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RECENT ARIZONA CASES
EXCERPTED FOR LEGISLATIVE INTENT AND HISTORY

The following cases relating to Arizona law are not exhaustive on the issue of legislative intent and history. These are a few examples of recent court decisions excerpted for this topic in the state. ***You must review the entire court opinion to determine its applicability to your case.***

STATE V. LEENHOUTS
218 ARIZ. 346, 185 P.3D 132
ARIZ., 2008. JUNE 17, 2008

¶ 14 The **legislative history** of A.R.S. § 13-1302 buttresses our conclusion. Pursuant to a statutory amendment in 1997, the legislature adopted a new version of A.R.S. § 13-1302.A.1997 Ariz. Sess. Laws, ch. 270, § 1 (1st Reg.Sess.). The previous version simply stated:

A person commits custodial interference if, knowing or having reason to know that he has no legal right to do so, such person knowingly takes, entices or keeps from lawful custody any child who is less than eighteen years of age or incompetent and who is entrusted by authority of law to the custody of another person or institution.

1994 Ariz. Sess. Laws, ch. 364, § 1 (2d Reg.Sess.). The previous version did not clearly encompass situations in which one custodial parent deprived another custodial parent of physical custody of a child. Final Revised Fact Sheet for H.B. 2248, 43d Leg. (Sen.), 1st Reg. Sess. (1997). The 1997 legislative amendment sought to "rectify these types of situations by increasing the scope of actions which come under custodial interference," and redefined custodial interference to include situations involving joint legal custodians. *Id.* The 1997 amendment renumbered A.R.S. § 13-1302.A as subsection A.1 and added subsection A.3.

¶ 15 This history indicates that the legislature, in creating subsections A.1 and A.3, intended to define distinct custodial interference violations. Viewing the two subsections as the State urges renders subsection A.3 superfluous. We decline to treat the 1997 amendment as an inconsequential legislative act and conclude that the State's addition of a subsection A.1 charge changed the nature of the charges against Leenhouts.

PHOENIX CITY PROSECUTOR'S OFFICE V. YBARRA
218 ARIZ. 232, 182 P.3D 1166
ARIZ., 2008. APRIL 24, 2008

¶ 10 A third statute, A.R.S. § 13-3983, squarely addresses this issue. Since before statehood the legislature has consistently required***1168*** the prosecution's consent before a jury trial can be waived in a criminal action. *See* Rev. Stat. of Ariz., Penal Code § 895 (1901) ("Issues of fact must be tried by jury unless a trial by jury be waived in criminal cases not amounting to felony, by the

consent of both parties, expressed in open court and entered in its minutes."); Rev. Stat. Ariz. Penal Code § 1006 (1913) (same); Ariz. Rev.Code § 5027 (1928) ("Issues of fact must be tried by jury, unless a trial by jury be waived in actions not amounting to felony, by the consent of both parties, expressed in open court and entered on its minutes."); Ariz.Code Ann. § 44-1807 (1939) (same); A.R.S. § 13-1593 (1956) ("A trial by jury may be waived in criminal actions not amounting to felony by the consent of both parties expressed in open court and entered on its minutes."). In 1978, the legislature amended A.R.S. § 13-3983 to provide that "[a] trial by jury may be waived in criminal actions by the consent of both parties expressed in open court and entered on its minutes." 1978 Ariz. Sess. Laws, ch. 201, § 250 (2d Reg.Sess.). Section 13-3983 therefore plainly requires the consent of the prosecution before a jury trial may be waived. Nothing in the **legislative history** or the plain language of A.R.S. § 28-1381(F) [FN2] reflects any legislative intent to displace § 13-3983.

