



General Assembly

**Substitute Bill No. 6671**

January Session, 2009

\*        HB06671JUD        040309        \*

**AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING AND THE POSSESSION OF CHILD PORNOGRAPHY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2009*) (a) The following  
2       property shall be subject to forfeiture to the state pursuant to  
3       subsection (b) of this section:

4       (1) All moneys used, or intended for use, in a violation of  
5       subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-  
6       87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-  
7       196c of the general statutes;

8       (2) All property constituting the proceeds obtained, directly or  
9       indirectly, from a violation of subdivision (3) of subsection (a) of  
10      section 53-21 or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b,  
11      53a-192a, 53a-196a, 53a-196b or 53a-196c of the general statutes;

12      (3) All property derived from the proceeds obtained, directly or  
13      indirectly, from any sale or exchange for pecuniary gain from a  
14      violation of subdivision (3) of subsection (a) of section 53-21 or section  
15      53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-  
16      196b or 53a-196c of the general statutes;

17 (4) All property used or intended for use, in any manner or part, to  
18 commit or facilitate the commission of a violation for pecuniary gain of  
19 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-  
20 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-  
21 196c of the general statutes.

22 (b) Not later than ninety days after the seizure of moneys or  
23 property subject to forfeiture pursuant to subsection (a) of this section,  
24 in connection with a lawful criminal arrest or a lawful search, the Chief  
25 State's Attorney or a deputy chief state's attorney, state's attorney or  
26 assistant or deputy assistant state's attorney may petition the court in  
27 the nature of a proceeding in rem to order forfeiture of such moneys or  
28 property. Such proceeding shall be deemed a civil suit in equity in  
29 which the state shall have the burden of proving all material facts by  
30 clear and convincing evidence. The court shall identify the owner of  
31 such moneys or property and any other person as appears to have an  
32 interest therein, and order the state to give notice to such owner and  
33 any interested person, including any victim of the crime with respect  
34 to which such moneys or property were seized, by certified or  
35 registered mail. The court shall promptly, but not less than two weeks  
36 after such notice, hold a hearing on the petition. No testimony offered  
37 or evidence produced by such owner or interested person at such  
38 hearing and no evidence discovered as a result of or otherwise derived  
39 from such testimony or evidence may be used against such owner or  
40 interested person in any proceeding, except that no such owner or  
41 interested person shall be immune from prosecution for perjury or  
42 contempt committed while giving such testimony or producing such  
43 evidence. At such hearing, the court shall hear evidence and make  
44 findings of fact and enter conclusions of law and shall issue a final  
45 order from which the parties shall have such right of appeal as from a  
46 decree in equity.

47 (c) No moneys or property shall be forfeited under this section to  
48 the extent of the interest of an owner or lienholder by reason of any act  
49 or omission committed by another person if such owner or lienholder  
50 did not know and could not have reasonably known that such moneys

51 or property was being used or was intended to be used in, or was  
52 derived from, criminal activity.

53 (d) Notwithstanding the provisions of subsection (a) of this section,  
54 no moneys or property used or intended to be used by the owner  
55 thereof to pay legitimate attorney's fees in connection with his or her  
56 defense in a criminal prosecution shall be subject to forfeiture under  
57 this section.

58 (e) Any property ordered forfeited pursuant to subsection (b) of this  
59 section shall be sold at public auction conducted by the Commissioner  
60 of Administrative Services or the commissioner's designee.

61 (f) The proceeds from any sale of property under subsection (e) of  
62 this section and any moneys forfeited under this section shall be  
63 applied: (1) To payment of the balance due on any lien preserved by  
64 the court in the forfeiture proceedings; (2) to payment of any costs  
65 incurred for the storage, maintenance, security and forfeiture of any  
66 such property; and (3) to payment of court costs. The balance, if any,  
67 shall be deposited in the child sexual exploitation and human  
68 trafficking assets forfeiture revolving account established under  
69 section 2 of this act.

70 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) There is established an  
71 account of the General Fund to be known as the "child sexual  
72 exploitation and human trafficking assets forfeiture revolving account"  
73 for the purpose of providing funds for sexual assault treatment and  
74 education programs and for use in the detection, investigation,  
75 apprehension and prosecution of persons for the violation of the laws  
76 pertaining to the sexual assault, sexual exploitation or sexual abuse of  
77 children, trafficking in persons and the registration of sexual offenders.

