstaining from a vote, on a
13 bill, ordinance, resolution, motion, amendment, or
14 confirmation.

15 (b) No person shall knowingly and with intent to affect
16 the outcome of a campaign for political office do any of the
17 following:

18 (1) serve, or cause another person to serve, as an
19 agent or employee in the election campaign organization of
20 a candidate for the purpose of acting to impede the
21 conduct of the candidate's campaign for nomination or
22 election or for the purpose of reporting information about
23 the candidate without the knowledge of the candidate or
24 the candidate's organization; or

25 (2) promise, offer, or give any valuable thing or

1 valuable benefit to any person who is employed by or is an
2 agent of a candidate or a candidate's election campaign
3 organization for the purpose of influencing the employee
4 or agent with respect to the improper discharge of the
5 employee's or agent's campaign duties or to obtain
6 information about the candidate or the candidate's
7 campaign organization.

8 (c) No person shall knowingly and with intent to affect a
9 outcome of a campaign for political office do any of the
10 following:

11 (1) make a false or misleading statement concerning
12 (i) the formal schooling or training completed or
13 attempted by a candidate; (ii) a degree, diploma,
14 certificate, scholarship, grant, award, prize, or honor
15 received, earned, or held by a candidate; or (iii) the
16 period of time during which a candidate attended any
17 school, college, community college, technical school, or
18 educational institution;

19 (2) make a false or misleading statement concerning
20 the professional, occupational, or vocational licenses
21 held by a candidate or concerning any position the
22 candidate held for which the candidate received a salary
23 or wages;

24 (3) make a false or misleading statement that a
25 candidate or public official has been indicted or
26 convicted of a theft offense, extortion, or other crime

1 involving financial corruption or moral turpitude;

2 (4) make a false or misleading statement that a
3 candidate has been indicted for any crime or has been the
4 subject of a finding by the State Board of Elections
5 without disclosing the outcome of any legal proceedings
6 resulting from the indictment or finding;

7 (5) make a false or misleading statement that a
8 candidate or official has a record of treatment or
9 confinement for a mental disorder;

10 (6) make a false or misleading statement that a
11 candidate or official has been subjected to military
12 discipline for criminal misconduct or dishonorably
13 discharged from the armed services;

14 (7) falsely identify the source of a statement, issue
15 statements under the name of another person without
16 authorization, or falsely state the endorsement of or
17 opposition to a candidate by a person or publication;

18 (8) make a false or misleading statement concerning
19 the voting record of a candidate or public official; or

20 (9) post, publish, circulate, distribute, or otherwise
21 disseminate a false or misleading statement concerning a
22 candidate if the statement is designed to promote the
23 election, nomination, or defeat of the candidate if the
24 statement is designed to promote the election, nomination,
25 or defeat of the candidate.

26 (d) No person shall knowingly or recklessly make a false

1 or misleading statement about a candidate's stance on an issue
2 to affect the outcome of a campaign for political office.

3 (e) A violation of this Section may be enjoined in a civil
4 action brought by a candidate against whom a prohibited
5 statement is made. Any violation of this Section shall be
6 proven by clear and convincing evidence.

7 (f) Any person who violates this Section commits a Class A
8 misdemeanor.

9 (10 ILCS 5/29-20.1 new)

10 Sec. 29-20.1. Misleading statement of incumbent status;
11 violation.

12 (a) As used in this Section, "person" means any natural
13 person, candidate, partnership, committee, association,
14 corporation, labor organization, political party, or other
15 organization or group of persons, including a political action
16 committee.

17 (b) No person shall, with an intent to mislead a voter in
18 connection with the person's campaign for nomination or
19 election to a public office or in connection with the campaign
20 of another person for nomination or election to a public
21 office, assume, pretend, or imply, by his or her statements,
22 conduct, or campaign materials, that he or she is the
23 incumbent of a public office when that is not true.

24 (c) A violation of this Section may be enjoined in a civil
25 action brought by a candidate affected by the prohibited

1 statement of incumbency. Any violation of this Section shall
2 be proven by clear and convincing evidence.

3 (d) Any person who violates this Section commits a Class A
4 misdemeanor.

5 (10 ILCS 5/29-20.2 new)

6 Sec. 29-20.2. Libel and defamation in political
7 advertising; violation.

8 (a) As used in this Section:

9 "Libel per se or defamation per se" means a written or
10 verbal statement that tends to expose a living person to
11 hatred, contempt, ridicule, or obloquy, to deprive such a
12 person of the benefit of public confidence or social
13 intercourse, or to injure such a person in that person's
14 business or occupation.