FN2. The original version of what is now A.R.S. § 28-1381(F) was promulgated in 1973 as part of the implied consent statute relating to the offense of driving while under the influence of intoxicating liquor, A.R.S. § 28-691. 1973 Ariz. Sess. Laws, ch. 150, § 1 (1st Reg.Sess.). The legislature appeared to be responding to the holding of *Rothweiler v. Superior Court* (*City of Tucson),* 100 Ariz. 37, 46, 410 P.2d 479, 486 (1966), *abrogated in part by Derendal v. Griffith*, 209 Ariz. 416, 104 P.3d 147 (2005), that DUI defendants have a constitutional right to a jury trial. *See State ex rel. McDougall v. Strohson (Cantrell),* 190 Ariz. 120, 126, 945 P.2d 1251, 1257 (1997) (observing that the legislature "codified the *Rothweiler* rule requiring jury trials ... in DUI cases"); *Manic,* 213 Ariz. at 254, ¶ 12, 141 P.3d at 734 (suggesting that, in enacting A.R.S. § 28-1381(F), "the legislature intended ... to create a statutory right to a jury trial that parallels the constitutional right to a jury trial"). Because we resolve this case on other grounds, we need not decide whether jury trials in misdemeanor DUI cases are constitutionally required.

…

13. The predecessor statutes to A.R.S. § 13-3983 permitted jury trial waivers only in misdemeanor cases. *See, e.g.,* Rev. Stat. of Ariz., Penal Code § 895 (1901); Ariz.Code § 44-1807 (1939). Many of the misdemeanor offenses in the penal codes did not trigger a constitutional right to a jury trial. *See, e.g.,* Ariz.Code § 43-5809 (1939) (misdemeanor to alter or deface marks on logs or lumber); *id.* § 43-5816 (misdemeanor for failure to return a book to a public library); *id.* § 43-5819 (misdemeanor to permit swine or fowl "to run at large"). Accordingly, A.R.S. § 13-3983 plainly applies to the statutory jury-trial right provided by § 28-1381(F).

¶ 14 In sum, nothing in A.R.S. § 28-1381(F), either explicitly or implicitly, evidences an intent of the legislature to abrogate § 13-3983 and single out misdemeanor DUI cases brought under § 28-1381 as according a defendant a unilateral right to ***1169** demand and receive a bench trial. [FN3] Instead, § 13-3983 requires that in all criminal cases the right to a bench trial is conditioned on the prosecution's consent. Thus, that statute requires the prosecution's agreement before the court may grant a defendant's request for a bench trial in a misdemeanor DUI case.[FN4]

FN3. Although the legislature could have given a defendant an unconditional right in A.R.S. § 28-1381(F) to forgo a jury trial, it did not do so.

ARIZONA DEPT. OF REVENUE V. ACTION MARINE, INC.
218 ARIZ. 141, 181 P.3D 188
ARIZ., 2008. APRIL 09, 2008

10 We review the interpretation of statutory provisions de novo. *State ex rel. Ariz. Dep't of Revenue v. Capitol Castings, Inc.*, 207 Ariz. 445, 447, ¶ 9, 88 P.3d 159, 161 (2004). Our primary goal is to "discern and give effect to legislative intent." *Id.* (quoting *People's Choice TV Corp. v. City of Tucson,* 202 Ariz. 401, 403, ¶ 7, 46 P.3d 412, 414 (2002)). "We 'construe the statute as a whole, and consider its context, language, subject matter, historical background, effects and consequences, [and] its spirit and purpose.' " *Id.* (quoting *People's Choice,* 202 Ariz. at 403, ¶ 7, 46 P.3d at 414). We construe related statutes together, *State ex rel. Larson v. Farley,* 106 Ariz. 119,

122, 471 P.2d 731, 734 (1970), and avoid interpretations that render statutory provisions meaningless, unnecessary, or duplicative, *see, e.g., Kriz v. Buckeye Petroleum Co.*, 145 Ariz. 374, 379, 701 P.2d 1182, 1187 (1985).

