

DE 76-26 - August 30, 1976

**Resign to Run, Enforcement
Chapter 99, Florida Statutes**

To: Honorable Robert E. Stone, ATTENTION: Mr. Bruce H. Colton, State Attorney, 19th Judicial Circuit, Post Office Drawer 4401, Fort Pierce, Florida 33450

Prepared by: Division of Elections

You have asked whether enforcement of Section 99.012, Florida Statutes, the Resign to Run Law, so-called, lies with the State Attorney or the Division of Elections.

A candidate for nomination or election must swear an oath, included in which is that said candidate has not violated any election or registration laws, Section 99.012(1)(a),8, (inclusive presumably of the Resign to Run Law) and that said candidate has not qualified for any other public office with a term fully or partially concurrent, Section 99.021(1)(a),10, Florida Statutes. See also, Section 99.021(1)(b) and (2), Florida Statutes.

False swearing, as defined, is a felony of the third degree, Section 104.011, F.S., presumably prosecutable by the appropriate State Attorney, and officials who refuse or neglect to do their duty under, or who violate, the "election code" - the Florida Election Code of 1951, which includes chapters 97 - 104, F.S., Section 97.011 F.S. - may be guilty of first degree misdemeanors. Section 104.051(1)(2), F.S.

Moreover, Section 104.41, F.S., specifically imposes a criminal penalty for "Any violation of the election code not otherwise provided for" - a misdemeanor of the first degree.

Enforcement of the Resign to Run Law, the, lies with the criminal justice authorities.