15 "Person" means any natural person, candidate, partnership,
16 committee, association, corporation, labor organization,
17 political party, or other organization or group of persons,
18 including a political action committee.

19 (b) No person shall, with actual malice, publish or
20 sponsor the publication in any political advertising or
21 electioneering communication of a statement constituting libel
22 per se or defamation per se.

23 (c) A statement published or sponsored by a person against
24 himself or herself is not a violation of this Section.

25 (d) A violation of this Section may be enjoined in a civil

1 action brought by a candidate affected by the prohibited
2 statement. Any violation of this Section shall be proven by
3 clear and convincing evidence.

4 (e) Any person who violates this Section commits a Class A
5 misdemeanor.

6 (10 ILCS 5/29B-5) (from Ch. 46, par. 29B-5; formerly Ch.
7 46, par. 1102)

8 Sec. 29B-5. Purpose. The Legislature hereby declares that
9 the purpose of this Article is to require ~~encourage~~ every
10 candidate for public office in this State to subscribe to the
11 Code of Fair Campaign Practices. It is the intent of the
12 Legislature that every candidate for public office in this
13 State who subscribes to the Code of Fair Campaign Practices
14 must ~~will~~ follow the basic principles of decency, honesty and
15 fair play in order to encourage healthy competition and open
16 discussion of issues and candidate qualifications and
17 discourage practices that cloud the issues or unfairly attack
18 opponents.

19 (Source: P.A. 86-873; 87-1052.)

20 (10 ILCS 5/29B-6 new)

21 Sec. 29B-6. Definitions. As used in this Article:

22 "Attack" means a statement or action that refers to
23 another person or the person's ideology through use of
24 intentionally unfriendly, bitter, or threatening words or

1 actions.

2 "Misrepresent" means intentionally giving false or
3 misleading information.

4 "Scurrilous attack" means a statement or action making
5 scandalous claims against another person with intent to damage
6 that person's reputation.

7 "Whispering campaign" means regular circulation of a rumor
8 in order to damage another person's reputation.

9 (10 ILCS 5/29B-10) (from Ch. 46, par. 29B-10; formerly Ch.
10 46, par. 1103)

11 Sec. 29B-10. Code of Fair Campaign Practices. At the time
12 a political committee, as defined in Article 9, files its
13 statements of organization, the State Board of Elections, in
14 the case of a state political committee or a political
15 committee acting as both a state political committee and a
16 local political committee, or the county clerk, in the case of
17 a local political committee, shall give the political
18 committee a blank form of the Code of Fair Campaign Practices
19 and a copy of the provisions of this Article. The State Board
20 of Elections or county clerk shall inform each political
21 committee that subscription to the Code is mandatory
22 ~~voluntary~~. The text of the Code shall read as follows:

23 CODE OF FAIR CAMPAIGN PRACTICES

24 There are basic principles of decency, honesty, and fair
25 play that every candidate for public office in the State of

1 Illinois has a moral obligation to observe and uphold, in
2 order that, after vigorously contested but fairly conducted
3 campaigns, our citizens may exercise their constitutional
4 right to a free and untrammelled choice and the will of the
5 people may be fully and clearly expressed on the issues.

6 THEREFORE:

7 (1) I will conduct my campaign openly and publicly, and
8 limit attacks on my opponent to legitimate challenges to his
9 record.

10 (2) I will not use or permit the use of character
11 defamation, whispering campaigns, libel, slander, or
12 scurrilous attacks on any candidate or his personal or family
13 life.

14 (3) I will not use or permit any appeal to negative
15 prejudice based on race, sex, sexual orientation, religion or
16 national origin.

17 (4) I will not use campaign material of any sort that
18 misrepresents, distorts, or otherwise falsifies the facts, nor
19 will I use malicious or unfounded accusations that aim at
20 creating or exploiting doubts, without justification, as to
21 the personal integrity or patriotism of my opposition.

22 (5) I will not undertake or condone any dishonest or
23 unethical practice that tends to corrupt or undermine our
24 American system of free elections or that hampers or prevents
25 the full and free expression of the will of the voters.

26 (6) I will defend and uphold the right of every qualified

1 American voter to full and equal participation in the
2 electoral process.

3 (7) I will immediately and publicly repudiate methods and
4 tactics that may come from others that I have pledged not to
5 use or condone. I shall take firm action against any
6 subordinate who violates any provision of this Code or the
7 laws governing elections.

8 I, the undersigned, candidate for election to public
9 office in the State of Illinois or chair of a political
10 committee in support of or opposition to a question of public
11 policy, hereby ~~voluntarily~~ endorse, subscribe to, and solemnly
12 pledge myself to conduct my campaign in accordance with the
13 above principles and practices.