…

¶ 12 For several reasons, we agree with ADOR. As a textual matter, although the statutory definition of "person" does not explicitly include corporate officers or directors, the definition is certainly broad enough to encompass the individuals who hold such offices. Moreover, had the legislature meant to limit liability under § 42-5028 to the taxpayer-entity, as the Randalls and court of appeals maintain, it likely would not have said "person," but would have used the term "taxpayer," as it did, for example, in A.R.S. § 42-5024, a related TPT statute.[FN1]

FN1. The **legislative history** for A.R.S. § 42-1336, the original section number for A.R.S. § 42-5028, provides little guidance on the meaning of the word "person."

…

¶ 15 The legislature's enactment of A.R.S. § 43-435 (2006) in the same bill in which it enacted § 42-5028 also suggests that the legislature intended "person" to include others in addition to the "taxpayer." 1980 Ariz. Sess. Laws, ch. 220, § 18 (2d Reg.Sess.). Section 43-435 imposes personal liability on persons required to withhold income tax who fail to collect or remit the taxes:

…

The term "additional charge" is defined by the text of the statute itself. The statute provides that the "additional charge" is that charge "made to cover the tax." If "additional charge" referred only to any amount that exceeds the TPT owed, as the Randalls maintain, the charge would not be "made to cover the [TPT]" because the TPT would have already been "covered." *See State Tax Comm'n v. Quebedeaux Chevrolet*, 71 Ariz. 280, 288, 226 P.2d 549, 554 (1951) (quoting with approval case recognizing that ***193** "additional charge" refers to the entire amount collected from customers).

HEATH V. KIGER
217 ARIZ. 492, 176 P.3D 690
ARIZ., 2008. FEBRUARY 21, 2008

When the language of a provision is clear and unambiguous, we apply it without resorting to other means of constitutional construction. *Jett v. City of Tucson*, 180 Ariz. 115, 119, 882 P.2d 426, 430 (1994). Ambiguity occurs when uncertainty exists about the meaning or interpretation of a provision's terms. *See Hayes v. Cont'l Ins. Co.*, 178 Ariz. 264, 268, 872 P.2d 668, 672 (1994).

…

The Arizona Constitution does not define this phrase. Under these circumstances, we ascribe to the phrase its natural, obvious, and ordinary meaning as understood and used by the people. *See McElhaney Cattle Co. v. Smith*, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982) ("When the words of a constitutional provision are not defined within it, the meaning to be ascribed to the words is that which is generally understood and used by the people.").

…

¶ 8 In some instances, the meaning of a term is ordinary and obvious. For example, in *Circle K Stores, Inc. v. Apache County*, the term "taxpayer" was found to have a common meaning ascribed by the populace. 199 Ariz. 402, 406 ¶ 11, 18 P.3d 713, 717 (App.2001) (finding that a Webster's dictionary definition, which defined "taxpayer" as "[o]ne that pays or is liable for a tax," reflected the ordinary meaning of the term as understood by the populace). In contrast, the phrase "admitted to bail" does not have an obvious and common meaning known by the people. In fact, even legal

dictionaries fail to provide a consistent meaning for the term.[FN2] Therefore, we turn to other aids to assist us in interpreting the phrase.

FN2. For example, Black's Law Dictionary assigns "bail" multiple definitions, one of which is consistent with a finding that one released on his or her own recognizance has been "admitted to bail," and another of which is not:1. A security such as cash or a bond....2. The process by which a person is released from custody either on the undertaking of a surety or on his or her own recognizance.

Black's Law Dictionary 150 (8th ed.2004). Also, the fifth edition of Black's Law Dictionary defined "personal recognizance" in part as "[a] *species of bail* in which the defendant acknowledges personally without sureties his obligation to appear in court at the next hearing or trial date of his case." Black's Law Dictionary 1030 (5th ed.1979) (emphasis added). The current version of Black's Law Dictionary, however, defines the term "personal recognizance" as the "release of a defendant in a criminal case in which the court takes the defendant's word that he or she will appear for a scheduled matter or when told to appear." Black's Law Dictionary 1299 (8th ed.2004).

