

NICHOLS FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2660
(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended
3 by adding article 17, to read:

4 ARTICLE 17. DANGEROUS OR OBSCENE MATERIAL LIABILITY

5 12-771. Dangerous or obscene material liability; terrorism;
6 felony acts; definitions

7 A. A PERSON IS LIABLE FOR DAMAGES IF THE PERSON PRODUCES, PUBLISHES OR
8 DISTRIBUTES WRITTEN, AUDIO, VIDEO OR DIGITAL MATERIAL AND ALL OF THE
9 FOLLOWING APPLY:

10 1. THE MATERIAL IS DANGEROUS OR OBSCENE.

11 2. THE PERSON BENEFITED FROM THE PRODUCTION, PUBLISHING OR
12 DISTRIBUTION OF THE MATERIAL.

13 3. THE PERSON KNEW, SHOULD HAVE KNOWN OR RECKLESSLY DISREGARDED A
14 SIGNIFICANT RISK THAT THE MATERIAL WOULD SUBSTANTIALLY ASSIST, ENCOURAGE OR
15 RESULT IN ANOTHER PERSON COMMITTING TERRORISM OR A FELONY OFFENSE.

16 4. THE MATERIAL WAS A CAUSE IN ANOTHER PERSON COMMITTING TERRORISM OR
17 A FELONY OFFENSE AGAINST A VICTIM.

18 B. NOTWITHSTANDING SECTIONS 12-505 AND 12-542, AN ACTION PURSUANT TO
19 THIS SECTION SHALL BE COMMENCED WITHIN TWO YEARS AFTER THE FINAL DISPOSITION
20 OF THE CRIMINAL PROCEEDINGS.

21 C. THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A
22 VICTIM WHO PREVAILS IN AN ACTION PURSUANT TO THIS SECTION.

23 D. FOR THE PURPOSES OF THIS SECTION:

24 1. "DANGEROUS" MEANS MATERIAL THAT IS FOUND BY CLEAR AND CONVINCING
25 EVIDENCE TO INCITE OR PRODUCE AN IMMINENT ACT OF TERRORISM OR A FELONY
26 OFFENSE.

- 1 2. "OBSCENE" MEANS MATERIAL THAT:
2 (a) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY STANDARDS,
3 WOULD FIND THAT THE MATERIAL, TAKEN AS A WHOLE, APPEALS TO THE PRURIENT
4 INTEREST.
5 (b) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY STANDARDS,
6 WOULD FIND THAT THE MATERIAL DEPICTS OR DESCRIBES, IN A PATENTLY OFFENSIVE
7 WAY, SEXUAL CONDUCT SPECIFICALLY DEFINED BY STATE LAW.
8 (c) TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC, POLITICAL OR
9 SCIENTIFIC VALUE.
10 3. "TERRORISM" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-2301.
11 4. "VICTIM" HAS THE SAME MEANING PRESCRIBED IN SECTION 8-382 OR
12 13-4401."
13 Renumber to conform
14 Page 1, line 44, strike the first "OR" insert a comma; after "PUBLISHES" insert "OR
15 DISTRIBUTES"
16 Line 45, strike "AND:" insert "PURSUANT TO SECTION 12-771"
17 Page 2, strike lines 1 through 10
18 Amend title to conform

WARDE V. NICHOLS

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03/10/2008
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