14 I, the undersigned, furthermore understand and confirm
15 that I will be subject to the penalties described in Section
16 29B-35 for failure to sign and file this document in a timely
17 manner, and I understand that I may be subject to the penalties
18 listed in Article 29 for violating certain activities
19 prohibited by this Code.

20

21 Date Signature

22 (Source: P.A. 100-1027, eff. 1-1-19.)

23 (10 ILCS 5/29B-20) (from Ch. 46, par. 29B-20; formerly Ch.
24 46, par. 1105)

1 Sec. 29B-20. Acceptance of completed forms; retentions for
2 public inspection.

3 (a) A candidate for public office or the chair of a
4 political committee in support of or opposition to a question
5 of public policy shall file a completed copy of the Code of
6 Fair Campaign Practices with both the State Board of Elections
7 and the county clerk in which the candidate or chair of a
8 political committee resides. The completed forms shall be
9 completed and filed not later than 2 weeks after the
10 submission of the candidate's nominating petition or not later
11 than 2 weeks after the chair has certified to the State Board
12 of Elections the chair's support or opposition to a question
13 of public policy under Section 28-13.

14 The State Board of Elections and the county clerks shall
15 accept, ~~at all times prior to an election,~~ all completed
16 copies of the Code of Fair Campaign Practices that are
17 properly subscribed to by a candidate or the chair of a
18 political committee ~~in support of or opposition to a question~~
19 ~~of public policy,~~ and shall retain them for public inspection
20 until 30 days after the election.

21 (b) Not later than 2 days after the date upon which the
22 completed copy of the Code is required to be filed, the county
23 clerk shall notify those candidates or chairpersons who have
24 failed to file a completed copy of the Code and shall include
25 with the notice a copy of the Code required by this Article.
26 The notice shall be sent to the candidate or chairperson by

1 certified mail, return receipt requested.

2 (Source: P.A. 100-1027, eff. 1-1-19.)

3 (10 ILCS 5/29B-30) (from Ch. 46, par. 29B-30; formerly Ch.
4 46, par. 1107)

5 Sec. 29B-30. Support or opposition to a question of public
6 policy; campaign literature or advertising ~~Subscription to~~
7 ~~Code voluntary.~~

8 (a) The subscription by a candidate or the chair of a
9 political committee in support of or opposition to a question
10 of public policy is mandatory ~~voluntary~~.

11 (b) A candidate, or the chair of a political committee,
12 who has filed a copy of the Code of Fair Campaign Practices may
13 so indicate on any campaign literature or advertising in a
14 form to be determined by the State Board of Elections.

15 (c) A candidate must include in all of the candidate's
16 campaign literature and advertising the following statement:
17 "I am a candidate for (specify office), and I support the
18 accuracy of this message."

19 (Source: P.A. 100-1027, eff. 1-1-19.)

20 (10 ILCS 5/29B-35) (from Ch. 46, par. 29B-35; formerly Ch.
21 46, par. 1108)

22 Sec. 29B-35. Failure to comply.

23 (a) Any candidate or chairman of a political committee who
24 signs ~~subscribes to~~ the Code of Fair Campaign Practices and

1 fails to comply with any provision of the Code shall not be
2 guilty of a criminal offense and nothing in this Article or any
3 other law shall be construed to impose any criminal penalty
4 for noncompliance with this Article.

5 (b) If a candidate fails to file a completed copy of the
6 Code with the county clerk within 5 days of receipt or refusal
7 of the notice required under Section 29B-20, then the
8 candidate's name may not appear on the ballot.

9 This subsection does not apply to any candidate of an
10 office where the Illinois Constitution prescribes the
11 qualifications for candidates to that office but does not give
12 the General Assembly the authority to modify or add to those
13 qualifications.

14 (c) Any person who has signed and filed the Code of
15 Campaign Practices and who violates the provisions of the Code
16 of Campaign Practices or subsection (c) of Section 29B-30
17 commits a Class A misdemeanor.

18 (d) A violation of this Article may be enjoined in a civil
19 action brought by another candidate for the public office that
20 was affected by the violation, a registered voter who signed a
21 petition for the initiation of the public question, a member
22 of the board that approved the resolution or ordinance
23 initiating the public question, or, if the public question was
24 initiated by the General Assembly, a member of the General
25 Assembly, as applicable. Any violation of this Article shall
26 be proven by clear and convincing evidence.

1 (Source: P.A. 86-1435; 87-1052.)