…

9 When discerning the meaning of a constitutional provision, "[o]ur primary purpose is to effectuate the intent of those who framed the provision and, in the case of an amendment, the intent of the electorate that adopted it." *Jett,* 180 Ariz. at 119, 882 P.2d at 430. If a constitutional provision is not clear on its face, we can use extrinsic evidence to show the intent of the framers and the electorate that adopted it. *See McElhaney Cattle Co.,* 132 Ariz. at 289-90, 645 P.2d at 804-05. Because each voter's intent may differ, however, determining the actual intent of the electorate in adopting the amendment is an elusive task. *See Randolph v. Groscost,* 195 Ariz. 423, 427 ¶ 15, 989 P.2d 751, 755 (1999). When we find ambiguity in a provision, "we may consider the history behind the provision, the purpose sought to be accomplished, and the evil sought to be remedied." *Jett,* 180 Ariz. at 119, 882 P.2d at 430.

…

12 Although Heath's argument finds some support in a parsing of statutes and court rules, "[c]ourts should avoid hypertechnical constructions that frustrate legislative intent." *State v. Estrada,* 201 Ariz. 247, 251 ¶ 19, 34 P.3d 356, 360 (2001) (quoting *Calik v. Kongable,* 195 Ariz. 496, 501 ¶ 20, 990 P.2d 1055, 1060 (1999)); *see also United States v. Superior Court,* 144 Ariz. 265, 275-76, 697 P.2d 658, 668-69 (1985) (noting that constitutional provisions should be interpreted "with an eye to syntax, history, initial principle, and extension of fundamental purpose"). Moreover, at the time Arizona adopted Article 2, Section 22.A.2, this Court apparently interpreted the term "bail" to include release on one's own recognizance. Arizona Rule of Criminal Procedure 236 (1956) (in effect at ***496 **694** the time of amendment), provided that a defendant "if bailable shall be released on bail *either* on his own recognizance *or* on the undertaking of sureties." (Emphasis added.) Thus, even a technical definition of the term "bail" could reasonably be said to include release on one's own recognizance.

¶ 13 We may also consider **legislative history** to determine the intent of those who framed the provision. Here, the available history is limited. The records of the committee minutes of the hearing on the provision do not document the reasons for adopting Article 2, Section 22.A.2. *See* H. Judiciary Comm., Meeting Minutes, 29th Leg., 1st Reg. Sess. (Feb. 18, 1969); S. Judiciary Comm., Meeting Minutes, 29th Leg., 1st Reg. Sess. (Mar. 26, 1969). To determine the intent of the electorate, courts may also look to the publicity pamphlet distributed at the time of the election. *See McElhaney Cattle Co.,* 132 Ariz. at 290-91, 645 P.2d at 805-06 (utilizing published argument to determine intent behind a constitutional provision).

IN RE MARRIAGE OF WALDREN
217 ARIZ. 173, 171 P.3D 1214
ARIZ., 2007. DECEMBER 03, 2007

7 Interpreting a statute requires us to "look to its language as 'the best and most reliable index of [the] statute's meaning.' " *Roubos v. Miller,* 214 Ariz. 416, 417, ¶ 7, 153 P.3d 1045, 1046 (2007) (quoting *N. Valley Emergency Specialists, L.L.C. v. Santana,* 208 Ariz. 301, 303, ¶ 9, 93 P.3d 501, 503 (2004)). "We give words their ordinary meaning unless the legislature clearly intended a different meaning." *Id.* at 417-18, ¶ 7, 153 P.3d at 1046-47 (citing *Mail Boxes, etc., U.S.A. v. Indus. Comm'n,* 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995)).

