

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 711

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MIMI STEWART

FOR THE ELECTION CODE RECODIFICATION COMMITTEE

AN ACT

RELATING TO CAMPAIGN PRACTICES; PROHIBITING DEFAMATION OF
CANDIDATES DURING A POLITICAL CAMPAIGN; CREATING A CRIMINAL
OFFENSE; PRESCRIBING A PENALTY; REPEALING AND ENACTING SECTIONS
OF THE ELECTION CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Election Code is enacted
to read:

" NEW MATERIAL DEFAMATION OF A CANDIDATE DURING A
POLITICAL CAMPAIGN-- PENALTY. --

A. Defamation of a candidate during a political
campaign consists of a false statement made either knowingly or
with reckless disregard for the truth of that statement by any
person about a candidate during a political campaign, whether
the false statement is written or spoken.

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. Any person who commits defamation of a candidate during a political campaign is guilty of a fourth degree felony and shall be sentenced to up to eighteen months imprisonment or, in the court's discretion, to a fine of no more than five thousand dollars (\$5,000), or both. "

Section 2. REPEAL. -- Sections 1-19-16 and 1-19-17 NMSA 1978 (being Laws 1973, Chapter 401, Sections 1 and 2) are repealed.

Underscored material = new
[bracketed material] = delete

State of New Mexico
House of Representatives

1
2
3
4 **FORTY-THIRD LEGISLATURE**
5 **FIRST SESSION, 1997**
6
7

8 February 20, 1997
9

10
11 Mr. Speaker:
12

13 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
14 been referred

15 **HOUSE BILL 711**
16

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:
19

20 1. On page 1, line 13, strike "REPEALING AND ENACTING
21 SECTIONS" and insert "ENACTING A SECTION".

22 2. On page 1, line 22, after "statement" insert "of fact".
23

24 3. On page 1, line 22, strike "knowingly" and insert "with
25 knowledge of its falsity".

.113372.2

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HVEC/HB 711

Page 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

4. On page 2, line 5, strike the quotation mark.

5. On page 2, line 6, strike Section 2 in its entirety and
insert:

"C. The remedies granted by this section are in
addition to other available civil or criminal remedies."",

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Edward C. Sandoval, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HVEC/HB 711

1

2 The roll call vote was 9 For 2 Against

3 Yes: 9

4 No: Bird, Lutz

5 Excused: Nicely

6 Absent: None

7

8

9 117443.1

10 M \H0711

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

.113372.2

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 15, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 711, as amended

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL
711

DO PASS.

Respectfully submitted,

Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 1 Against

Yes: 8

No: Alwin

Excused: King, Luna, Rios, Sanchez

Absent: None

M \H0711

Underscored material = new
[bracketed material] = delete

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 711

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

AN ACT

RELATING TO CAMPAIGN PRACTICES; AUTHORIZING THE INTERIM
LEGISLATIVE ETHICS COMMITTEE TO INVESTIGATE COMPLAINTS OF FALSE
STATEMENTS MADE BY CANDIDATES ABOUT THEIR OPPONENTS DURING
CAMPAIGN FOR LEGISLATIVE OFFICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-15-8 NMSA 1978 (being Laws 1993,
Chapter 46, Section 53) is amended to read:

"2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE - DUTIES. --

The interim legislative ethics committee is authorized to:

A. issue advisory opinions on the interpretation and
enforcement of ethical principles as applied to the legislature;

B. investigate complaints from another member of the
legislature or a member of the public alleging misconduct of a
legislator;

C. investigate complaints from a member of the

legislature or a member of the public alleging that a duly qualified candidate for a state legislative office knowingly made a false statement, whether verbally, in print, in a radio or television broadcast or by any other means, about a duly qualified opponent during a campaign for any legislative office:

[C.] D. investigate referrals made to the co-chairmen of the New Mexico legislative council from the attorney general, the secretary of state or a district attorney;

[D.] E. hire special counsel or independent hearing officers as necessary; and

[E.] F. make recommendations to the respective houses by the end of the first full week of the next convened regular session regarding proposed sanctions for ethical misconduct of legislators and candidates for the legislature "

Section 2. Section 2-15-9 NMSA 1978 (being Laws 1993, Chapter 46, Section 54) is amended to read:

"2-15-9. INTERIM LEGISLATIVE ETHICS COMMITTEE-- PROCEDURES-- CONFIDENTIALITY. --

A. Except as provided in this section, the New Mexico legislative council shall develop procedures to carry out the provisions of this section, in accordance with the existing procedures in the house and senate rules.

B. A member of the interim legislative ethics committee ~~[shall be]~~ is ineligible to participate in any matter relating directly to that member's conduct or to a campaign for a legislative office in which that member is participating In any such case, a substitute member to the committee shall be appointed from the same house from the same political party by

1 the appropriate appointing authority. A member may seek to be
2 disqualified from any matter brought before the interim legislative
3 ethics committee on the grounds that the member cannot render a
4 fair and impartial decision. Disqualification must be approved by
5 a majority vote of the remaining members of the committee. In any
6 such case, a substitute member to the committee shall be appointed
7 from the same political party as provided in this section.

8 C. The interim legislative ethics committee is
9 authorized to issue advisory opinions on matters relating to
10 ethical conduct during the interim. Any question relating to the
11 interpretation and enforcement of ethical principles as applied to
12 the legislature may be submitted in writing to the New Mexico
13 legislative council by a legislator describing a real or
14 hypothetical situation and requesting an advisory opinion
15 establishing an appropriate standard of ethical conduct for that
16 situation. The question shall be referred to the ~~joint~~ interim
17 legislative ethics committee.

18 D. The interim legislative ethics committee is
19 authorized to investigate complaints from members of the
20 legislature or members of the public alleging that a legislator or
21 a duly qualified candidate for a state legislative office has made
22 one or more false statements about a duly qualified campaign
23 opponent.

24 ~~D.~~ E. To initiate any action during the interim on
25 alleged misconduct, any legislator or member of the public may file

1 a written, sworn complaint setting forth, with specificity, the
 2 facts alleged to constitute unethical conduct. A complaint shall
 3 be filed with the New Mexico legislative council. Upon receipt of
 4 the complaint, the co-chairmen of the New Mexico legislative
 5 council shall convene the interim legislative ethics committee.

6 ~~[E-]~~ E. The interim legislative ethics committee shall
 7 maintain rules of confidentiality unless the legislator against
 8 whom a complaint is filed waives the rules or any part of them in
 9 writing. The confidentiality rules shall include the following
 10 provisions:

11 (1) the complainant, the committee and its staff
 12 shall not publicly disclose any information relating to the filing
 13 or investigation of a complaint, including the identity of the
 14 complainant or respondent, until after a finding of probable cause
 15 has been made that a violation has occurred;

16 (2) the identity of the complainant shall be
 17 released to the respondent immediately upon request; and

18 (3) no member of the committee or its staff may
 19 knowingly disclose any confidential information except as
 20 authorized by the committee.

21 G. If the interim legislative ethics committee finds
 22 that a legislator or duly qualified candidate has made a false
 23 statement about a duly qualified campaign opponent, the committee
 24 shall issue a written report of its finding and shall forward a
 25 copy of the written report to the complainant. A separate copy of

1 the written report shall be made available for public inspection in
2 the office of the legislative council service."

3 - 12 -
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Underscored material = new
[bracketed material] = delete