

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1242 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 personal communications devices.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 3-14-1-17 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 8 1, 2009]: **Sec. 17. (a) As used in this section, "communication**
- 9 **device" refers to either of the following:**
- 10 (1) A telephone.
- 11 (2) A personal communication device (as defined in
- 12 IC 9-21-22-1).
- 13 (b) As used in this section, "negative communication" refers to
- 14 a communication made through a communication device that:
- 15 (1) concerns the personal or political character or acts of a
- 16 candidate for nomination or election to a public office;
- 17 (2) is designed or tends to injure or defeat the candidate; and
- 18 (3) contains information or a statement that is false.
- 19 (c) A candidate or a committee that intentionally does any of the
- 20 following commits a Class A misdemeanor:
- 21 (1) Participates in the preparation of the text of a negative
- 22 communication.
- 23 (2) Pays for the preparation or transmission of a negative
- 24 communication.

- 1 **(3) Uses a communication device to transmit a negative**
- 2 **communication.**
- 3 **(d) A person violates subsection (c) if the person:**
- 4 **(1) knows that the communication contained information or**
- 5 **a statement that was false; or**
- 6 **(2) takes the action described in subsection (c) with reckless**
- 7 **disregard as to whether the communication contained**
- 8 **information or a statement that was false.**
- 9 **(e) Except as provided in subsection (g), if:**
- 10 **(1) a candidate for nomination or election to a public office is**
- 11 **convicted of a violation of subsection (c); or**
- 12 **(2) another person is found to have violated subsection (c)**
- 13 **with the knowledge, consent, or connivance of a candidate for**
- 14 **nomination or election to a public office;**
- 15 **the court shall enter an order declaring that the candidate (if**
- 16 **nominated or elected) has forfeited the nomination or office and**
- 17 **that the nomination or office is vacant.**
- 18 **(f) An order entered under subsection (e) shall be filed with the**
- 19 **person or entity that has the power to fill the vacancy or to call a**
- 20 **caucus for the purpose of filling the vacancy. The vacancy shall be**
- 21 **filled under IC 3-13. However:**
- 22 **(1) the candidate whose nomination or election has been set**
- 23 **aside for a violation of subsection (c); or**
- 24 **(2) another person convicted of a violation of subsection (c);**
- 25 **may not be selected or elected to fill the vacancy, regardless of any**
- 26 **law to the contrary.**
- 27 **(g) If, during the trial for a violation of subsection (c), the court**
- 28 **finds that:**
- 29 **(1) although committed by the candidate or with the**
- 30 **candidate's knowledge, consent, or connivance, the offense:**
- 31 **(A) was trivial; or**
- 32 **(B) occurred because of accidental miscalculation or**
- 33 **another reasonable cause and not because of lack of good**
- 34 **faith; and**
- 35 **(2) it would be unjust for the candidate to forfeit the**
- 36 **candidate's nomination or election under subsection (e);**
- 37 **the candidate does not forfeit the nomination or election.**

- 1 **(h) The court findings described in subsection (g) are not a**
- 2 **defense in a criminal trial for a violation of subsection (c)."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to HB 1242 as printed February 13, 2009.)

Representative Fry