…

¶ 15 The **legislative history** of the amendments to A.R.S. § 25-327(A) supports our conclusion. The term "terminate" was added to A.R.S. § 25-327(A) in 2002 by Senate Bill 1028 ("S.B. 1028"), 2002 Ariz. Sess. Laws, ch. 310, § 2 (2d Reg.Sess.), six years after the legislature enacted A.R.S. § 25-317(G). 1996 Ariz. Sess. Laws, ch. 145, § 7 (2d Reg.Sess.). Thus, for six years, between 1996 and 2002, both A.R.S. §§ 25-317(G) and 25-327(A) used only the term "modify." The fact sheet for S.B. 1028 states that the 2002 amendment to section § 25-327(A) altered the section for statutory consistency and to conform the Arizona statute to federal statutes. S.B. 1028 Fact Sheet. This history shows that the legislature did not deem the addition of the word "termination" a substantive change; that is, A.R.S. § 25-327 was viewed as including the power to modify and terminate maintenance and support provisions both before and after the amendment. *See In re Marriage of Zale,* 193 Ariz. 246, 251, ¶ 21, 972 P.2d 230, 235 (1999) (recognizing that termination of a spousal maintenance award is permitted). The parties also do not dispute that during those six years "modification" was understood to include "termination." We therefore conclude that the 2002 clarifying amendment did not change that understanding.

STATE V. HANSEN
215 ARIZ. 287, 160 P.3D 166
ARIZ., 2007. MAY 30, 2007

7 When construing statutes, we apply "fundamental principles of statutory construction, the cornerstone of which is the rule that the best and most reliable index of a statute's meaning is its language and, when the language is clear and unequivocal, it is determinative of the statute's construction." *Deer Valley Unified Sch. Dist. No. 97 v. Houser,* 214 Ariz. 293, 296 ¶ 8, 152 P.3d 490, 493 (2007) (quoting *Janson ex rel. Janson v. Christensen,* 167 Ariz. 470, 471, 808 P.2d 1222, 1223 (1991)). We employ the same approach when interpreting our rules. *State ex rel. Romley v. Superior Court* (*Stewart*), 168 Ariz. 167, 168-69, 812 P.2d 985, 986-87 (1991). Rules and statutes "should be harmonized wherever possible and read in conjunction with each other." *Phoenix of Hartford, Inc. v. Harmony Rests., Inc.,* 114 Ariz. 257, 258, 560 P.2d 441, 442 (App.1977).

8 Applying these principles, we conclude that A.R.S. § 13-804.D and Rule 31.6 cannot be harmonized. The statute and the rule contain patently contradictory instructions as to whether restitution payments are stayed pending appeal. The statute states that the payments *shall not* be stayed during an appeal, and the rule directs that a sentence to pay restitution *shall* be stayed pending appeal. Although we attempt to construe statutes and rules in a way that averts needless constitutional tension, *State v. Gomez,* 212 Ariz. 55, 60 ¶ 28, 127 P.3d 873, 878 (2006), we cannot create harmony where none exists. Because the plain language of these two provisions conflicts, we next determine whether the statute or the rule prevails.

…

¶ 15 Second, **legislative history** indicates that the legislature intended to exercise its VBR authority when it enacted A.R.S. § 13-804.D. *Cf. Brown,* 194 Ariz. at 342 ¶ 9, 982 P.2d at 817 (considering lack of evidence that legislature intended to exercise its VBR authority relevant in rejecting claim that legislature had enacted a statute pursuant to the VBR). Proposed initially as

House Bill (H.B.) 2015, 43d Leg., 1st Reg. Sess. (Ariz.1997), the session law later codified in part as A.R.S. § 13-804.D is titled "[a]n act ... relating to crime victims' rights." 1997 Ariz. Sess. Laws 853, 853, 1st Reg. Sess., ch. 126. Moreover, the legislature apparently intended to implement a victim's right to prompt restitution despite the existence of competing rights. *See Senate Fact Sheet for H.B.* 2015, 43d Leg., 1st Reg. Sess. (Ariz.1997) (explaining that under H.B.2015, restitution payments***291 **170*** will "not be stayed pending an appeal" because "under the constitution, all victims who receive compensation are to receive 'prompt restitution,' " but recognizing that "[t]he situation becomes problematic when the defendant exercises his or her right to appeal the restitution decision").