78 (b) The account shall consist of the proceeds from the sale of  
79 property and moneys received and deposited pursuant to section 1 of  
80 this act.

81 (c) Moneys in such account shall be distributed as follows: (1)

82 Seventy per cent shall be allocated to the Department of Public Safety  
83 and local police departments pursuant to subsection (d) of this section,  
84 fifteen per cent of which shall be used for purposes of sexual assault  
85 treatment and education programs and eighty-five per cent of which  
86 shall be used for the detection, investigation, apprehension and  
87 prosecution of persons for the violation of laws pertaining to the  
88 sexual assault, sexual exploitation or sexual abuse of children,  
89 trafficking in persons and the registration of sexual offenders and for  
90 the purposes of police training on sexual assault investigation and rape  
91 crisis intervention as required by section 7-294f of the general statutes,  
92 as amended by this act, (2) twenty per cent shall be allocated to the  
93 Department of Mental Health and Addiction Services for the  
94 assessment, treatment and management of persons with problem  
95 sexual behaviors and for educational programs concerning problem  
96 sexual behaviors, and (3) ten per cent shall be allocated to the Division  
97 of Criminal Justice for use in the prosecution of persons for the  
98 violation of laws pertaining to the sexual assault, sexual exploitation or  
99 sexual abuse of children, trafficking in persons and the registration of  
100 sexual offenders.

101 (d) Expenditures from the account allocated to the Department of  
102 Public Safety and local police departments shall be authorized by a  
103 panel composed of: (1) The Commissioner of Public Safety or the  
104 commissioner's designee, (2) the commander of the child abuse and  
105 neglect unit within the Division of State Police within the Department  
106 of Public Safety or the commander's designee, and (3) the president of  
107 the Connecticut Police Chiefs Association or the president's designee.  
108 The panel shall adopt procedures for the orderly authorization of  
109 expenditures, subject to the approval of the Comptroller. Such  
110 expenditures may be authorized only to the Department of Public  
111 Safety and to organized local police departments within this state.  
112 Such expenditures shall be held by the Department of Public Safety  
113 and the various organized local police departments in accounts or  
114 funds established for that purpose. In no event shall the expenditures  
115 be placed in a state or town general fund and in no event shall the

116 expenditures be used for purposes other than those provided in  
117 subdivision (1) of subsection (c) of this section. The panel shall ensure  
118 the equitable allocation of expenditures to the Department of Public  
119 Safety or any local police department which participated directly in  
120 any of the acts which led to the seizure or forfeiture of the property so  
121 as to reflect generally the contribution of said department or such local  
122 police department in such acts. The panel shall authorize expenditures  
123 from the account for the reimbursement of any organized local police  
124 department which has used its own funds in the detection,  
125 investigation, apprehension and prosecution of persons for the  
126 violation of laws pertaining to the sexual assault, sexual exploitation or  
127 sexual abuse of children, trafficking in persons and the registration of  
128 sexual offenders and which makes application to the panel for  
129 reimbursement.

130 (e) Moneys remaining in the child sexual exploitation and human  
131 trafficking assets forfeiture revolving account at the end of a fiscal year  
132 shall not revert to the General Fund but shall remain in the revolving  
133 account to be used for the purposes set forth in this section.

134 Sec. 3. Section 7-294f of the general statutes is repealed and the  
135 following is substituted in lieu thereof (*Effective October 1, 2009*):

136 Each police basic training program conducted or administered by  
137 the Division of State Police within the Department of Public Safety, the  
138 Police Officer Standards and Training Council established under  
139 section 7-294b or municipal police department in the state shall include  
140 a course on sexual assault investigation and rape crisis intervention  
141 and each review training program conducted by such agencies shall  
142 make provision for such a course.

143 Sec. 4. Section 53a-196d of the general statutes is repealed and the  
144 following is substituted in lieu thereof (*Effective October 1, 2009*):

145 (a) A person is guilty of possessing child pornography in the first  
146 degree when such person knowingly possesses (1) fifty or more visual  
147 depictions of child pornography, or (2) one or more visual depictions

148 of child pornography that depict the infliction or threatened infliction  
149 of serious physical injury.

150 (b) Possessing child pornography in the first degree is a class B  
151 felony and any person found guilty under this section shall be  
152 sentenced to a term of imprisonment of which five years of the  
153 sentence imposed may not be suspended or reduced by the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	7-294f
Sec. 4	<i>October 1, 2009</i>	53a-196d

**JUD**      *Joint Favorable Subst.*