LUBIN V. THOMAS
213 ARIZ. 496, 144 P.3D 510
ARIZ., 2006. OCTOBER 24, 2006

14 By its terms, A.R.S. § 16-351(A) does not indicate whether the County Recorder may disqualify signatures on bases other than those specifically alleged in the complaint. Accordingly, we look outside the statute to determine its meaning. "To discern the [legislative] intent the court will examine the policy behind the statute, the evil sought to be remedied, the context, the language, and the historical background of the statute." *Moreno*, 213 Ariz. at 98 ¶ 24, 139 P.3d at 616 (citing *Clifton v. Decillis*, 187 Ariz. 112, 114, 927 P.2d 772, 774 (1996)).

¶ 16 Additionally, the **legislative history** of A.R.S. § 16-351(A) is instructive on the purposes behind the requirement that a challenger specify the petition number, line number, and basis for each signature challenge. The primary purpose is to "allow the Elections office to more efficiently do preliminary work to deal with candidate challenges, and ... eliminate the need to go to court in some cases." *Ariz. State Senate Fact Sheet for H.B.* 2101, 44th Leg., 1st Reg. Sess. (Ariz.1999). Before the amendment to A.R.S. § 16-351(A), signature verification was often difficult for the County Recorder, and the amendment was meant to simplify the process. As the committee minutes indicate:

MORENO V. JONES
213 ARIZ. 94, 139 P.3D 612
ARIZ., 2006. AUGUST 09, 2006

¶ 27 Although the issue of statutory interpretation is not clear cut, for several reasons we believe the most plausible reading of A.R.S. § 16-351(F) is that "petition forgery" is meant to refer to the conduct proscribed by A.R.S. § 16-1020, not A.R.S. § 13-2002. First, we believe that "petition forgery" would ordinarily be understood to refer to falsely signing another's name to a petition or to otherwise fabricating signed petitions. *See, e.g., Webster's New Third International Dictionary* 891 (1976) (noting that forgery usually refers to "the crime of falsely and with fraudulent intent making or altering a writing or other instrument"). The definition of "forgery" in the Criminal Code is more expansive, embracing not only "forged" instruments (those falsely made, altered, or completed), but also documents merely containing "false information." *Compare* A.R.S. § 13-2001(8) (Supp.2005) (defining "forged instrument") *with* A.R.S. § 13-2002 (defining "forgery").

28 Second, to the extent it is necessary to look to other statutes to interpret A.R.S. § 16-351(F), the most logical place to look is in other provisions of the election laws. "If the statutes relate to the same subject or have the same general purpose-that is, statutes which are in pari materia-they should be read in connection with, or should be construed together with other related statutes, as though they constituted one law." *State ex rel. Larson v. Farley*, 106 Ariz. 119, 122, 471 P.2d 731, 734 (1970). Without some indication that the legislature actually intended to define petition forgery pursuant to A.R.S. § 13-2002, we look to other provisions within title 16. Neither A.R.S. § 16-351(F) nor other provisions of the election laws contain any suggestion that "petition forgery" should be defined by reference to the Criminal Code's general forgery provision in A.R.S. § 13-2002.

…

¶ 30 Our conclusion regarding the meaning of the term "petition forgery" also is consistent with the somewhat murky **legislative history** of A.R.S. § 16-351(F). This provision was added by the legislature in 1996 as part of general amendments to the election laws. These amendments, as initially approved by the House of Representatives as House Bill ("H.B.") 2329, did not alter the pre-existing version of A.R.S. § 16-351.

¶ 31 When H.B. 2329 was considered by the Senate Government Committee, Senator Chesley offered an amendment that would have both amended A.R.S. § 16-1020 and added a new A.R.S. § 16-351(F). Hearing on H.B. 2329 Before the Senate Comm. on Gov., 42d Leg., 2d Reg. Sess. (Ariz.1996). The amendment to A.R.S. § 16-1020 would have labeled the proscribed conduct as "petition forgery" and increased the penalty from a class one misdemeanor to a class four felony. *Id.* Senator Chesley's amendment also would have added a new A.R.S. § 16-351(F) with this language:

ALL PETITIONS THAT HAVE BEEN SUBMITTED BY A CANDIDATE THAT IS FOUND GUILTY OF PETITION FORGERY PURSUANT TO ***100 **618** SECTION 16-1020 SHALL BE DISQUALIFIED AND THAT CANDIDATE SHALL NOT BE ELIGIBLE TO SEEK ELECTION TO PUBLIC OFFICE FOR A PERIOD OF NOT LESS THAN TWO YEARS.

Chesley Proposed Amendment, Hearing on H.B. 2329 Before the Senate Comm. on Gov., 42d Leg., 2d Reg. Sess. (Ariz.1996).

¶ 32 During the Senate committee discussion of the Chesley amendment, Senator Noland and a research analyst contended that forgery concerning nomination petitions was not subject to prosecution under the general Criminal Code. [FN2] Hearing on H.B. 2329 Before the Senate Comm. on Gov., 42d Leg., 2d Reg. Sess. (Ariz.1996) (statements of Senate Research Analyst Tami Ryall and Arizona State Senator Patricia Noland). Senator Noland also remarked that it would be difficult to prove criminal charges and that a class four felony could result in severe penalties. *Id.* After this discussion, the committee approved Senator Noland's motion to delete the language from the Chesley amendment that would have amended A.R.S. § 16-1020 to label the conduct "petition forgery" and to increase the penalty to a class four felony. *Id.* The committee, however, approved Senator Chesley's amendment to add the new A.R.S. § 16-351(F). *Id.*

FN2. Senator Noland and the analyst may have been mistaken in their belief that a defendant must be motivated by pecuniary gain in order to be convicted for forgery under the Criminal Code. *See State v. Thompson*, 194 Ariz. 295, 297 ¶ 15, 981 P.2d 595, 597 (App.1999) (holding that A.R.S. § 13-2002 does not require proof of intent to cause pecuniary loss). We need not determine here the precise contours of A.R.S. § 13-2002; the significant point is that because at least one legislator thought "petition forgery" was not subject to prosecution under A.R.S. § 13-2002, it is less likely that the phrase "petition forgery" in § 16-351(F) was meant to refer to conduct violating § 13-2002. Moreover, there is no evidence that *any* legislator contemplated violations of the general forgery statute would trigger the civil penalties under proposed A.R.S. § 16-351(F).

¶ 33 The Senate Rules Committee then proposed an amendment to the proposed A.R.S. § 16-351(F) to delete its reference to A.R.S. § 16-1020. Senate Comm. on Rules Proposed Amendment, Hearing on H.B. 2329 Before the Senate Comm. on Rules, 42d Leg., 2d Reg. Sess. (Ariz.1996). This action, however, does not necessarily imply any substantive change in the proposed legislation. Pursuant to legislative rules, the Rules Committee is limited to considering the "constitutionality and proper form and the reasonable germaneness" of the bill and proposed amendments. Senate Rule 7(C)(5) (1995-96). The Rules Committee can propose corrective and technical amendments, but it cannot propose substantive amendments without concurrence from the bill's sponsor. *Id.* at 7(C)(4).

¶ 34 During a Committee of the Whole proceeding, the Rules Committee amendment was withdrawn and Senator Chesley proposed a floor amendment, to substitute for the Senate Government Committee amendment, that omitted the reference in proposed A.R.S. § 16-351(F) to

A.R.S. § 16-1020. Bill Status Overview for H.B. 2329, 42d Leg., 2d Reg. Sess. (Ariz.1996). The pertinent language of Senator Chesley's floor amendment is as follows:

IN ADDITION TO THE PROCEDURES SET FORTH IN THIS SECTION, ALL PETITIONS THAT HAVE BEEN SUBMITTED BY A CANDIDATE THAT IS FOUND GUILTY OF PETITION FORGERY SHALL BE DISQUALIFIED AND THAT CANDIDATE SHALL NOT BE ELIGIBLE TO SEEK ELECTION TO A PUBLIC OFFICE FOR A PERIOD OF NOT LESS THAN TWO YEARS.

Chesley Proposed Floor Amendment # 2, Hearing on H.B. 2329 before the Senate Comm. of the Whole, 42d Leg., 2d Reg. Sess. (Ariz.1996).

¶ 35 Senator Hartley then proposed amending this language to increase the disqualification period from two to five years. Hartley Proposed Floor Amendment to Chesley Proposed Floor Amendment # 2, Hearing on H.B. 2329 Before the Senate Comm. of the Whole, 42d Leg., 2d Reg. Sess. (Ariz.1996). The Senate adopted Senator Chesley's floor amendment as amended by Senator Hartley. Bill Status Overview for H.B. 2329, 42d Leg., 2d Reg. Sess. (Ariz.1996). The House of Representatives concurred with the amended bill without substantive***101 **619*** comment. H.B. 2329, as amended by the Senate, enacted the language currently found in A.R.S. § 16-351(F).

¶ 36 The **legislative history**, in summary, shows that Senator Chesley initially proposed both to increase the penalty for any person's violating A.R.S. § 16-1020 to a class four felony and to add a new § 16-351(F) providing that a *candidate* found guilty of violating § 16-1020 would also have all petitions disqualified and would be ineligible for elected office for two years. The Legislature ultimately determined not to increase the penalty for violating A.R.S. § 16-1020 to a class four felony, to preserve the reference to "petition forgery" in A.R.S. § 16-351(F) but to delete the phrase "pursuant to A.R.S. § 16-1020," and to increase the disqualification from elected office to five years for candidates found guilty of petition forgery. There is no indication that any legislator contemplated that the proposed legislation would also expand the sanctions when a person improperly verifies nomination petitions circulated by others-conduct that, although not reached by A.R.S. § 16-1020, results in the voiding of the petitions under this court's 1984 decision in *Brousseau.*

STATE V. BERGER
212 ARIZ. 473, 134 P.3D 378
ARIZ., 2006. MAY 10, 2006

***383 *478** ¶ 20 In 1978, the Arizona legislature determined that existing state laws were inadequate and enacted legislation specifically aimed at the child pornography industry. The new law, the predecessor to A.R.S. sections 13-3551 to -3553, declared its purposes to include protecting children from sexual exploitation and to "prevent any person from benefiting financially or otherwise from the sexual exploitation of children." 1978 Ariz. Sess. Laws, ch. 200, § 2(B)(1), (3). The legislature specifically identified a series of harms to child victims, including the use of the material by defendants in luring new victims and the fact that such materials cause continuing harm to the children depicted. *Id.* § 2(A)(5)-(6).

¶ 21 In 1983, lawmakers extended this criminal ban to include possession itself, an amendment that prosecutors claimed would aid in prosecuting child molesters. 1983 Ariz. Sess. Laws, ch. 93; *Hearing on H.B. 2127 Before the H. Comm. on Judiciary,* 36th Legis., 1st Reg. Sess. 2 (Ariz.1983) (comments of Elizabeth Peasley, Pima County Attorney's Office). Such legislation also recognizes the fact that producers of child pornography exist due to the demand for such materials. "The consumers of child pornography therefore victimize the children depicted ... by enabling and supporting the continued production of child pornography, which entails continuous direct abuse and victimization of child subjects." *United States v. Norris,* 159 F.3d 926, 930 (5th Cir.1998) (applying federal sentencing guidelines).

¶ 22 Correspondingly, the legislature soon thereafter included the possession of child pornography among crimes targeted in § 13-604.01 for enhanced sentencing as "dangerous crimes against children." 1985 Ariz. Sess. Laws, ch. 364, § 6. This legislation provides "lengthy periods of

incarceration ... intended to punish and deter" "those predators who pose a direct and continuing threat to the children of Arizona." *State v. Williams,* 175 Ariz. 98, 102, 854 P.2d 131, 135 (1993) (reviewing the **legislative history** of § 13-604.01).